



CHAPTER clxvii.

An Act to confirm a Scheme of the Charity Commissioners A.D. 1913.
for the application or management of the Charity con-
sisting of the Horeb Union Church and Trust Property
in the Ancient Township of Padiham in the Ancient
Parish of Whalley in the County of Lancaster.

[15th August 1913.]

WHEREAS the Charity Commissioners in their report to His Majesty of their proceedings during the year one thousand nine hundred and eleven reported that they had approved and certified a scheme for the application or management of the charity consisting of the Horeb Union Church and Trust Property in the ancient township of Padiham in the ancient parish of Whalley in the county of Lancaster comprised in a deed poll of declaration of trust dated the eighth day of February eighteen hundred and ninety-six to which charity the Charitable Trusts Acts eighteen hundred and fifty-three to eighteen hundred and ninety-four were extended by an order of the Charity Commissioners of the seventh day of November nineteen hundred and eleven :

And whereas it is expedient that the scheme as the same is fully set out and defined in the schedule to this Act should be confirmed :

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 as follows:—

1. The said scheme is hereby confirmed Provided always Confirmation
of scheme.
that nothing in this Act or in the said scheme shall be held to

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Scheme Confirmation Act, 1913.

A.D. 1913. — interfere with the ordinary jurisdiction over endowed charities now exerciseable or hereafter to become exerciseable by the High Court of Justice and the Charity Commissioners.

Short title. **2.** This Act may be cited as the Padiham Horeb Union Church Scheme Confirmation Act 1913.

SCHEDULE.

A.D. 1913.

Scheme for the Application or Management of the Charity consisting of the Horeb Union Church and Trust Property in the Ancient Township of Padiham in the Ancient Parish of Whalley in the County of Lancaster comprised in a Deed Poll of Declaration of Trust dated 8th February 1896.

1. The above-mentioned charity and its endowments consisting of the above-mentioned church and trust property held for the residue of a term of nine hundred and ninety-nine years subject to the payment of a yearly rent of fourteen pounds fifteen shillings shall be administered and managed by the Lancashire Congregational Union (incorporated) herein-after called the county union as the Trustees of the charity subject to and in conformity with the provisions of this scheme.

2. The aforesaid endowments of the charity with the appurtenances are hereby vested in the county union for all the estate and interest therein belonging to or held in trust for the charity.

3. The Trustees shall permit the buildings and premises belonging to the charity to be used occupied and enjoyed as a place for the public worship of God according to the principles and usages of Protestant dissenters of the Congregational denomination commonly called Independents being Pædobaptists under the direction of the church for the time being assembling for worship therein and for the instruction of children and adults and for the promotion of such other charitable purposes whether religious or philanthropic in connexion therewith as the said church shall from time to time direct.

4. The Trustees shall permit to officiate in the said buildings as stated minister or pastor of the said church such person or persons only as shall be of the denomination aforesaid being Pædobaptists and shall except in the case of the present minister or pastor (if any) be chosen and elected by special resolution of the said church and no person shall be permitted to officiate as minister or pastor in the said buildings who shall be proved guilty of immoral conduct or shall cease to be of the denomination aforesaid or be removed from his office by a special resolution of the said church.

5. The Trustees shall permit such occasional ministers or other persons to officiate in the said buildings as the stated minister or pastor of the said church for the time being (if any) or the said church with the consent of the minister or pastor or if there be no such minister or pastor as the deacon or deacons of the said church

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A.D. 1913. — for the time being or any committee from time to time appointed by the said church for the purpose shall appoint unless such appointment shall be negatived by a resolution of the said church.

6. The Trustees shall permit the deacon or deacons of the said church or other person or persons appointed for the purpose by the said church to receive all moneys contributed or subscribed and also the net rents arising from any lease of the premises and any other money which may come into the hands of the Trustees in connexion with the premises in the nature of income and after payment thereof of all outgoings for rents or rentcharges (if any) mortgage interest (if any) taxes rates (if any) insurances renewals alterations repairs and all other costs or expenses for which the Trustees may be liable to pay such sum for the support of the minister or pastor of the said church as the said church shall have determined and to apply the remainder in payment of the incidental and other expenses attending the maintenance of divine worship on the said premises and for the other purposes of this scheme as the said church shall direct Provided nevertheless that moneys contributed or subscribed for any specified purpose shall not be subject to this clause but shall be applied for such specified purpose.

7. The Trustees shall from time to time under the direction of the said church permit the buildings for the time being belonging to the charity to be repaired altered enlarged or taken down and rebuilt so as to render the same better adapted for the purposes aforesaid and shall under the like direction from time to time permit the erection of additional buildings.

8. Except as regards any property of the charity which is registered as a place of meeting for religious worship with the Registrar-General of Births Deaths and Marriages in England and is bonâ fide used as a place of meeting for religious worship and except as regards such other property (if any) of the charity as by virtue of any provision of the Charitable Trusts (Places of Religious Worship) Amendment Act 1894 is exempt from the operation of the Charitable Trusts Acts 1853 to 1894 the Trustees shall not make or grant otherwise than with the approval of the Charity Commissioners any sale exchange mortgage or charge of the charity estate or any lease thereof in reversion after more than three years of any existing term or for any term of life or in consideration wholly or in part of any fine or for any term of years exceeding twenty-one years.

9. Subject to the restrictions contained in the last preceding clause hereof the Trustees shall whenever required by a special resolution of the said church with such consent as follows that is to say so long as the county union are the Trustees of the charity with the consent of that union and so long as the said union are not such Trustees with

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the consent in writing of a majority of the Trustees sell mortgage enfranchise or demise for any term of years the trust premises or any part thereof or exchange the same or any part thereof for any other freehold copyhold customaryhold or leasehold premises in accordance with the directions of the said church The Trustees shall stand possessed of the moneys arising from any such mortgage sale or exchange and any other moneys which may come to their hands in connexion with the trust premises in the nature of capital after paying all costs and expenses incurred in relation thereto upon trust to lay out and apply the same in or towards the construction enlargement rebuilding improvement or repair of the said buildings and premises or in or towards the purchase of other premises of any tenure or towards any of the other purposes or objects of this scheme in such manner as the said church shall by special resolution direct but so that any premises so purchased or so taken in exchange whether freehold copyhold customaryhold or leasehold shall be situate within twenty miles of the site of the buildings now belonging to the charity and shall be held by the Trustees upon the same trusts and subject to the same powers and provisions as are herein declared concerning the buildings and premises now belonging to the charity If any difference shall arise as to whether moneys coming into the hands of the Trustees are capital or income the decision of the Trustees shall be conclusive.

10. Notwithstanding anything herein-before contained if the said church is dissolved or dispersed or if the regular public worship of God in the said buildings is discontinued for six calendar months together or if the number of the members of the said church entitled to vote at a special meeting as herein-after provided shall be reduced to twenty or under the Trustees may subject to the said restrictions herein-before contained and with such consent as follows that is to say so long as the county union are the Trustees of the charity with the consent of the Congregational Union of England and Wales and so long as the county union are not the Trustees of the charity with the consent of the county union or if there is no county union in existence then with the consent of the Congregational Union of England and Wales either let or mortgage or sell the trust premises or any part thereof and pay and apply the net proceeds of such letting mortgage or sale remaining after payment of all expenses for such religious purposes not tending to the promulgation of doctrines inconsistent with those herein-before referred to and in such manner as shall be directed as follows that is to say so long as the county union are the Trustees of the charity as shall be directed by the Congregational Union of England and Wales and so long as the county union are not the Trustees of the charity as shall be directed by the county union or if there is then no county union in existence or such union

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A.D. 1913. — fails to signify its directions within six months after being requested so to do in writing by the Trustees then as shall be directed by the Congregational Union of England and Wales.

11. Without prejudice and in addition to the power contained in clause 9 in case the Trustees shall be required to pay any money for which such Trustees shall be liable in relation to the trusts of this scheme and the same shall not be duly provided by the said church after demand or otherwise than by such Trustees it shall be lawful for the Trustees on their sole authority and without the consent request or direction of the said church or any member thereof but subject to the said restrictions herein-before contained to mortgage all or any part of the premises when and in such manner in all respects as such Trustees shall think proper and out of the proceeds thereof to pay all expenses of and incident to such mortgage and fully to reimburse and indemnify such Trustees.

12. Upon any mortgage lease sale enfranchisement or exchange purporting to be made in pursuance of any trust or power herein contained no mortgagee lessee purchaser or other person dealing bonâ fide with the Trustees shall be bound or concerned to inquire whether any special or other meeting of the said church has been held or as to the competency or regularity of any such meeting or of any requisition or resolution passed or purporting to have been passed thereat or as to whether the said church has been formed or dissolved or any of the said other events have taken place or (except as regards the said restrictions herein-before contained) otherwise as to the propriety or regularity of any such mortgage lease sale enfranchisement or exchange and notwithstanding any impropriety or irregularity in such mortgage lease sale enfranchisement or exchange the same shall as regards a purchaser mortgagee lessee or other person as aforesaid (except as regards the said restrictions) be deemed to be within the aforesaid trusts or powers and be valid accordingly.

13. The following provisions as to the appointment of new Trustees of the charity and the discharge and retirement of Trustees by way of extension and variation of the statutory provisions shall apply:—

- (a) The number of Trustees shall not be reduced to less than five and upon any new appointment the number shall if possible be made up to at least the original number:
- (b) No person shall be appointed a Trustee who is not a member of a Congregational church and any Trustee who ceases to be a member of such a church or who becomes bankrupt or remains out of the United Kingdom for more than twelve consecutive months shall ipso facto cease to be a Trustee of the charity:

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- (c) A new Trustee or new Trustees may be appointed in the place of any one of the Trustees who through death retirement or any other cause ceases to be a Trustee or who desires to be discharged from the trusts or who refuses or is unfit to act or is incapable of acting herein : A.D. 1913.
- (d) The power of appointing new Trustees of the charity shall be vested in the said church such power to be exercised by resolution of a special meeting of the said church but it is expressly declared that this present power shall not be impaired or become incapable of being exercised by reason of the Trustees being at the time of the exercise thereof reduced below the number of five :
- (e) Any one of the Trustees may when there are more than five Trustees retire from the trust hereof on giving two calendar months' notice in writing of his intention so to do to the pastor and deacons or one of the deacons of the said church (if there shall be such pastor or deacon) and to each of the other Trustees for the time being and upon the termination of such two months the Trustee giving the notice shall cease to be a Trustee to all intents and purposes Provided that any notice sent by post to the last known usual place of abode in England of any Trustee shall be sufficient notice to him hereunder :

Provided always that subsections (a) (b) (c) and (e) hereof shall not apply so long as the county union are Trustees under this scheme but in case the said church shall at any time by special resolution request the county union to retire from the trust of this scheme or in case the county union shall at any time desire to retire or be discharged from the said trusts and shall signify such desire by giving three months' notice in writing under the hand of their secretary addressed to the pastor and deacons of the said church the said church shall forthwith or (as the case may be) before the expiration of the said notice proceed to appoint such (a number of persons) new Trustees of the charity as the said church shall think fit and the county union shall at the request and cost of the said church convey or assign the hereditaments then vested in such union and affected by this scheme to such persons as the said church may appoint in pursuance of the provisions herein contained.

14. All the trusts powers discretions and authorities hereby given to or vested in the Trustees where not otherwise specially defined shall be exerciseable by the executive committee of the county union. If the county union shall cease to be Trustees under this scheme such trusts powers discretions and authorities shall be exerciseable by a majority of the Trustees as fully and effectually in all respects as the same might have been exercised by the whole of the Trustees.

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15. The following provisions shall apply to every special meeting of the said church:—

- (a) The meeting shall be convened by the minister or pastor or deacons or committee for the time being of the said church or by the authority of the Trustees or of one-fifth in number of the members of the said church entitled to vote at such meeting by notice announcing the place day and hour of the meeting and the business or matter to be transacted or considered and such notice shall be given at each service held on the premises on the two Lord's days immediately preceding such meeting:
- (b) The meeting shall be fixed for and held not earlier than the Wednesday next following the second of such two Lord's days:
- (c) The only persons who shall be entitled to attend and vote at such meeting shall be those who whether male or female have attained the age of twenty-one years and have been members of the said church during at least six calendar months next preceding the meeting:
- (d) No votes shall be given by proxy but votes may be given by ballot or otherwise as the said church may direct:
- (e) The term "special resolution" in this scheme means a resolution passed at a special church meeting by a majority consisting of not less than two-thirds of the persons present and voting on the resolution and the same shall be binding upon all the members of the said church whether present or not at such meeting:
- (f) Except where a special resolution is hereby expressly required a resolution passed at a special meeting by a simple majority of the persons present and voting on the resolution shall be binding on all the members of the said church whether present or not at such meeting:
- (g) The proceedings and resolutions of the meeting shall be evidenced by a minute thereof under the hand of the chairman who shall have a casting vote and such minute shall be conclusive evidence that any resolution therein expressed to have been passed was passed at a meeting duly convened and held and by the requisite majority and it shall further be presumed that the person subscribing such minute as chairman was duly appointed to the office.

16. Except where it is hereby expressly provided that a special resolution of the said church or a resolution of a special meeting thereof is requisite the affairs of the said church and the provisions of this scheme may in all respects be managed and carried out under

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the direction of the members of the said church at ordinary meetings of the said church to which meetings the provisions of the last preceding clause hereof shall not apply but the same shall be held and regulated according to the ordinary practices and usages of Congregational churches which practices and usages shall also apply to special meetings of the said church subject to the provisions of such last preceding clause hereof. A.D. 1913.

17. Any consent or direction required to be given under this scheme by the county union or by the Congregational Union of England and Wales shall be given in writing signed by the secretary of the union concerned or of the committee or other executive authority of such union.

18. In the event of the removal of the said church to another locality the powers hereby vested in the said church in regard to the charity shall not thereby be suspended or in any manner impaired or affected.

19. The Charity Commissioners may from time to time in the exercise of their ordinary jurisdiction establish schemes for the alteration of any provisions of this scheme as if those provisions had been made by the founder in the case of a charity having a founder.

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