CHAPTER ciii.

An Act to make provisions with respect to the constitution and management of Cheltenham College. A.D. 189

[20th July 1894.]

WHEREAS the institution known as Cheltenham College or Cheltenham Proprietary College was established about the year one thousand eight hundred and forty by persons who subscri'ed certain sums of money to constitute a capital stock of the institution:

And whereas by certain rules and regulations then drawn up the objects of the institution were defined and its affairs regulated and it was provided that the institution should be established "for the "purpose of providing an efficient course of education for the sons "of gentlemen comprising religious and moral instruction in strict "conformity with the principles of the Established Church the "Greek Latin and modern languages and literature history "geography mathematics and such other branches of knowledge "as it may be found practicable and advantageous to introduce":

And it was among other things stated in the said rules and regulations as follows:—

"The proprietary consists of three hundred shares the payments made for which constitute the capital stock of the institution;

"The sum so raised or such portion of it as may be found necessary for that purpose may be applied to the purchase or hire of land or of buildings suitable for the proposed college or to the erection of such buildings the surplus to be applied to the general objects of the institution":

And whereas by Rule 4 it was provided that there should be sixteen trustees of the institution and that all the land buildings and other property of the institution real and personal should from time to time be vested in such and so many of the trustees as the directors for the time being should think fit And that every trustee should when required by the directors so to do execute a

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deed declaring the trusts upon which any property real or personal had been vested in him And provisions were made for the appointment of new trustees from time to time:

And whereas various provisions were made by the said rules for the investment of property by the trustees for the formation of a guarantee fund for recovering calls from proprietors and generally for regulating the business of the institution:

And whereas it was provided by the said rules that the proprietors should be at liberty to transfer or bequeath their shares but that in case of a transfer or bequest the purchaser grantee or legatee must be approved by the directors before he should be entitled to the advantages of an original proprietor:

And whereas the original rules and regulations of the college provided that the register or share list should be signed by the proprietors which share list contained the heading of which a copy is set out in the First Schedule to this Act under which the several proprietors agreed to abide by and observe all and singular the rules and regulations for the time being in force relating to such shares:

And whereas the rules of the institution were revised in 1878 and it was provided amongst other things that the governing body of the college should be a Council constituted as therein defined and (paragraph 10) that all proprietors should be admitted as the Council might determine and that each person so admitted should as a necessary preliminary to his or her becoming entitled to exercise any of the privileges of a shareholder sign an agreement in the form or to the effect set forth in the Form No. 1 in the Appendix at the foot of the said rules a copy of which form is set out in the Second Schedule to this Act:

And it was also provided that if any person so admitted should not sign such agreement for the space of twenty-one days after he or she should have been requested to sign the same by the Council or by the secretary or other officer of the college or if any person then being or thereafter becoming a proprietor should at any time fail to comply with any of the rules and regulations for the time being of the college every such person should subject to the discretion of the Council as to any reasonable excuse for such default either as regards the non-signing of the agreement or non-compliance with any of the rules and regulations cease to have any right or interest either as a shareholder or otherwise in the college beyond that of the power of selling or disposing of his or her share or shares according to the existing rules and regulations:

And whereas the land building and premises and other property of the institution are now vested in certain persons as trustees of the institution in accordance with the said rules:

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And whereas it is expedient that provision should be made for the incorporation of the college and generally for the government and management of the college as herein-after set forth:

And whereas the objects aforesaid 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 tit

1. This Act may be cited as the Cheltenham College Act 1894.

Interpret tion.

2. In this Act—

"The institution" means the Cheltenham College or Cheltenham Proprietary College as it existed previously to the passing of this Act;

"The college" means Cheltenham College as it will exist after the passing of this Act;

"The proprietors" means the persons who at the passing of this Act are the holders of shares in the institution;

"The trustees" means the trustees of the institution acting under the recited rules at the passing of this Act.

Incorpor tion of n corporat body.

3. The president and members of the Council herein-after appointed and their successors are hereby incorporated by the name of "the President and Council of Cheltenham College" with perpetual succession and a common seal and the right to hold lands in perpetuity or otherwise and the right to sue and be sued.

The said incorporated body is in this Act referred to as "the Council."

The Cou

4.—(1.) The Council shall consist of a president and twenty members of whom ten shall be life members and ten shall be ordinary members.

(2.) The first life members of the Council shall be the following persons:—

The Right Honourable and Most Reverend Lord Plunket Archbishop of Dublin;

The Right Reverend Alfred Barry late Bishop of Sydney;

The Right Honourable Sir Michael Edward Hicks Beach Baronet;

The Very Reverend Henry Montagu Butler Master of Trinity College Cambridge;

The Reverend Bartholomew Price Master of Pembroke College Oxford;

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The Reverend William Walter Merry Rector of Lincoln College Oxford;
General William Craig Emilius Napier;
John Reginald Yorke;
Algernon Bertram Freeman Mitford C.B.;
Robert Threshie Reid one of Her Majesty's Counsel.

(3) Whenever any vacancy among the life members of the Council shall occur the said vacancy may be filled up as follows viz.:—

On the first vacancy the Council may appoint a person to fill the same;
On the second vacancy the Council may appoint a person to fill the same;
On the third vacancy the Vice-Chancellor for the time being of the University of Oxford may appoint a person to fill the same;
On the fourth vacancy the Council may appoint a person to fill the same;
On the fifth vacancy the Council may appoint a person to fill the same;
On the sixth vacancy the Vice-Chancellor for the time being of the University of Cambridge may appoint a person to fill the same;
On the seventh vacancy the Council may appoint a person to fill the same;
On the eighth vacancy the Council may appoint a person to fill the same;
On the ninth vacancy the Director-General of Military Education for the time being may appoint a person to fill the same;
On the tenth vacancy the Council may appoint a person to fill the same;
And after the tenth vacancy the foregoing order of appointments shall again be followed and so from time to time:

Provided that any failure on the part of any of the said persons to fill any vacancy shall not disqualify the Council from acting and that if any vacancy be not filled within three months from the date of the occurrence thereof by the Council or other person (as the case may be) authorised to appoint a person to fill the same the vacancy may be filled by the Council or other person (as the case may be) next entitled to appoint a member to fill a vacancy in the order herein-before set forth.

(4) The first ordinary members of the council shall be the following persons:

James Tynte Agg-Gardner;
The Reverend Arthur Henry Austen-Leigh;

Sir John Edward Dorington Baronet;
Colonel John Geddes;
Henry Hugh Hornby;
William Fraser McDonell V.C.;
Colonel David Milne Home;
Robert William Raper;
The Venerable Archdeacon Hemming Robeson;
Charles Corbett Turnbull.

(5) Five of the first ten ordinary members to be decided by ballot as soon as conveniently may be after the passing of this Act shall retire at the end of the first year and the remaining five shall retire at the end of the second year after the passing of this Act Ordinary members (other than the first ten ordinary members whose retirement is herein-before provided for) shall hold office for terms of five years and shall then retire but any retiring member shall be eligible for re-election.

Any vacancy among the ordinary members which may from time to time occur by death resignation incapacity to act or otherwise than through retirement by rotation may be filled up by persons nominated by the Council But any member so appointed shall retire at the same time as the person in whose place he is appointed.

(6) The places of ordinary members retiring by rotation shall be filled as follows viz. :—

The Council may appoint four members (one of whom so long as there shall be five persons who shall have presented shares to the college shall be one of such persons) :

The principal and such of the masters at the college who shall be defined by the rules of the college as qualified to vote at an election of ordinary members may elect one member provided that if at any time more than one member be proposed for election by the said principal and masters the election shall be decided by the majority of the votes of the principal and those masters who shall be qualified to vote :

A person who is or who has been principal or a master of the college shall not be eligible for election by the principal and masters :

A retiring member shall be re-eligible.

The pre-sident.

5. The Right Honourable Sir Henry James (one of Her Majesty's Counsel) shall be president of the Council and after his death or resignation the members of the Council as and when a vacancy shall occur either by death or resignation shall elect a president.

The election to and acceptance of the office of president by a member of the Council shall be deemed a resignation of his office as a member of the Council.

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6. The principal or head master of the college shall be a member of the Church of England to be from time to time appointed by the Council.

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7. The religious teaching in the college shall be in accordance with that of the Church of England but so that any pupil thereat shall at the desire of his parent or guardian expressed in such written notice as the Council of the college may prescribe be exempted from attending any religious service or any lesson or series of lessons on any religious subject and such pupil shall not by reason of such exemption be deprived of any advantage or emolument to which he would otherwise be entitled.

he visitor.

8. The Bishop of Gloucester and Bristol or the Bishop of Gloucester if a separate bishopric be established for the time being shall by virtue of his office be visitor of the college with authority to act as provided in the rules.

owers of he Council.

9. The Council shall have the entire management direction and superintendence of and over the concerns and property of the college and may receive invest lay out and dispose of all stock effects funds moneys and securities for the benefit of the college and subject to the provisions of this Act may make adopt and from time to time alter any rules for the government of the college and the regulation of meetings of the Council the affairs of the college and all matters connected therewith as they shall think fit.

Subject to and until altered by rules made under the powers of this Act the existing rules and regulations of the college shall notwithstanding anything in this Act contained continue to be of the same force and effect as before the passing of this Act.

Committees f the Council.

10. The Council may appoint committees of three or more of their body to transact all business which the Council may think fit to confide to their care and management.

Vesting roperty in he Council.

11. All the estate right title and interest of the proprietors in the institution and the land buildings property and effects thereof or enjoyed therewith and all moneys property and effects held on behalf of the said proprietors or in any way belonging to the institution and all the estate and interest therein of any trustees of the institution are hereby vested in the Council freed and absolutely discharged from all trusts affecting the same but subject to the provisions of this Act and all rights of the proprietors other than their respective rights of nomination are hereby extinguished.

Shares belonging to he insti-

12. All shares in the institution or the college which have been given to or purchased by the Council of the institution or are

now held in trust for the benefit of the institution shall on the passing of this Act vest in the Council.

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13. It shall be lawful for any person holding any share in the institution in trust (whether express or implied) and for any proprietor under any legal disability to sell and transfer any share so held by him to the Council on behalf of the college as fully and effectually as if such person were entitled to such share in his own right and the purchase-money received by such person in respect of such share shall be held by him and applied upon the like trusts and subject to the like powers provisions declarations agreements charges liens and incumbrances (if any) as affect the share in respect of which such purchase-money has been paid.

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14. Every proprietor who presents a share to the college shall for life have in respect of each share so given the right to nominate a pupil free from any nomination fee subject to the rules and regulations of the college.

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15. With respect to the extinguishment of the rights of nomination attached to such shares in the college as shall not have been given to or purchased by the Council the following provisions shall apply :—

Within two years after the passing of this Act the Council shall pay to the proprietor of any share proving his title thereto to the satisfaction of the Council the sum of thirty-eight pounds one shilling and threepence in respect of each share held by him :

If no claim be made to the Council in respect of any share or if the title to any share cannot be proved to the satisfaction of the Council or if the address of any owner of a share is not known or if the identity of the owner cannot be ascertained the Council may pay the said sum of thirty-eight pounds one shilling and threepence into the Bank of England to the credit of "the proprietors of a share in Cheltenham College":

As from the payment of the said sum of thirty-eight pounds one shilling and threepence in respect of any share either to the proprietor thereof or to the Bank of England as herein-before provided all rights of nomination in respect of such share shall absolutely cease and be extinguished but unless and until such sum be paid as aforesaid the right of nomination in respect of the share shall remain and be unaffected by anything contained in this Act.

Borrowi
on mortg

16. It shall be lawful for the Council and they are hereby empowered to borrow on mortgage of the college and property

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vested in the Council or otherwise such sum or sums as shall or may be necessary for the purpose of discharging any existing liability affecting the same and for paying the expenses of this Act and for paying for any shares purchased by them and for all such other purposes in connexion with the college as the Council may think fit.

As to liability of members of the Council.

17. From and after the passing of this Act no member of the Council and no proprietor shall be under any personal liability as such for any debts or liabilities of the Council or the college except such liability (if any) as any such member may be under previously to the passing of this Act with respect to any then existing debt incurred for or on behalf of the institution But the college and property and assets thereof shall alone be liable for the discharge of debts and liabilities incurred on behalf of the college.

Costs of Act.

18. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Council and may be paid if the Council think fit out of money borrowed under this Act.

The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

Heading of the Share List.

We whose names are hereunder written being respectively persons who have purchased or taken by transfer or bequest from original holders of shares in the Cheltenham Proprietary College such number of shares in the said college as are respectively set opposite to our names in the schedule hereunder written do hereby in consideration of the advantages of the said college severally and mutually acknowledge and agree to and with each other and to and with the holders of shares in the said college for the time being and every of them that we respectively have become and are the holders of such shares as herein-before mentioned and that we will abide by and observe all and singular the rules and regulations for the time being in force relating to such shares and the payment of calls in respect of the same.

Dated this 25th day of July 1842.

THE SECOND SCHEDULE.

Form of Agreement.

I the undersigned of in the county of in consideration of the Council of Cheltenham College having consented that on the signing by me of this agreement I shall become the registered proprietor of the share number [or as the case may be of the shares numbered respectively and] in the said college and also in consideration of the privileges appertaining thereto do hereby for myself my heirs executors and administrators agree with the members of the Council for the time being of the said college jointly and with each and every of them separately that I and my heirs executors and administrators and every pupil nominated by me on the said share [or respective shares] shall and will abide by and perform all the rules and regulations for the time being of the said college and all other regulations or orders made from time to time by the Council and that neither I nor my heirs executors or administrators shall or will claim any right or interest either at law or in equity in the said college or in any real or personal estate or effects belonging thereto other than such rights and privileges as are or shall be expressly allowed by the rules regulations and orders aforesaid.

As witness my hand this day of in the year 18 .

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T. Digby Pigott, Esq., C.B., the Queen's Printer of Acts of Parliament.

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