ANNO PRIMO & SECUNDO

GULIELMI IV. REGIS.

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C A P. XXXIV.

An Act for appointing Commissioners to continue the Enquiries concerning Charities in *England* and *Wales* for Two Years, and from thence to the End of the then next Session of Parliament.

[15th *October* 1831.]

WHEREAS an Act was passed in the Fifty-eighth Year of the Reign of His Majesty King *George* the Third, intituled *An Act for appointing Commissioners to inquire con-* 58 G.3. c.91.
cerning Charities in England *for the Education of the Poor;* and another Act was passed in the Fifty-ninth Year of the same Reign, intituled *An Act to amend an Act of the last Session of Parliament, for* 59 G.3. c.81.
appointing Commissioners to inquire concerning Charities in England *for the Education of the Poor, and to extend the Powers thereof to other Charities in* England *and* Wales, *to continue in force until the First Day of* August *One thousand eight hundred and twenty-three, and from thence until the End of the then next Session of Parliament;* and an Act was passed in the Fifth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to continue* 5 G.4. c.58.
for Four Years, and from thence until the End of the then next Session of Parliament, the Powers of the Commissioners for inquiring concerning Charities in England *and* Wales; and an Act was passed in the Tenth Year of the same Reign, intituled *An Act* 10 G.4. c.57.
to continue, until the First Day of July *One thousand eight hundred*

 and

and thirty, the Powers of the Commissioners for inquiring concerning Charities in England *and* Wales: And whereas the Commissioners appointed under and by virtue of the said Two first-mentioned Acts pursued the Inquiries thereby authorized and directed, and made several Reports of their Proceedings; but their Powers expired on the First Day of *July* One thousand eight hundred and thirty: And whereas many Charities still remain to be investigated, and further Time will be required for that Purpose, and it is therefore highly expedient that Commissioners should be appointed for the Purposes aforesaid, to act according to the Provisions and Limitations herein-after expressed and contained: Be it therefore 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,

Commissioners to be appointed to inquire into the Nature and Management of Charities.

That it shall and may be lawful for His Majesty to issue a Commission under the Great Seal to any Number of Persons not exceeding Twenty, who shall be constituted Commissioners for the Purposes intended by this Act; and that they the said Commissioners shall and they are hereby empowered and required, in manner herein-after mentioned, to examine into and investigate the Amount, Nature, and Application of all Estates and Funds of what Nature or Kind soever, and the Produce thereof, destined or intended to be applied to the Purpose of educating the Poor in *England* and *Wales*, or to the Support of any Charity or Charities, or charitable Donation or Donations for the Benefit of poor Persons in *England* and *Wales*, or held under Trusts created for any charitable Uses or Purposes whatever in *England* or *Wales*, or held under Trusts created for any charitable Uses or Purposes whatever in *England* or *Wales*, (except as is herein-after provided and excepted,) and to examine into and investigate all Breaches of Trust, Irregularities, Frauds, Abuses or supposed Abuses, or Misconduct in relation to and in the Management or Appropriation or Nonappropriation or Misappropriation of such Estates and Funds; and the said Commissioners or any Five of them shall once in each Half Year, during the Continuance of the said Commission, report and certify in Writing under their Hands and Seals, to the King's most Excellent Majesty, their Proceedings touching the Amount, Nature, Management, Application, and Appropriation of such of the aforesaid Estates and Funds as they shall have inquired and examined into, and also what is the Nature of such Estates and Funds respectively, and the actual annual Produce thereof, and what is the actual annual Value thereof, and in whose Possession as Tenants thereof any Part thereof consisting of Lands, Tenements, or Hereditaments shall be, adding at the same Time such Observations as shall occur to them respecting such Mode as they shall deem most effectual for the recovering of such Part or Parts of such Estates or Funds as shall appear to them to have been applied in breach of the several Trusts created in respect of the same, or shall appear to have been omitted to be applied in pursuance of such Trusts, and subjoining such Suggestions as may seem to them expedient respecting the most effectual Mode of securing such Estates and Funds, and their respective Produce, against any future Misapplication thereof.

To report half-yearly.

Remuneration and Allowance.

II. And be it further enacted, That no Remuneration shall be given, for and in respect of the Execution of this Act, to such of the said Commissioners as shall be Members of either House of Parliament, nor to any Number exceeding Ten of the other Commissioners, but there shall be allowed and paid to every such Commissioner such reasonable Sums for and in respect of such travelling Expences as may come to be incurred in the Execution of this Act as in the Judgment of the Lord High Treasurer or the Commissioners of His Majesty's Treasury for the Time being shall be deemed requisite.

If Estates cannot be applied, Commissioners to report specially.

III. And be it further enacted, That if upon such Inquiry as aforesaid it shall appear to the said Commissioners that from any Cause whatsoever it has become impossible to apply the Estates or Funds aforesaid, or any Part thereof, to the Purposes to which the same were destined or directed to be applied, the said Commissioners shall report the special Circumstances of each Case.

Commissioners to take an Oath.

IV. And be it further enacted, That the said Commissioners to be appointed by virtue of this Act shall each of them, previously to his entering upon the Execution of the same, take an Oath before the Chancellor of the Exchequer or the Master of the Rolls for the Time being, (which Oath they are hereby respectively authorized and required to administer,) the Tenor whereof shall be as follows; (that is to say,)

'I *A. B.* do swear, That, according to the best of my Skill and Knowledge, I will faithfully, impartially, and truly execute the several Powers and Trusts vested in me by an Act, intituled *An Act* [*here insert the Title of this Act*], according to the Tenor and Purport of the said Act.'

Appointment of Secretary, Clerks, &c.

V. And be it further enacted, That it shall and may be lawful for the said Commissioners and they are hereby authorized to appoint and employ such Secretary, Clerks, Messengers, and Officers, not exceeding in the whole One Secretary, Five Clerks, One Messenger, and Two other Officers, as they shall think meet, and to administer to the said Secretary, Clerks, and Officers respectively an Oath for his true and faithful Demeanor in all Things relating to the due Performance of any Trust respecting the Execution of this Act reposed in him by the said Commissioners, and in all other Things touching the Premises; which Secretary, Clerks, and Officers are hereby required faithfully to execute and perform the said Trust in them severally and respectively reposed, without taking any thing for such their Service other than such Salary or Reward as the said Commissioners shall think fit to direct and appoint in their Behalf.

Commissioners Meetings.

VI. And be it further enacted, That for the Purpose of prosecuting the Inquiries and Examinations by this Act directed, the said Commissioners or any Two of them shall meet, and from Time to Time, with or without Adjournment, hold their Sittings within the City of *Westminster*, or in any other City, Town, Borough, Hamlet, Village, or Place respectively in *England* or *Wales* which to them shall appear most convenient for executing the Purposes of this Act;

Power to require the Attendance of Persons and Production of Papers.

Act; and the said Commissioners are hereby authorized to require, by Precepts under their Hands and Seals, or under the Hands and Seals of any Two of them, from any Person or Persons acting as a Trustee or Trustees for any of the said Estates or Funds, or having any Concern in the Management or Administration of the same, or in the Payment or Receipt of any of the said Funds or Estates, or any Charge upon any Fund or Estate applicable to any charitable Uses or Purposes as aforesaid, to render to the said Commissioners a true Account, as far as consists with their Knowledge, of all that relates to such Funds or Estates as aforesaid under their Trust or Management, or on account of which they may have acted in making or receiving Payments; and as often as Need shall be, to send their Precepts under their Hands and Seals, or under the Hands and Seals of any Two of them, for any Person or Persons whomsoever to attend them, and require such Person or Persons to bring with him, her, or them any Deed, Paper, Writing, Instrument, or other Document being in his, her, or their Custody and Possession, and relating to any such Estates or Funds or the Produce thereof, or to the Receipt or Application or Nonapplication or Misapplication thereof, which shall in the Judgment of such Commissioners be conducive and necessary to the due Execution of the Purposes of this Act; and every Person to whom such Precept shall as aforesaid have been addressed and delivered is hereby required and directed punctually to attend the said Commissioners at such Time and Place as shall for that Purpose have been appointed; and to every such Person or Persons may be paid such Sum of Money as in the Judgment of the said Commissioners shall be just and reasonable: Provided always, that no such Person shall be obliged to travel in obedience to such Precept more than Ten Miles from his or her Place of Abode.

No Person obliged to travel more than Ten Miles.

Commissioners empowered to examine upon Oath.

VII. And for rendering more effectual all such Examinations as are intended to be had under this Act, be it enacted, That the said Commissioners are hereby authorized to examine upon Oath, or Affirmation of Persons being Quakers, (which Oath or Affirmation the said Commissioners or any Two of them are hereby respectively authorized to administer,) all Persons whom they are by the Provisions of this Act empowered to call before them to be examined, touching all Matters and Things necessary for the Execution of the Powers vested in them by this Act.

One Commissioner may act in certain Cases.

VIII. And be it further enacted, That whenever any such Two Commissioners shall in their Judgment think it expedient that each or either of them should pursue any Examination separately and without the Assistance or Presence of the other of such Two Commissioners, each of such Two Commissioners shall on such Occasion have the same Powers of issuing Precepts, administering Oaths, and conducting the Examinations prescribed by this Act, and under the same Rules and Regulations, as are hereby vested in the said Commissioners or any Two of them; and that it shall be lawful for the said Commissioners or any Five of them, when they may see Occasion, to authorize and direct any One Commissioner to sit within the City of *Westminster* alone, or to resort alone to any other City, Town,

Borough, Hamlet, Village, or Place in *England* or *Wales*, for the Purpose of examining into the Case or Cases of any particular Charity or Charities; and then also and in such Case such Commissioner shall have the same Powers of issuing Precepts, administering Oaths, and conducting the Examinations prescribed by this Act, and under the same Rules and Regulations, as are herein-before vested in the said Commissioners or any Two of them.

Examinations, &c. to be transmitted to the Secretary.

IX. And be it further enacted, That the said Commissioners respectively shall and they are hereby required to cause the Examinations which shall be taken before them respectively, and all Papers and Documents being Parts of such Examinations, to be from Time to Time transmitted to the Secretary of the said Commissioners at their Office in *Westminster* aforesaid.

Penalties of Perjury for false swearing.

X. And be it further enacted, That in case any Person upon Examination on Oath, or being a Quaker upon Affirmation, before the said Commissioner or Commissioners, shall wilfully and corruptly give false Evidence, every such Person so offending, and being thereof duly convicted, shall be and is hereby declared to be subject and liable to such Pains and Penalties as under any Law now in force may be inflicted on Persons convicted of wilful and corrupt Perjury.

Persons refusing to appear before Commissioners, or to produce Deeds or answer Questions, liable to be fined by the Court of King's Bench or Exchequer.

XI. And be it further enacted, That if any Person summoned to appear before the said Commissioners or any One of them shall wilfully omit or refuse to appear before such Commissioners or Commissioner, or to bring or produce any Deed, Paper, or Writing, Instrument or other Document in his or her Possession, Custody, or Power, and which he or she shall be required by the Precept of any such Commissioners or Commissioner to produce, relating wholly to the Estates or Funds which shall be the Subject of Enquiry before the said Commissioners or Commissioner, or to the Receipt or Application or Nonapplication or Misapplication thereof, or to the State of the Schools or Charities which shall be the Subject of Enquiry before such Commissioners or Commissioner, or the true Copy of any Part or Parts of any Deed, Paper, Writing, or other Instrument, (and which Copy any such Commissioners or Commissioner are or is hereby empowered to require by such Precept,) or shall refuse to be sworn, or being a Quaker to affirm, or being sworn, or being a Quaker having affirmed, shall refuse to answer to and before the said Commissioners or Commissioner, or to answer fully, any lawful Question on Oath or Affirmation touching or concerning any Matter or Thing relating to such Estates or Funds as aforesaid, or to the State of such Schools or Charities as aforesaid, (except in Cases excepted by this Act,) every such Person so refusing to comply with any such lawful Requisitions of the said Commissioners or Commissioner shall be liable to the Payment of such Fine to His Majesty as the Court of King's Bench or the Court of Exchequer, on Application made by or on the Behalf of the said Commissioners or Commissioner, or by His Majesty's Attorney General for the Time being, shall think fit to set and impose, which Fine the said Court of King's Bench or Court of Exchequer is hereby authorized and empowered to set and impose according to their Discretion respectively,

and to enforce Payment of the same, by Attachment or otherwise, in such Manner as the said Courts respectively may do in Cases of Contempt of the same Courts.

Purchasers without Notice not bound to answer Interrogatories.

XII. Provided always, and be it further enacted, That if any Person who shall be summoned to appear before the said Commissioners or any One of them shall, upon his or her Examination, allege that he or she hath purchased or obtained for valuable Consideration any Estate or Interest of, in, to, or out of any Lands, Tenements, Rents, Annuities, Hereditaments, Goods, or Chattels touching which he or she shall be sought to be so examined, without Fraud or Covin, having no Notice of any charitable Trust or Use to which the said Lands, Tenements, Rents, Annuities, Hereditaments, Goods, or Chattels, or any Charge thereon, have been given, limited, or applied, then such Person shall not be bound to make further Answer to any Interrogatory of such Commissioners or Commissioner, nor to produce or show to them or him any Deed, Paper, Writing, Instrument, or other Document relating to his or her Estate or Interest in such Lands, Tenements, Rents, Annuities, Hereditaments, Goods, or Chattels.

Mortgagees, Trustees, &c. not compellable to produce Deeds, without Notice to Mortgagors, Cestuique Trusts, &c.

XIII. Provided also, and be it further enacted, That no Person having the Custody of any Deed, Paper, Writing, Instrument, or other Document, as Mortgagee, Trustee or Agent, Solicitor or Attorney, shall be compellable to produce the same, or to give any Evidence as to the Contents thereof, without Notice being first given to his Mortgagor, Cestuique Trust or Principal and the said Mortgagor, Cestuique Trust, or Principal being examined touching the same by the said Commissioners or Commissioner; and in case such Mortgagor, Cestuique Trust, or Principal shall, by the Provisions of this Act, be exempted from producing the said Deed, Paper, Writing, Instrument, or other Document, then the Mortgagee, Trustee or Agent, Solicitor or Attorney, shall not be bound to produce or show the same, or give any Evidence of the Contents thereof, to the said Commissioners or Commissioner: Provided also, that no Person shall be compellable to answer any Question, or to produce any Deed, Paper, Writing, Instrument, or other Document, the Answer to which or the Production of which may criminate or tend to criminate such Person, or to expose such Person to any Pains or Penalties.

Persons not compellable to criminate themselves.

Officers having Custody of Records, to furnish Extracts if required by a Commissioner.

XIV. And be it further enacted, That whenever any Extract from the Inrolment of any Charter or Deed, or from any Decree, Report, Record, or other Document whatever, deposited or remaining in any of the Offices belonging to or under the Controul of the Courts of Chancery or Exchequer, or in any public Registry, shall be required for the Purposes of this Act by an Order signed by One of the Commissioners under this Act, the Officer or Officers having the Custody of such Inrolment, Decree, Report, Record, or other Document shall furnish an Extract of so much only as shall be so required of any such Inrolment, Decree, Report, Record, or other Document; and that any such Extract or any Copy which shall be required for the Purposes of this Act, by any Order signed by One of

No Stamp Duty on such Extracts, &c.

the said Commissioners, of any such Inrolment, Decree, Report, Record, or other Document, shall not be subject or liable to the Payment of any Stamp Duty whatever, any Law, Statute, or Usage to the contrary in anywise notwithstanding.

Vacancies of Commissioners may be filled up.

XV. And be it further enacted, That in case of a Vacancy or Vacancies by Death, Removal, or Resignation of any such Commissioners, it shall be lawful for His Majesty, His Heirs and Successors, to nominate and appoint such Person or Persons as he or they may think proper for the supplying of such Vacancy or Vacancies.

Act not to extend to Universities and certain Schools, &c.

XVI. And be it further enacted, That this Act or any of the Provisions therein contained shall not extend or be construed to extend to either of the Universities of *Oxford* or *Cambridge*, nor to any College or Hall within the same, nor to any Schools or other Endowments of which the said Universities, Colleges, or Halls are Trustees; nor to the Colleges of *Westminster*, *Eton*, or *Winchester*; nor to the *Charter House*; nor to the Royal Hospitals of *Christ*, *Bridewell*, *Saint Thomas the Apostle*, *Saint Bartholomew*, and *Bethlem*; nor to the Schools of *Harrow* or *Rugby*, or any of them; nor to any Cathedral or Collegiate Church within *England* or *Wales*; nor to the Corporation of the Trinity House of *Deptford Strond*; nor to any Funds applicable to the Benefit of any Persons of the Jewish Persuasion, or the People called *Quakers*, or Persons of the Roman Catholic Persuasion, and which shall be under the Superintendence and Control of Persons of such Persuasions respectively.

nor to Charities chiefly supported by voluntary Contributions;

except as to Management and Application of Rents for 20 Years.

XVII. Provided also, and be it enacted, That this Act or any of the Provisions therein contained shall not extend or be construed to extend to any Institution, Establishment, or Society for charitable Purposes, wholly or principally maintained by voluntary Contributions, and under the Superintendence and Controul of any Committee or Governors or other Person or Persons chosen or appointed out of or by voluntary Subscribers thereto; and that the Application of any Donation or Bequest to the general Purposes of any such Institution, Establishment, or Society, in aid of such voluntary Contributions, shall not be subject to the Examination or Interference of the Commissioners appointed under this Act: Provided always, that the Management and Application of the Rents and Profits of any Lands, Tenements, or Hereditaments belonging to such Institution, Establishment, or Society, for the Period of Twenty Years or upwards before the passing of this Act, shall in all such Cases be subject to the Examination of the said Commissioners at their Discretion.

Limitation of Actions.

XVIII. And be it further enacted, That any Action or Suit which shall be brought against any Commissioner or Commissioners to be appointed under the Authority of this Act, or against any Person or Persons acting under the Authority or by the Order of such Commissioners, or any One or more of them, for any thing done or acted by him or them under this Act, shall be commenced within Six Calendar Months next after the Fact committed (in respect of which such Action or Suit shall be brought or commenced), and not afterwards; and the Defendant or Defendants in every such Action or Suit

General Issue.

Suit may plead the General Issue, and give this Act and the special Matter in Evidence at any Trial to be had thereupon; and if such Action or Suit shall be brought or commenced after the Time so limited for bringing the same, then the Jury shall find a Verdict for the Defendant or Defendants; and in such Case, or if the Jury shall find a Verdict for the Defendant or Defendants upon the Merits, or if the Plaintiff or Plaintiffs shall become Nonsuit, or discontinue his, her, or their Action after Appearance, or if upon Demurrer Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have Treble Costs, which he or they shall and may recover in such and the same Manner as any Defendant can by Law in other Cases.

Treble Costs.

Continuance of Act.

XIX. And be it further enacted, That this Act shall continue in force until the First Day of *September* One thousand eight hundred and thirty-three, and from thence until the End of the then next Session of Parliament.

Act may be amended this Session.

XX. And be it further enacted, That this Act may be amended, altered, or repealed by any Act or Acts to be passed in this present Session of Parliament.

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