



ANNO TRICESIMO OCTAVO ET TRICESIMO NONO

VICTORIÆ REGINÆ.

A.D. 1875.

No. 7.

An Act for the better Investment of Charitable Funds.

[Assented to, 15th October, 1875.]

WHEREAS various gifts of land and money have been already made, and may hereafter be made for the maintenance and support of public charitable institutions in South Australia, and it is desirable to provide for such investment thereof as may carry out the intention of the donors in the most beneficial manner—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly, in this present Parliament assembled, as follows:

Preamble.

1. In this Act the following words shall have the meanings hereby respectively attached to them, that is to say—

Definition of terms.

“Commissioners of Charitable Funds,” and “the said Commissioners,” shall mean the Commissioners to be appointed under this Act:

“Public Charitable Institutions,” and “Institutions,” shall mean and include Public Hospitals, Destitute and Lunatic Asylums, Orphanages, Reformatories, and other institutions of the like nature, whether local or general: Provided that such institutions are established by or pursuant to Act of Parliament, and supported wholly or in part out of the General Revenue.

“Board of Management,” shall mean the Board entrusted with the management of the affairs of any public charitable institution; and in cases where no such Board shall exist, then the persons duly appointed to manage such Institution:

“Gift”

The Public Charities Act.—1875.

“Gift” shall mean any donation of land or other property of any kind, or of any interest or estate therein, and whether given by will or deed, or otherwise made to any public charitable institution, but shall not include any annual subscription towards the funds thereof of an amount less than Ten Pounds.

Governor may appoint Commissioners of charitable funds.

2. The Governor may from time to time appoint any three persons to be Commissioners of Charitable Funds, and may remove any such Commissioners, and every such appointment or removal shall be published in the *Government Gazette*. Until any appointment shall be made the Auditor-General, Under Secretary, and Under Treasurer shall be, and act as, the first Commissioners under this Act.

Commissioners to be a body corporate.

3. The said Commissioners and their successors so to be appointed shall be a body politic and corporate by the name of “The Commissioners of Charitable Funds,” and by such name shall have perpetual succession and a common seal, and by that name may sue and be sued in all Courts of Law, and shall be capable to take, purchase, and hold, and to sell, demise, exchange, and otherwise dispose of, all gifts whatsoever which may be made to any public charitable institution, and the said Commissioners shall stand possessed of the said gifts on the trusts hereinafter declared.

Gifts already made to charitable institutions vested in Commissioners.

4. All gifts heretofore made to any charitable institution are hereby vested in the said Commissioners for the purposes of this Act, and all gifts which shall hereafter be made to any such institution shall at once vest in them, without any conveyance or assignment whatever; and in the event of any gift being made in trust for any such institution by any will or deed, it shall be a sufficient compliance with the trusts of such will or deed in that behalf if the executors, trustees, or other persons in whom the immediate property or possession of such gift is vested, pay over, convey, or transfer the same (as they are hereby required to do) to the said Commissioners in their corporate name, whose receipt or release therefor shall be a sufficient discharge to such executors, trustees, or other persons as aforesaid.

Commissioners to keep banking account.

5. The said Commissioners shall, for the purposes of their trust, keep a banking account in their official name in some bank to be approved of by the Chief Secretary. All cheques and orders for the payment of any money shall be signed or authenticated in such manner as the Chief Secretary shall from time to time, by order under his hand, direct; and all such cheques and orders shall be a sufficient authority to the bank paying the same for all such payments.

Moneys received by them to be placed to their account.

6. All principal moneys received by virtue of this Act, or which may hereafter be given to any public charitable institution, shall be paid to the account of the said Commissioners at such bank as aforesaid, and subject to such directions, if any, which may be given by

The Public Charities Act.—1875.

by the will or deed of the donor as to the mode of investment thereof, shall be forthwith invested in the official name of the said Commissioners, in some one or other of the modes hereinafter prescribed, for the benefit of the institution to which they shall belong. All interest, dividends, and other profits arising from such investments, and received by the said Commissioners, shall also be paid into the same account immediately on receipt, to be applied as by this Act directed.

7. The said Commissioners shall invest the principal moneys which shall come to their hands by virtue of this Act either on Government securities, or in the purchase of freehold land, or on mortgage of landed property, with full power to vary and transpose any such investment from time to time for others of a like nature. The said Commissioners shall also have power to sell or exchange any of the freehold lands in which any such principal moneys shall be invested as aforesaid, and also any landed property which may come to their hands by virtue of this Act, or in consequence of the foreclosure of any mortgage hereby authorized to be taken by them; provided that this power shall not be exercised without the consent of the Chief Secretary, who, if it shall be represented to him by the said Commissioners that under the special circumstances of the case a sale or exchange of any such land can be effected on such terms as to increase the income of the charitable institutions specified, or be otherwise advantageous to such institutions, may, if he think fit, inquire into such circumstances; and if after inquiry, he is satisfied that the proposed sale or exchange will be advantageous to the institution, may authorize such sale or exchange, and give such directions as he may think fit in relation thereto, and as to the due investment for the benefit of the institution of the money arising from any such sale, or by way of equality of exchange: Provided that no such investment shall be made or altered without the consent of the Board of Management of the Institution, for the benefit of which such investment shall have been made. Powers of investment.

8. The said Commissioners may also in their discretion lease the said land which may be so acquired by them, or any part thereof, from year to year, or for any term not exceeding twenty-one years in possession from the making of the lease, so as in every such lease there shall be reserved the most improved yearly rent. Every such lease shall contain such covenants as are customary or usual, according to the nature of the property demised, and also such special covenants as may be required by the said Commissioners: Provided that no lease containing any right or covenant to purchase by the lessee shall be granted without the consent of the Chief Secretary to be first obtained in manner provided by the preceding section. Powers of leasing.

9. The said Commissioners may apply by petition to the Supreme Court or a Judge thereof, for the opinion, advice, or direction of the Court or Judge on any question other than the propriety of selling Commissioner may apply for advice to Supreme Court or Judge.
or

The Public Charities Act.—1875.

or leasing with right of purchase, respecting the management or administration of the property coming to their hands by virtue of this Act, in the same manner as may by law be done by a trustee, executor, or administrator of any trust property, or assets; and such Court or Judge may thereupon give such opinion, advice, or direction as to it or him shall seem meet, and the said Commissioners acting thereon shall be deemed to have discharged their duty in the subject matter of the said application, and the costs of such application shall be under the direction of the Court or Judge.

Necessary expenses
may be deducted by
Commissioners.

10. All expenses incurred by the said Commissioners in the execution of their duties under this Act, may be deducted by them out of the moneys which shall come to their hands as trustees for the charitable institutions, in respect of which such expenses have been incurred, and in case such expenses have been incurred in respect of more than one institution at the same time, then the said Commissioners may charge the institutions interested with a ratable amount of such expenses in proportion to the interest of such institution therein.

Commissioners to be
subject to Jurisdiction
of Supreme Court.

11. In the execution of the powers and duties hereby committed to and imposed upon the said Commissioners, they shall be subject to the jurisdiction of the Supreme Court, and they shall be exempted from liability for involuntary losses, in the same manner as trustees of private property are now subject to, or may claim to be, under any laws now or hereafter to be in force in the said Province: All proceedings against the Commissioners shall be first sanctioned by the Attorney-General, and shall be taken in his name as promoting the same for and on behalf of the particular charitable institution in respect of which such proceedings have become necessary.

Attorney-General to
take proceedings.

Separate accounts to
be kept and income
paid over to institu-
tions half-yearly.

12. Proper books of account shall be kept by the said Commissioners, showing the moneys received and held by them on account of each public charitable institution separately, and such account shall be balanced each half-year, that is to say, on every first day of July and first day of January, and the accounts of dividends, interest, and profits then appearing to the credit of each such institution, after deducting therefrom the expenses connected with the management of the funds, or the proportion thereof to be borne by each institution (if any), shall be forthwith paid over to the Board of Management thereof, whose receipt shall be a sufficient discharge to the said Commissioners.

Abstracts to be pub-
lished and laid before
Parliament.

13. An account in abstract shall be made up by the said Commissioners, on the first day of July in every year, showing the moneys received and expended by them during the year preceding, and also showing the property held in trust by them, and specifying the charitable institution on behalf of which such moneys and property have been so received and expended, or are held, as the case may be. Such account shall be forthwith published in the *Government Gazette*,

The Public Charities Act.—1875.

Gazette, and shall be, within fourteen days of such publication, if Parliament be then sitting, or if not, then within fourteen days from the meeting thereof, laid upon the table of each House of Parliament.

14. This Act may be cited for all purposes as “The Public Charities Act, 1875.” Short Title.

In the name and on behalf of Her Majesty, I hereby
assent to this Bill.

A. MUSGRAVE, Governor.