ANNO UNDECIMO & DUODECIMO

VICTORIÆ REGINÆ.

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Cap. cli.

An Act to authorize the Endowment and Consecration of a new Chapel at *Marlborough*, and the Annexation of the same to *Marlborough College.*

[14th *August* 1848.]

Recital of Letters Patent, dated 21st Aug. 1845, for founding Marlborough College.

WHEREAS by Royal Letters Patent, bearing Date the Twenty-first Day of *August* in the Ninth Year of the Reign of Her present Majesty, after reciting that the Most Reverend Father in God *William* late Archbishop of *Canterbury*, since deceased, *John* Earl of *Eldon*, and the Right Reverend Father in God *Edward* Lord Bishop of *Salisbury* had presented their Petition to Her Majesty, setting forth that they, with divers others of Her Majesty's loving Subjects, had joined together for the Purpose of establishing a Place of Education for the Sons of Clergymen and others in the ancient and modern Languages, in the various Branches of Literature and Science, and in the Doctrine and Duties of Christianity as received, understood, and taught by the United Church of *England* and *Ireland*, and wherein certain Advantages were intended to be afforded to the Sons of Clergymen over the Sons of Laymen, for which Purpose large Sums of Money had been contributed, and an Institution formed and a School opened at *Marlborough* in the County

of *Wilts*, within the Diocese of the Bishop of *Salisbury*, with much Success; that the said Institution had then hitherto been, and at the Time of the presenting of the said Petition was, carried on under the entire Management and Direction of a Council appointed by the Promoters of the said Undertaking, but that such Council were of opinion that it would be more for the Benefit of the Undertaking that the School should be for the future carried on as a College, and that the said Promoters of the said Undertaking had been advised and believed that the said Undertaking would be more effectually prosecuted, and complete Success therein sooner attained, if they were protected by Royal Sanction by means of a Royal Charter of Incorporation, and that the said Petitioners had most humbly supplicated Her Majesty to grant to them, and to the other Promoters of the said School and their Successors, Her Majesty's Royal Charter of Incorporation, for the Purpose of constituting them a Corporation for more effectually carrying on and conducting the said Undertaking, under such Regulations and Restrictions as to Her Majesty might seem expedient, Her Majesty did grant, constitute, and appoint, amongst other things, that, for the Purpose of establishing and carrying on and maintaining a College to be called *Marlborough College*, a Corporation consisting of Perpetual Governors and Life Governors should be and the same were by the said now-reciting Letters Patent founded and constituted; that the Archbishop of *Canterbury*, the Bishop of *London*, and the Bishop of the Diocese within which the said College should for the Time being be locally situated, and their respective Successors, should, by virtue of their respective Offices, be Perpetual Governors of the said College; that the several Persons who at the Time of granting the said now-reciting Letters Patent constituted the Council of the said Institution, and every Person who was at that Time a Life Governor of the said Institution, should be Life Governors of the said College and Members of the said Corporation; that the Bishop for the Time being of the Diocese within which the said College should for the Time being be locally situated should, by virtue of his Office, be deemed a Life Governor of the said College and Member of the said Corporation; that the said Perpetual Governors, and the said several Persons who at the Time of granting the said now-reciting Letters Patent were Life Governors, and such other Persons as should from Time to Time thereafter become or be elected Life Governors, should be and the same were by the said now-reciting Letters Patent constituted one Body Politic and Corporate, by the Name of "The Governors of *Marlborough College*," and should by the same Name, and for the Purposes therein mentioned, have perpetual Succession, and have a Common Seal, with Power to break, alter, and renew the same at their Discretion, and should by the same Name sue and be sued, plead and be impleaded, and answer and be answered, in all Courts, and before all Justices of Her Majesty, Her Heirs and Successors; and Her Majesty did by the said now-reciting Letters Patent, amongst other things, will and ordain, that by the same Name they and their Successors should be able and capable in Law to take, purchase, and hold to them and their Successors any Goods, Chattels, or Personal Property whatsoever, and should also be able and capable at Law, notwithstanding the Statutes of Mortmain, to take, purchase, and hold to them and their Successors not only all such Lands, Buildings,

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Hereditaments, and Possesions as might be from Time to Time exclusively used and occupied for the immediate Purposes of the said College, but also any other Lands, Buildings, Hereditaments, and Possessions whatsoever situated within Her Majesty's United Kingdom of *Great Britain* and *Ireland*, not exceeding the annual Value of Five thousand Pounds, such annual Value to be calculated and ascertained at the Period of taking, purchasing, or acquiring the same, and that they and their Successors should be able and capable in Law to grant, demise, alien, exchange, mortgage, or otherwise deal with or dispose of all or any of the Property, Real or Personal, belonging to the said College, and also to do all other Matters incidental or appertaining to a Body Corporate; and Her Majesty did by the said now reciting Letters Patent, amongst other things, will and ordain, that the Duties and Doctrines of Christianity, as the same are received, understood, and taught by the United Church of *England* and *Ireland*, and also the various Branches of Literature (including the ancient and modern Languages) and of Science, should be taught in the said College, under the Superintendence of a Member of one of the Universities of *Oxford* and *Cambridge*, who should be designated "The Master of *Marlborough College*," and should be elected by the Council for the Time being, and of such Assistants as the Council should nominate, and that the said Master should not be removable without the Consent of the Visitor of the said College; that the Archbishop of *Canterbury* for the Time being should, by virtue of his Office, be Visitor of the said College, with Authority to do all those Things which pertain to Visitors, as often as to him should seem meet; that the Affairs and Property of the said Corporation should be under the Conduct and Management and Control of the Council, which should consist of the Bishop of the Diocese within which the said College should for the Time being be locally situated, who should be the President of the said Council and Corporation, and Twenty-five of the Life Governors of the said Corporation, being Members of the said United Church of *England* and *Ireland*, and that Half of the said Council should be Clergymen of the said United Church of *England* and *Ireland*, the Bishop of the said Diocese being one, and the other Half Laymen; that the Council might also, if they should think fit, erect a Chapel in conjunction with the said College, and to be used for the Purposes thereof, and might also, if deemed expedient, endow the same, and apply to the Bishop of the Diocese to consecrate the same; and that the Council for the Time being should have full Power from Time to Time to appoint, and, as they should see occasion, to remove (subject only as therein contained), the Master and Assistant Masters, Professors, Tutors, and Masters, and the Chaplain, and also the Secretary and Treasurer, with Liberty for the Council to unite from Time to Time the Two last-named Offices in the same Person so long as they should think fit, and all Officers, Agents, and Servants of the said College: And whereas by Indenture of Appointment or Conveyance, bearing Date the Ninth Day of *June* One thousand eight hundred and forty-seven, and made between *Charles Hoare* of *Fleet Street* in the City of *London*, Esquire, and *Henry Charles Hoare* of *Fleet Street* aforesaid, Esquire, of the First Part, the Most Honorable *Charles Brudenell Bruce* Marquis of *Ailesbury* of the Second Part, and the Governors of *Marlborough College* of the Third Part,

Conveyance, dated 9th June 1847, of a Piece of Land to the Governors of the College.

Part, after reciting as therein recited, it was witnessed that, in consideration of Ninety Pounds Thirteen Shillings to the said *Charles Hoare* and *Henry Charles Hoare* paid by the said Governors, they the said *Charles Hoare* and *Henry Charles Hoare* did, by the Direction of the said *Charles Brudenell Bruce* Marquis of *Ailesbury*, testified by his signing and sealing the said Indenture and Appointment, direct, limit, and appoint that all that irregular shaped Piece or Parcel of Ground then or late (together with other Lands and Hereditaments) in the Tenure or Occupation of the said Governors, Part whereof was situate in the said Parish of *Preshute* and the Residue in the Parish of *Saint Peter* and *Saint Paul Marlborough* in the County of *Wilts*, and containing by Admeasurement in Length along the South-western Side thereof Two hundred and twenty Feet or thereabouts, and in Breadth at the broadest Part thereof One hundred and forty Feet or thereabouts, as the same Piece or Parcel of Ground thereby appointed was then staked out from the Residue of certain Closes, and more particularly delineated and described in the Plan drawn in the Margin of the now reciting Indenture, and therein coloured Green, should thenceforth be and remain to the only proper Use and Behoof of the said Governors, their Successors and Assigns for ever: And whereas a new Chapel is in course of Erection on a Part of the said Piece or Parcel of Land mentioned and comprised in the herein-before recited Indenture of Conveyance, and such Chapel is contiguous to the said College, and will be shortly completed and fitted up with all Things necessary and proper for the Performance of Divine Service therein according to the Rights and Ceremonies of the United Church of *England* and *Ireland*, and such Chapel and the Site thereof are situate partly in the Parish of *Saint Peter Marlborough*, in the herein-before recited Indenture called *Saint Peter and Saint Paul Marlborough*, and partly in the Parish of *Preshute*, and such Chapel and Site, together with the said College and the Buildings and Grounds thereunto belonging, are situate in the Diocese of the Bishop of *Salisbury*, and it is intended that the said Chapel should be permanently endowed: And whereas the Cost of the Purchase of the said Piece or Parcel of Land, of the Erection of the said Chapel, and the fitting the same up for the Performance of Divine Service therein, and the Endowment thereof, will amount to a large Sum of Money, which has been or will be defrayed out of the Funds of the said *Marlborough College*: And whereas it will greatly conduce to the spiritual Interests of such College, and to its permanent Prosperity, that Power should be given to Her Majesty's Commissioners for building new Churches, subject to certain Notices herein-after mentioned, to set apart such Chapel, after the Consecration of the same, for the Use of such College, and that the Council of the said College should have the Control and Management of such Chapel, subject nevertheless in all respects to the ordinary Jurisdiction of the Bishop of the Diocese within which the same is situate; but these beneficial Objects cannot be fully attained without the Aid and Authority of Parliament: Wherefore Your Majesty's most dutiful and loyal Subjects, the Right Reverend *Edward* by Divine Permission Lord Bishop of *Salisbury* and the Governors of *Marlborough College*, do most humbly beseech 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

Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall be lawful for Her Majesty's Commissioners for building new Churches, upon their being satisfied as to the Validity of the Title to the Fee Simple of the Site of the said Chapel, and with the Consent in Writing of the Bishop of *Salisbury*, on an Application and Request in Writing being made to them by the Council of the said *Marlborough College*, previous to the Consecration of the said Chapel, setting forth that it has been completed and fitted up, to order and direct, by any Instrument under their Common Seal, that such Chapel and the Site thereof shall on the Consecration thereof be devoted to Ecclesiastical Purposes for ever, and be set apart for the Use of the said *Marlborough College*, the Master, Assistant Masters, Professors, Tutors, Pupils, and all other Officers or Persons belonging to the said College, and also of their Families and Servants, if residing within the said College, and that the said Chapel and the Chaplain thereof shall be exempt from any Control or Interference whatever on the Part of the Incumbents of the said Parishes of *Saint Peter Marlborough* and *Preshute* respectively or either of them, and their respective Successors, and such Order and Direction shall be valid and effectual to all Intents and Purposes, any Statute, Law, or Custom to the contrary notwithstanding; and such Instrument shall be registered in the Registry of the Diocese of *Salisbury*, and shall be admitted as Evidence in all Courts of Law and Equity, and in all Ecclesiastical Courts, of such Chapel and the Site thereof having been so set apart for the Purposes aforesaid: Provided nevertheless, that, previous to such Order and Direction being made, a Copy of such Application and Request shall be delivered or transmitted by Her Majesty's said Commissioners to the Patron or Patrons and Incumbents of the said Parishes of *Saint Peter Marlborough* and *Preshute* respectively, in order to give them or any or either of them an Opportunity of objecting to such Application and Request being complied with, or of making any Observations relative thereto; and such Order and Direction by the Commissioners as aforesaid shall not be made within One Calendar Month after a Copy of such Application and Request shall have been so delivered or transmitted as aforesaid, unless in the meantime such Patrons and Incumbents respectively shall consent, by Writing under their Hands respectively, to such Application and Request being complied with.

Power to the Church Building Commissioners to appropiate Chapel for sole Use and Purposes of the College, with Consent of the Bishop of the Diocese.

II. And be it enacted, That it shall be lawful for the Bishop of *Salisbury*, on an Endowment and Repair Fund, as herein-after mentioned, being secured by the Governors or Council of the said College to the Satisfaction of the said Bishop, to consecrate the said Chapel; and immediately after such Order and Direction as aforesaid by the said Commissioners, and the Consecration of the said Chapel, and so from from Time to Time whenever a Vacancy shall occur, it shall be lawful for the Council of the said *Marlborough College* from Time to Time to nominate to the Bishop of the said Diocese, as Chaplain of the said Chapel, the Master of *Marlborough College*, being in Priests Orders and a Graduate of one of the Universities of *Oxford* or *Cambridge*, or in case the said Master shall not be in Priests Orders or a Graduate as aforesaid, or shall be unwilling to take, or having taken shall resign

Power to the Bishop to consecrate the same, and to Council to nominate a Chaplain, and to remove him.

or cease to hold, the Office of Chaplain, then to nominate any one of the Masters or Assistant Masters of the said College, being in Priest Orders, and being such Graduate as aforesaid, and for the Bishop to grant to such Person so to be nominated a Licence to officiate in the said Chapel according to the Rights and Ceremonies of the United Church of *England* and *Ireland*, and such Chaplain, when so nominated and licensed, shall have Power during the Continuance of such Licence to officiate therein accordingly; and the said Council of the said College may from Time to Time, with the Consent in Writing of the Bishop of *Salisbury* for the Time being, remove any such Chaplain from his said Office, by an Instrument under the Common Seal of the said College ordering his Dismissal, and thereupon the said Licence shall be void, without Prejudice to the Rights of the Bishop for the Time being of the said Diocese with respect to the Revocation of any such Licence.

Incumbents of Parish wherein Chapel situate not to interfere when same set apart by the Commissioners.

III. And be it enacted, That after such Order and Direction as aforesaid by Her Majesty's Commissioners such Chapel and the Site thereof, and the Chaplain or Officiating Minister thereof, shall be free from any Control or Interference whatsoever of the Incumbents of the Parishes of *Saint Peter Marlborough* and *Preshute* or either of them, or of their respective Successors, and such Incumbents and their Successors shall not have, claim, or exercise any Right to officiate in such Chapel, or otherwise in any Manner to control or interfere therewith or with the Chaplain or Officiating Minister for the Time being, any Statute, Law, or Custom to the contrary notwithstanding.

Endowment of Chapel.

IV. And be it enacted, That it shall be lawful for the Governors or Council of the said College, with the Approbation of the said Governors, and they are hereby required, previous to the Consecration of such Chapel, to endow, by Deed under their Common Seal, the said Chapel with an annual Income in Perpetuity of not less than Fifty Pounds, out of the Revenues now belonging or hereafter to belong to the said College, and to charge and secure such annual Endowment by way of Charge on the Revenues of such College or otherwise to the Satisfaction of the said Bishop; and such Endowment shall be paid to the Chaplain for the Time being of such Chapel in Two equal half-yearly Payments, that is to say, on *Lady Day* and *Michaelmas Day* in each Year, and the first half-yearly Payment shall commence on the first of such Days as shall follow the Consecration of such Chapel; and the Chaplain of such Chapel for the Time being shall have the Power of recovering such half-yearly Payment, or such Part thereof as may be in arrear and unpaid, by Action of Debt against the said Corporation; and such Endowment shall be valid without any Licence or Writ of Ad quod damnum, the Statutes of Mortmain or any other Statute or Law to the contrary notwithstanding, and may be from Time to Time increased by the said Governors or Council; and such increased Endowment, when made, shall be paid and recovered in the same Manner as the first or original Endowment is by this Act payable and recoverable: Provided always, that any such original and additional Endowment out of the Revenues of the said College shall not in the whole amount to more than the annual Sum

Sum of Two hundred Pounds, and that in the event of the Removal, Resignation, or Death of the Chaplain for the Time being, or other Avoidance of the said Office of Chaplain, a proportionate Part of the then accruing half-yearly Payment of the said Endowment, from the last half-yearly Day of Payment thereof to such Death or Avoidance, shall belong to and be paid to such Chaplain, or his Executors, Administrators, or Assigns, and the Residue of such half-yearly Payment shall belong to and be paid to the Successor of such Chaplain at the next half-yearly Payment; and every such Deed of Endowment shall be registered in the said Registry of the said Diocese of *Salisbury*, and shall be received in Evidence in all Courts of Law and Equity, and in all Ecclesiastical Courts.

Revenues of College to be charged with an annual Sum for Repairs of Chapel.

V. And be it enacted, That it shall be lawful for the said Governors or Council of the said College, and they are hereby required, to charge in like Manner in Perpetuity the Revenues of the said College with an annual Sum of not less than Twenty Pounds, by way of a Fund for the Sustentation of the Fabric of the said Chapel, and for defraying the Expenses attending the Performance of Divine Service therein, and of all such decent and necessary Repairs as from Time to Time may be requisite; and such Repair Fund shall be paid on the First Day of *January* in each Year to the Treasurer for the Time being of the said College, and shall be applied by him to all or any of the Purposes aforesaid as the said Council of the said College shall from Time to Time order and direct, and any annual Surplus after the Payment of Expenses shall accumulate in the Hands of such Treasurer, to be applied by him in any succeeding Year or Years to the like Purposes as the said Council shall from Time to Time order and direct: Provided always, that the Parishes of *Saint Peter Marlborough* and *Preshute* respectively shall be exempt from any Liability to contribute towards the Sustentation of the Fabric and Repairs of the said Chapel and all Expenses whatsoever incident to the Performance of Divine Service as aforesaid.

Conveyance of Land under Indenture before recited to be valid notwithstanding Statutes of Mortmain.

VI. And be it enacted, That the herein-before in part recited Indenture of Appointment or Conveyance of the said Piece or Parcel of Ground shall be valid and sufficient, the Statutes of Mortmain or any other Law or Statute to the contrary notwithstanding, to vest the Fee Simple thereof in the Governors of the said College, and in order that such Chapel and the Site thereof shall on the Consecration thereof be devoted to Ecclesiastical Purposes for ever, and be set apart for such College as aforesaid; and such Indenture of Appointment and Conveyance shall be registered in the said Registry of the Diocese of *Salisbury*, and such Deed or an Office Copy from the said Registry shall be received in Evidence in all Courts of Law and Equity, and in all Ecclesiastical Courts.

Marriages, &c. in the Parish Churches of these Parishes not to be affected by this Act.

VII. Provided always, and be it enacted, That nothing in this Act contained shall alter or affect the Rights of the Incumbents of *Saint Peter Marlborough* and *Preshute* respectively, or the Rights belonging to their respective Parish Churches, with respect to the Performance of the Offices of Baptism, Marriage, or Churching in such Parish

Parish Churches, or Burials in the same or in the Churchyards of the said Parishes.

General Saving.

VIII. And be it enacted, That nothing herein contained shall extend or be construed to extend to alter, affect, or prejudice the Rights (if any) of any Person or Persons claiming any Estate, Right, Title, or Interest in or to the said Piece or Parcel of Land conveyed by the herein-before recited Indenture of Appointment or Conveyance of the Ninth Day of *June* One thousand eight hundred and forty-seven.

Public Act.

IX. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such.

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