

**CHAPTER xix.**

An Act for rendering valid certain Leases Sales and Conveyances made by the Trustees of Sir Josiah Mason's Almshouses and Orphanage without the consent of the Charity Commissioners. A.D. 1897.
[3rd June 1897.]

WHEREAS by the indenture specified in the first part of the schedule hereto which indenture was duly executed and enrolled as required by law for the assurance of land to charitable uses the freehold hereditaments therein described were assured by Josiah Mason Esquire (afterwards Sir Josiah Mason Knight) to such uses as should be limited appointed or declared in pursuance of and in conformity with the respective powers and provisions therein-after in that behalf respectively contained and in default of any such limitation or appointment and subject thereto to the use of the parties to the said indenture of the second part their heirs and assigns for ever upon the trusts therein-after declared concerning the same And the leasehold hereditaments therein described were assigned by the said Josiah Mason to the said parties thereto of the second part their executors administrators and assigns for the unexpired residue of the term for which the same were held And it was thereby declared that the said freehold and leasehold hereditaments should be held upon trust for maintaining almshouses and an orphanage as therein directed under the management of the said parties thereto of the second part and of other Trustees to be appointed as therein provided and of a committee of management to be appointed from amongst the Trustees And the said indenture contained express provisions of a very elaborate nature with regard to the leasing the management and the sale and exchange of the said hereditaments thereby assured authorising the Trustees or any five of them to grant leases of the said hereditaments in accordance with the conditions therein specified for any term not exceeding twenty-one years for occupation purposes one hundred and twenty years

A.D. 1897. — for building purposes and twenty-one years for mining purposes and to dispose of and convey by way of sale or exchange all or any part of the said hereditaments not for the time being occupied as the site of the almshouses or orphanage or any of the out-buildings and appurtenances thereof or as the gardens playgrounds or pleasure grounds occupied therewith and to receive the purchase-money or any money paid for equality of exchange and to apply such money in paying off charges or purchasing other hereditaments to be assured to the uses and upon the trusts of the said indenture with power of interim investment as therein directed And by the said indenture the regulation of the leasing selling or exchanging of the said hereditaments was placed in the hands of the said committee of management provided that no lease or contract with a view to building or other purposes of improvement and no sale or exchange of any part of the said hereditaments should be made or entered into without the sanction of an annual or other general meeting of the Trustees at which not less than two-thirds of the whole number of the Trustees for the time being should be actually present But no lessee purchaser or other person whatsoever claiming under or by virtue of any such lease contract sale or exchange should be bound or obliged to inquire whether any such sanction had been obtained as aforesaid or should be affected by express or implied notice that no such sanction had been in fact obtained And it was provided that the receipts in writing of the Trustees or any five or more of them for the time being acting in the execution of the trusts or powers thereby created for any money payable to them by virtue of the said indenture should be good discharges for the same and the persons to whom such receipts should be given should be exonerated as therein mentioned from seeing to the application of such money and from inquiring into the propriety of any lease mortgage sale exchange or other disposition made or professed to be made by virtue of the said indenture And in the said indenture were contained provisions for the appointment by the Birmingham Town Council after the said Josiah Mason's death of seven additional Trustees to be called "the Official Trustees" and to act jointly with the then existing Trustees (who were to be called "the Ordinary Trustees") and for filling up vacancies in the number of the Official and the Ordinary Trustees and vesting the trust property in the Trustees (official as well as ordinary) for the time being And a power for the said Josiah Mason during his life by deed executed in the presence of and attested by two witnesses from time to time to alter or vary the trusts and provisions contained in the indenture in recital in the particulars

therein specified including the powers to be exercised by the Trustees over or in relation to the said thereby assured hereditaments and other the estates and property of the charity And whereas the said Sir Josiah Mason exercised the said power of varying the trusts and provisions of the herein-before recited indenture by the deeds poll specified in the first part of the schedule hereto all of which deeds were duly executed by him and attested as required by the said indenture and by the deed poll of the twelfth day of July one thousand eight hundred and eighty it was declared that the Trustees in granting leases of the estates for the time being subject to the trusts of the said indenture of the twenty-ninth day of July one thousand eight hundred and sixty-eight for other than building purposes should not be restricted to granting leases for terms not exceeding twenty-one years but might grant leases of any of the property for the time being subject to the trusts of the same indenture (not being for the time being occupied as the site of the almshouses or orphanage or as the gardens playgrounds or pleasure grounds occupied therewith) for any term not exceeding one hundred and twenty years in possession And whereas the said Sir Josiah Mason died on the sixteenth day of June one thousand eight hundred and eighty-one And whereas soon after his death the said seven Official Trustees were duly appointed by the Birmingham Town Council And whereas from time to time divers appointments of new Trustees (official as well as ordinary) of the said almshouses and orphanage have been duly made and the trust property has been duly vested in the Trustees of the charity for the time being And whereas it is enacted in the twenty-ninth section of the Charitable Trusts Amendment Act 1855 that it shall not be lawful for the trustees or persons acting in the administration of any charity to make or grant otherwise than with the express authority of Parliament under any Act already passed or which may hereafter be passed or of a court or judge of competent jurisdiction or according to a scheme legally established or with the approval of the Charity Commissioners (in the said Act called "the Board of the Charity Commissioners for England and Wales") any sale 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 partly of any fine or for any term of years exceeding twenty-one years And whereas the Trustees of the said charity were advised that the said provisions of the said indenture of the twenty-ninth day of July one thousand eight hundred and sixty-eight and of the said deeds poll for the leasing management and sale or exchange of the

A.D. 1897. charity lands constituted a scheme legally established within the meaning of the twenty-ninth section of the Charitable Trusts Amendment Act 1855 and that they were therefore entitled to make such leases sales exchanges and conveyances of the charity estate as were authorised by the said provisions without the express authority of any Act of Parliament court or judge or the approval of the said Commissioners And whereas the said Trustees being so advised granted divers leases and made divers sales exchanges and conveyances in accordance with the said provisions of the said indenture and deeds poll but without the express authority of any Act of Parliament court or judge or the approval of the said Commissioners to divers lessees purchasers and other contractors who dealt with the Trustees in good faith and for valuable consideration and carried out and accepted such leases sales exchanges and conveyances without requiring such express authority or approval as aforesaid under the advice or impression that the same was unnecessary And whereas it was decided in the case of *Mason's Orphanage v. The London and North Western Railway Company* heard before the Court of Appeal on the twenty-seventh day of February one thousand eight hundred and ninety-six that the said provisions of the said indenture and deeds poll did not constitute a scheme legally established within the meaning of the twenty-ninth section of the Charitable Trusts Amendment Act 1855 and that the Trustees of the said almshouses and orphanage were not entitled to sell any part of the charity estate without the express authority or the approval required by the same section And whereas it is now apprehended that the said leases sales exchanges and conveyances of parts of the charity estate so made as aforesaid without the express authority or approval required by the twenty-ninth section of the Charitable Trusts Amendment Act 1855 to persons dealing with the Trustees in good faith and for valuable consideration were void And whereas the Trustees are desirous and it is expedient that the said leases sales exchanges and conveyances so made as aforesaid may be made valid but this cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it 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 :—

Short title.

1. This Act may be cited as the *Mason's Orphanage Act 1897*.

Leases sales
&c. made by
Trustees.

2. All leases (as specified in the second part of the schedule hereto) sales exchanges and conveyances made by the Trustees

for the time being of the charity known as Sir Josiah Mason's Almshouses and Orphanage or any of such Trustees of any lands or hereditaments held on the trusts of the recited indenture and deeds poll or any estate interest or right in or over the same in accordance with the provisions made by the said indenture and deeds poll for the leasing management sale and exchange of the charity estate but without the express authority of any Act of Parliament court or judge or the approval of the Charity Commissioners shall be perfectly valid in law from their commencement and shall be deemed to have been lawfully and validly made from their commencement notwithstanding the want of such express authority or approval as aforesaid and shall be as effectual for all intents and purposes from their commencement as if they had been made or executed by all the Trustees for the time being with the approval of the said Commissioners.

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between 29th
July 1868
and 27th
February
1896 to be
valid and
effectual.

3. All the estates interests and rights (whether matter of conveyance reservation condition covenant simple contract or otherwise) purported to be conferred or created by the deeds or other instruments or the agreements by which such leases sales exchanges and conveyances as aforesaid were effected whether limited to or expressed to be conferred upon the lessees or purchasers or any other person or persons or the said Trustees shall be perfectly valid in law from their commencement and shall be deemed to have been lawfully and validly conferred and created from their commencement notwithstanding the want of such express authority or approval as aforesaid and shall be as effectual for all intents and purposes from their commencement as if they had been limited conferred or created by all the Trustees for the time being of the said charity with the approval of the said Commissioners.

Estates
interests and
rights con-
ferred or
created by
agreements
to be valid in
law.

4. All such payments contracts and conveyances made and acts done or suffered under or by virtue of or on the faith of the validity of such leases sales exchanges and conveyances as aforesaid as would have been validly and rightly made done or suffered if the said leases sales exchanges and conveyances had been originally valid shall have and be deemed to have had from the time when such payments contracts conveyances or acts were made done or suffered respectively the same force and effect at law and in equity as such payments contracts conveyances or acts would have had if the said leases sales exchanges and conveyances had been originally valid and the hereditaments comprised in such leases sales exchanges and conveyances as aforesaid shall as from the time when such leases sales exchanges and conveyances were made respectively be and be deemed to have been subject to the

All payments
contracts and
conveyances
under leases
sales &c.
to be valid.

A.D. 1897. same estates interests and rights and devolve and be deemed to have devolved in the same manner in all respects as the same hereditaments would have been subject to or would have devolved if such leases sales exchanges and conveyances as aforesaid and also such payments contracts conveyances and acts as aforesaid had been originally valid.

Costs of Act. 5. The costs charges and expenses connected with and incidental to the preparation and passing of this Act shall be paid by the Trustees out of the income of the property subject to the trusts of the said indenture and deeds poll.

The SCHEDULE herein-before referred to.

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PART I.

An indenture dated the twenty-ninth day of July one thousand eight hundred and sixty-eight and made between Josiah Mason of Norwood House Erdington in the parish of Aston near Birmingham in the county of Warwick manufacturer (afterwards created to be Sir Josiah Mason Knight) of the first part and Frederick Allen William Bach William Fothergill Batho James Gibbs Blake Isaac Horton Thomas Francis Shaw all of Birmingham in the county of Warwick and John Christopher Yeomans of Erdington aforesaid of the second part.

Deeds poll under the hand and seal of the said Sir J. Mason dated respectively the twenty-third day of January one thousand eight hundred and seventy-three the first day of June one thousand eight hundred and seventy-eight the twelfth day of July one thousand eight hundred and eighty and the seventh day of February one thousand eight hundred and eighty-one.

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PART II.

LEASES GRANTED BY THE ORPHANAGE TRUSTEES.

Date of Lease.	Name of Lessee.	Parcels.	Term granted.	Rent reserved.
22nd May 1871	William Henry Hopkins.	Land fronting to Holly Lane Erdington containing 2,436 square yards.	120 years from the 25th December 1863.	£ 10 0 0 s. 0 d. 0
1st August 1873	Charles Glover Huins	Land at Headless Cross Feckenham containing 2,740 square yards with 3 messuages thereon.	99 years from the 24th June 1873.	17 2 6
29th September 1873	James Kent	Land at Bickenhill known as Chapel Field Estate containing 96A. 2R. 22P. and the messuage thereon.	120 years from the 29th September 1873.	300 0 0 during the first 3 years. 450 0 0 during the remainder of the term.
24th June 1874	William Avery and others.	Land at Headless Cross	98 years from the 24th June 1874.	1 5 0
24th February 1875	Richard Court	Land at Headless Cross containing 300 square yards.	99 years from the 25th March 1875.	4 7 6
31st December 1875	The School Board for the Parish of Feckenham.	Land at Crabbs Cross Feckenham containing 1 acre.	99 years from the 24th December 1875.	5 0 0
28th April 1877	Henry Wall	Land at Headless Cross containing 1,578 square yards.	99 years from the 25th March 1877.	6 11 6
11th December 1877	William Palmer Rayner.	Four pieces of land at the back of Snow Hill Birmingham containing altogether 1,922 square yards.	99 years from the 25th December 1877.	280 0 0
14th June 1878	George Charles Dean	Land at Erdington fronting to the Lichfield Road and containing 390 square yards and the messuage thereon.	99 years from the 25th March 1878.	8 18 6

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20th June 1878	Fred Bradley	Land at the corner of Silver Birch Road and Birmingham and Lichfield Turnpike Road at Erdington and containing 748 square yards.	99 years from the 29th September 1877.	14 0 6
25th November 1879	Charles Glover Huins	Land at Headless Cross containing 3,608 square yards and the two cottages thereon.	99 years from the 24th June 1879.	22 0 0
2nd April 1880	Charles Glover Huins	Land at Headless Cross containing 5,081 square yards and the 10 cottages thereon.	99 years from the 24th June 1879.	32 0 0
7th October 1880	Charles Glover Huins	Land at Headless Cross containing 3,046 square yards and the 5 cottages thereon.	99 years from the 24th June 1879.	21 0 0
1st November 1880	William Edward Wiley.	Land at Tyburn containing 8A. 1R. 18P. and the messuages thereon.	102 years from the 24th June 1880.	200 0 0
1st November 1880	Birmingham Tame and Rea District Drainage Board.	Land at Tyburn Erdington containing 95A. 1R. 22P.	102 years from the 24th June 1880.	400 0 0
29th November 1883	Samuel Taylor	Land fronting to High Street Erdington and containing 649 square yards.	99 years from the 25th March 1883.	16 0 0
11th August 1884	John Bidwell Matthews.	Land fronting to Gravelly Lane Erdington containing 3,570 square yards and the 4 messuages thereon.	110 years from the 25th March 1866.	16 0 0
5th September 1884	Frederick Henry Morris.	Land adjoining Shortheath Road Erdington containing 5,250 square yards.	92 years from the 25th March 1884.	18 0 0
6th September 1884	Frederick Henry Morris.	Land near Gravelly Lane containing 3,450 square yards.	92 years from the 25th March 1884.	16 0 0
24th April 1888	John Wilton Junr.	Land fronting to a new road leading out of High Street Erdington containing 1,005 square yards.	99 years from the 25th December 1887.	14 13 1
23rd June 1890	James Austin	Land fronting to Silver Birch Road Erdington and containing 2,980 square yards.	99 years from the 29th September 1890.	12 8 4
30th October 1890	Richard Henry Pretty	Land at Headless Cross fronting to the Alcester and Bromsgrove Road and containing 378 square yards.	99 years from the 25th March 1890.	2 17 3
16th December 1892	William Donovan	Land fronting to the Lichfield Road at Erdington containing 2,715 square yards.	99 years from the 29th September 1892.	12 10 0
31st December 1892	George Cramp	Land fronting to Lichfield Road Erdington and containing 270 square yards.	99 years from the 29th September 1892.	6 5 0

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Mason's Orphanage Act, 1897.

[60 Vict.]

Date of Lease.	Name of Lessee.	Parcels.	Term granted.	Rent reserved.
31st December 1892	Alfred Williams	Land fronting to Lichfield Road Erdington and containing 298 square yards.	99 years from the 29th September 1892.	£ 7 19 0
31st August 1893	Maria Eliza Smith	Land fronting to Gravelly Lane and containing 2,750 square yards.	99 years from the 25th March 1893.	17 3 9
15th September 1893	John Preston	Land fronting to Gravelly Lane Erdington and containing 398 square yards.	99 years from the 24th June 1893.	3 0 0
15th September 1893	Frederick Kerridge	Land fronting to Gravelly Lane and containing 401 square yards.	99 years from the 24th June 1893.	3 0 0
3rd November 1893	Henry Stevenson	Land fronting to Silver Birch Road Erdington and containing 1,260 square yards.	99 years from the 24th June 1893.	7 17 6
27th July 1894	Jessie Shaw	Land fronting to Gravelly Lane and containing 825 square yards.	99 years from the 24th June 1894.	6 0 0
30th July 1894	Henry Stevenson	Land fronting to Silver Birch Road and containing 1,260 square yards.	99 years from the 24th June 1894.	7 17 6
11th June 1895	Henry Stevenson	Land fronting to Silver Birch Road and containing 1,260 square yards.	99 years from the 25th March 1895.	7 17 6
29th September 1895	Henry Stevenson	Land fronting to Silver Birch Road containing 1,260 square yards.	99 years from the 25th March 1895.	7 17 6
3rd February 1896	Thomas Cashmore	Land fronting to Gravelly Lane and containing 826 square yards.	99 years from the 25th December 1895.	5 3 3

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FOR

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