ANNO DECIMO TERTIO

# VICTORIÆ REGINÆ.

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## *Cap.* xxii.

## An Act to incorporate the Society of the Guildry Fund of *Elgin*; to enable the said Society to sue and be sued; to regulate the said Society; and for other Purposes relating thereto.

[10th *June* 1850.]

WHEREAS the Guild Brethren or Members of the Guildry of the Royal Burgh of *Elgin*, on or about the Second Day of *February* in the Year One thousand seven hundred and fourteen, entered into an Agreement whereby they associated themselves into a Society for the Purpose of maintaining and relieving, by means of a Fund to be raised by them by Contribution, decayed Guild Brethren who should have contributed to the said Fund, and their Widows and Children: And whereas the said Association has continued and its Objects have been carried out until the present Time, and much Benefit has arisen to many Parties who have been relieved and maintained from the said Fund: And whereas, notwithstanding the Sums expended in such Relief and Maintenance, the surplus Contributions of the Members of the said Association and their Entry Monies have in course of Time accumulated, and Lands in the Vicinity of *Elgin* have from Time to Time been advantageously



purchased

purchased with such accumulated Funds, and various Portions of the said Lands have on different Occasions been feued out to great Advantage for Payment of annual Ground Rents or Feu Duties, whereby the Property and Income of the said Association have come to be of considerable Amount: And whereas certain Rules and Regulations were at the Institution of the said Association framed and agreed to by the Members thereof, which have been altered and amended from Time to Time, but the said Rules and Regulations, original or amended, have never received any legal Sanction or Authority: And whereas much Inconvenience and Difficulty have of late arisen to the said Association in regard to the Prosecution and Defence of Actions at Law, the acquiring, holding, managing, and transferring of Property, and the general Management and Regulation of the said Association, in consequence of the same not having a legal Constitution and Sanction; and it would be advantageous to the said Association, and the Members thereof, and Recipients from the Funds of the said Association, if the same were incorporated, with suitable Powers to sue and be sued, to acquire, hold, manage, and transfer Property, heritable and moveable, real and personal, to lend out the Funds of the said Association, and to borrow Money on account thereof, and that suitable Rules and Regulations were made in regard to the Application of the Funds of the said Association, and generally for the Maintenance and Government of the same: But as these Objects cannot be effected without the Aid and 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, That the said Association and whole Members thereof duly admitted and contributing to the said Fund, present and future, shall be and the same are hereby incorporated into One Body Politic and Corporate under the Name and Style of "The *Elgin* Guildry Fund Society."

Incorporation of Society.

Liability of Members to continue.

II. And be it enacted, That neither the Incorporation of the said Society, nor anything herein contained, shall in anywise restrict the Liability of any of the Members of the same under any Judgment, Decree, or Order for the Payment of Money which may be obtained against the Society, or any of the Members thereof, in any Action or Suit prosecuted by or against the said Society in any Court of Law or Equity, but every such Member shall, in respect of such Money, be and continue liable as he would have been if the Society had not been incorporated.

Property vested in the Society.

III. And be it enacted, That all Property heritable and moveable, real and personal, wheresoever situated at the Time of the passing of this

this Act, and all Bonds, Bills, Promissory Notes, Dispositions, Conveyances, Assignments, Charters, Sasines, Agreements, and other Deeds and legal Instruments of what Kind or Nature soever, with the Lands, Subjects, Property, Sums of Money, Stocks, and other Matters and Things therein contained, or thereby conveyed, which have been already taken or executed, or conceived in favour of the said *Elgin* Guildry Fund Society, or *Elgin* Guildry Fund, or the Preses, Managers, or any other Person or Persons, for the Use or Behoof of the said Society or Fund, whether the same are held absolutely or in Security and in general, all Estate and Effects, and all Debts, Obligations, Rights, and Interests of every Description belonging to the said Society, or vested in any Person for the Benefit of the same, shall be and the same are hereby transferred to and vested in the Society hereby incorporated, as fully as if the same had been made, granted, and taken after the passing of this Act, and the same shall in future be held, managed, sold, feued, granted, conveyed, assigned, leased, released, discharged, or otherwise used and disposed of by the Society without the Necessity of any connecting or continuing Title, or separate Investiture, or Writing or Procedure other than this Act.

Parties eligible as Members.

IV. And be it enacted, That all Persons being actual Merchants or Traders within the Royal Burgh of *Elgin* and Burgesses and Guild Brethren thereof, and not following a mechanical Occupation, who shall not, excepting in the Case after mentioned, at the Period of Election exceed Forty Years of Age shall be eligible as Members of the said Society, and shall upon being elected at an annual General Meeting of the said Society, and upon Payment of their Entry Money, become and continue to be Members of the said Society, and entitled to vote and act as such and enjoy all the Rights and Privileges of Members along with the existing Members of the said Society: Provided always, that Sons of deceased, of existing, and of future Members of the said Society, of whatever Trade or Profession and wherever resident, shall be admissible as Members although exceeding the Age of Forty Years; and provided also, that any Party claiming to become a Member of the said Society shall lodge with the Clerk of the said Society an Application setting forth the Grounds of his Claim, accompanied with a Certificate of his Age, at least Ten clear Days before such annual General Meeting.

Entry Money and Contributions.

V. And be it enacted, That each Person elected a Member of the said Society, who shall not be the Son of a deceased or existing or future Member, shall pay, when admitted, to the Treasurer of the said Society the Sum of Fifty Pounds Sterling of Entry Money; and the Sons of any deceased, existing, or future Member, other than the eldest Son, shall, on Admission, pay each the Sum of Ten Pounds Sterling of such Entry Money; and such eldest Son of any deceased, existing,

existing, or future Member shall be admitted free of Payment of Entry Money; and all the Members, present and future, of the said Society shall pay of yearly Contribution to the said Society the Sum of Two Shillings Sterling at the annual General Meeting: Provided always, that it shall be in the Power of the said Society at any General Meeting of the Society, whether an annual General Meeting or a special General Meeting, after due Notice given, in manner herein-after provided in regard to the proposed Business of special General Meetings, to raise or lower the said Sums of Entry Money, and also to raise or lower the Sum of yearly Contribution, as to the said Society shall seem expedient.

As to Forfeiture of Membership.

VI. And be it enacted, That if any Member shall fail or neglect to pay up his annual Contribution for a Period of Seven Years, and shall, after a Requisition to make Payment addressed to him by the Clerk after the Lapse of such Period, continue to delay or refuse Payment, it shall be lawful to the said Society, at their next annual General Meeting after such Requisition, to expunge the Name of the said Party from the Roll of Members, whereby all Right and Interest in the Funds of the said Society possessed by such Party, or that might have come to be possessed by his Widow, Children, or Descendants through him, shall be cut off and forfeited, without any Process of Law whatsoever.

Annual General Meeting of the Society.

VII. And be it enacted, That a General Meeting of the said Society shall be held on the First *Saturday* of the Month of *October* in each Year, at which Meeting shall take place the Election of Parties claiming to become Members, the Election and Appointment of Office Bearers and Officers, the Admission of Parties as Recipients from the Funds of the said Society, and the Consideration of the Treasurer's Accounts and Report thereon; and at such Meeting any Directions or Authority that may be necessary in the Management of the Affairs and Administration of the Funds of the said Society shall be obtained.

As to Votes, Quorum, and Proxies of Members.

VIII. And be it enacted, That at all Meetings of the said Society, whether the said annual General Meeting or other General Meeting, a Majority of Votes of Members entitled to vote shall determine all Questions submitted to the Meeting; and Seven Members present at any such Meeting shall form a Quorum: Provided always, that no Member shall at any Meeting be entitled to vote by Proxy, but each Person voting shall be personally present at the said Meeting, and in case of Equality of Votes the Preses herein-after authorized to be appointed, and in his Absence the Chairman for the Time, shall have a casting as well as a deliberative Vote.

IX. And

Election of Preses.

IX. And be it enacted, That for the Administration of the Funds and Management of the Affairs of the said Society the Members thereof shall, at their First annual General Meeting to be held on the First *Saturday* of *October* in the Year One thousand eight hundred and fifty, elect and appoint One of their Number as Preses of the said Society, and the said Office shall endure until the annual General Meeting to be held in the Third Year thereafter, when a new Election and Appointment shall take place to endure for a like Period, and a similar new Election and Appointment of Preses for a like Period of Endurance, in room of the Preses then retiring, shall take place at the annual General Meeting which shall be held every Third Year thereafter: Provided always, that it shall be lawful to the said Society, in case of the Death, Incapacity, or Retirement of the Preses before the Expiry of his Period of Office, to fill up the said Office for so much as may remain of the said Period of Three Years at any Meeting called for that Purpose: Provided also, that nothing herein contained shall be construed to prevent the Re-election of any Preses when and as often as to the said Society shall seem expedient.

Election of Managers.

X. And be it enacted, That the said Society shall also at their annual General Meeting to be held on the First *Saturday* of *October* in the Year One thousand eight hundred and fifty, out of their Number, elect and appoint Six Managers to be conjoined with the Preses in the Administration of the Funds and Management of the Affairs of the said Society, and at each annual General Meeting thereafter Two of such Managers shall go out of Office, and Two others be then elected in room of those so retiring; (that is to say,) the Two Managers who shall have the least Number of Votes at the Meeting on the First *Saturday* of *October* in the Year One thousand eight hundred and fifty shall retire at the Meeting to be held on the First *Saturday* of *October* in the Year One thousand eight hundred and fifty-one, and Two new Managers shall then be elected in their Room; the Two Managers having the next least Number of Votes at the said Meeting on the First *Saturday* of *October* in the Year One thousand eight hundred and fifty shall retire at the Meeting to be held on the First *Saturday* of *October* in the Year One thousand eight hundred and fifty-two, and Two new Managers shall then be elected in their Room; and at each annual General Meeting thereafter the Two Managers longest in Office shall retire, and Two new Managers shall be elected to supply their Places: Provided always, that it shall be lawful to the said Society, on the Death, Incapacity, or Retirement of any One of the said Managers, to elect a new Manager in his Place at any General Meeting called for that Purpose.

Appointment of Clerk and Treasurer.

XI. And be it enacted, That it shall be lawful to the said Society at the General Meeting to be held on the First *Saturday* of *October* in

in the Year One thousand eight hundred and fifty to appoint a Clerk, a Treasurer, and an Officer for such a Length of Time and at such Salaries as to the said Society shall seem proper, and at any future General Meeting of the said Society to remove the said Clerk, Treasurer, or Officer at their Pleasure, and to appoint another or others in his or their Room, and also at any General Meeting to fill up any Vacancy in the said Offices created by Death, Incapacity, or Retirement, Notice being always given of the Intention so to do in manner herein provided: Provided always, that the said Treasurer shall be bound to find sufficient Caution and Surety to the Satisfaction of the Preses and Managers for the Time for his Intromissions with the Funds of the said Society.

**Present Office Bearers to continue.**

XII. And be it enacted, That it shall be lawful to the present Preses and Managers, and Clerk, Treasurer, and Officer, to remain in Office until the First Election under this Act, and until such Election to exercise the Functions conferred upon such Office Bearers and Officers respectively; and nothing herein contained shall be held to bar or impede in any way the Election and Appointment of the said Preses, Manager, Clerk, Treasurer, and Officer, or One or more of them, under this Act.

**Special General Meetings.**

XIII. And be it enacted, That it shall be lawful to the Preses and Managers of the said Society to call Meetings of the Members thereof when it is necessary that the Authority of such Meetings shall be obtained to any Proceedings under this Act, or when the Authority and Instructions of such Meetings may be considered by them expedient or desirable, which Meetings shall be called by Circular Letter addressed by the Clerk, or failing him by any Party authorized by the Preses and Managers, and delivered to each Member at his Place of Residence, if within *Scotland*, or despatched to him by Post, Ten clear Days before the Day of Meeting, and which Circular Letters shall specify the Reason of calling any such Meeting and the Business to be considered and disposed of.

**Meetings may be called on Requisition.**

XIV. And be it enacted, That the Preses and Managers shall be bound, upon the Requisition of One Fourth of the Members of the said Society, addressed to them in Writing and left with the Clerk, to call General Meetings of the said Society by Circular Letter addressed by the Clerk to each of the Members and delivered at his Place of Residence, if within *Scotland*, or despatched to him by Post, Twenty clear Days before the Day of Meeting, which Circular Letter shall specify the Reason of calling such Meeting, and the Business to be considered and disposed of.

**Society may sue and be sued.**

XV. And be it enacted, That it shall be lawful to the said Society in all Matters and Proceedings whatever to use the Name of the "*Elgin*

" *Elgin* Guildry Fund Society;" and the Society shall and may in the Names of their Treasurer or Clerk for the Time sue and be sued, plead and be impleaded, petition and be petitioned against, answer and be answered unto, defend and be defended, prosecute and be prosecuted, in and before all Courts and Tribunals whatsoever, and charge and be charged in execution; and the Actions and Suits which shall be so instituted and Charges given or received shall not abate or fall by any Act or Deed of the said Treasurer or Clerk, nor by the Death, Resignation, or Suspension of them or either of them, but be continued and carried out nevertheless in Names of their Successors in Office till the Issue thereof; and all Judgments against the said Clerk or Treasurer, as such, shall have the same Effect as if such Judgments were pronounced against the said Society and all the Members thereof.

Purchase and Sale of Lands, &c.

XVI. And be it enacted, That no Lands shall be purchased or sold, and no Grounds disponed, conveyed, or feued off for the Purpose of building or other Purpose, and no Monies shall be lent or borrowed, whether on heritable or personal Security, without the Authority first had and obtained of a General Meeting of the Society, called and held in manner provided for by this Act.

Conveyances to Lands, &c.

XVII. And be it enacted, That the Dispositions and Conveyances to all heritable Property acquired by the said Society, and all Writs and Instruments whatsoever necessary in completing the Title of the said Society thereto, shall be taken in the Name of the Society; and all Dispositions and Conveyances by the Society, and other Writs and Instruments whatsoever connected with heritable Property to be executed by the said Society, shall, after being sanctioned by a General Meeting of the Society, be subscribed by the Preses and Managers, or by the Preses and a Quorum of Managers, which Quorum of Managers shall, in all Cases where it is not otherwise expressed in this Act, consist of Three Managers: Provided always, that nothing herein contained shall be held to prejudice or affect in any manner of way the legal Rights of the Superiors of any heritable Property that may be acquired by the said Society.

Letting of Lands and Houses.

XVIII. And be it enacted, That all Lands and Houses belonging to the said Society shall be let upon Leases, which Leases shall in no Case exceed the Term of Eleven Years Endurance, and such Lands and Houses shall be exposed to be let publicly in Presence of the Preses and Managers or their Quorum: Provided always, that the Authority of the said Society shall be first obtained to such Letting, at an annual or other General Meeting of the Society.

XIX. And

Power to borrow Money.

XIX. And be it enacted, That it shall be lawful to the Preses and Managers of the said Society to borrow Money for the Purposes of the said Society, and to grant Security therefor, if necessary, over the Property heritable or personal of the said Society, and to sign all necessary Writs and Documents, and also to lend out the Funds of the said Society on heritable or other sufficient Security, upon being authorized so to borrow or to lend by a General Meeting of the said Society called and held in manner herein provided: Provided always, that all Bonds and Obligations for Money borrowed by the said Society, and all other Writs and Documents, to be granted by the said Society, the Mode of Execution of which is not hereby otherwise provided for, shall be signed by the Preses and at least Three of the Managers.

Bank Account to be kept.

XX. And be it enacted, That a Bank Account shall be kept, by and in Name of the said Society, at the Branch of the *British* Linen Company Bank at *Elgin*, or at any other chartered or incorporated Bank or Branch thereof in *Elgin*, in which Bank Account all Monies required for the ordinary Expenses of the Society, and all Monies not at the Time invested, shall be kept, and no Sum or Sums of Money shall be drawn from the said Bank Account excepting on the Order of the Preses and at least Two of the Managers.

Authority for Payments.

XXI. And be it enacted, That no Payment or Disbursement in the ordinary annual Business of the Society in any way whatsoever shall be made on account of the said Society, without the Sanction and Order of at least the Preses of the said Society, or in his Absence of Two of the Managers.

Committee to examine Treasurer's Accounts.

XXII. And be it enacted, That at the annual General Meeting to be held on the First *Saturday* of *October* in the Year One thousand eight hundred and fifty, and at each annual General Meeting thereafter, the said Society shall appoint a Committee of Five Members as Examinators, whose Duty shall be to examine the Accounts of the Treasurer for the Year ensuing, and report thereon to the next annual General Meeting; and the Treasurer shall be bound at least Ten Days before the annual General Meeting in each Year to lay his Accounts for the bygone Year before the said Committee, to enable them so to examine and report: Provided always, that nothing herein contained shall be construed to prevent the Accounts of the Treasurer, for any Period prior to the said annual General Meeting of the First *Saturday* of *October* in the Year One thousand eight hundred and fifty, being examined and reported on or otherwise disposed of under the existing Regulations; and it shall be in the Power of the Preses and Managers, or their Quorum, to inspect

the Treasurer's Books at any Time when they shall think proper so to do.

Annual Meeting to fix the Sum to be expended upon the Recipients.

XXIII. And be it enacted, That the said Society at its annual General Meeting in each Year, after deducting all public Burdens and ordinary Charges and all other Disbursements that may be sanctioned by the Society, including a Sum to be withdrawn yearly as a reserved Fund as herein-after provided, shall fix a certain Sum as the free divisible Income and Revenue of the said Society to be expended during the Year ensuing upon the Recipients from the said Fund, and shall remit to the Preses and Managers of the said Society to make the necessary Allocation and Division among the Parties entitled thereto.

As to who are to be the Recipients.

XXIV. And be it enacted, That the Recipients of the Fund shall consist of Members who shall have fallen into decayed Circumstances, the lawful Children of deceased Members who may be in poor Circumstances, and all the Widows of deceased Members; and the Preses and Managers of the Society shall, immediately after the annual General Meeting, make up a List of Recipients from the Roll of the previous Year, with such additional Persons as may be added at said annual General Meeting; and the Preses and Managers shall allot to each Recipient the Sum to be received by him or her during the ensuing Year, and such List with the Sum allotted to each Party therein shall be entered upon the Sederunt Book of the said Society: Provided always, that all Widows upon the List shall receive an equal Portion; and if the Widow of a Member shall be on the List not more than Two of his Children, if he leave such, shall be placed there at the same Time; but if any Case of extreme Distress shall arise, the Preses and Managers shall have it in their Power to give such additional Allowance to any Widow in such Circumstances as may seem proper: Provided also, that in the event of a Widow marrying again she shall not have any Claim to participate in the said Fund during her Husband's Lifetime.

Existing Recipients not to be affected.

XXV. Provided always, and be it enacted, That nothing herein contained shall in any way affect the Right of any Party or Parties whatever already on the Roll of Recipients from the said Fund.

Payments to Recipients.

XXVI. And be it enacted, That the Sums allotted to the several Recipients shall be payable to them by Four quarterly Instalments in Advance, the First Quarter's Payment to be made on the First *Monday* of *November* in each Year, and the next Quarter's Payment to be made on the First *Monday* of *February*, the Third Quarter's Payment on the First *Monday* of *May*, and the Fourth Quarter's Payment on the First *Monday* in *August* in the Year following, and

which quarterly Payments shall neither be assignable to nor attachable by the Diligence of any Creditor.

Balance due to Parties dying to go to their Representatives.

XXVII. And be it enacted, That in the event of any Party on the List of Recipients dying at any Time before the whole quarterly Payments of the yearly Period shall have been paid to such Party, the Sums remaining to be paid shall be due to such Party's personal Representatives, who shall be entitled to receive the said Payment or Payments at the Term or Terms when the same would have become payable to the deceased Party had such Party survived.

Application to be admitted as Recipients.

XXVIII. And be it enacted, That any Party claiming to be admitted as a Recipient, except as after mentioned, shall lodge with the Clerk, Ten Days at least before the annual General Meeting in each Year, a written Application setting forth the Grounds on which such Party claims Admission, and the Society shall at such annual General Meeting consider and dispose of the said Application: Provided always, that Widows shall be entitled to be admitted as Recipients at the First annual General Meeting after their Husbands Decease, on a written Communication made to the Clerk, and producing therewith Evidence of their Husbands Death.

No Recipient to vote in Questions as to Funds.

XXIX. And be it enacted, That no Member being on the Roll of Recipients shall be entitled to vote on any Question touching the Disposal of the Funds of the said Society, or the Admission of other Recipients to the Roll.

Sum to be reserved yearly.

XXX. And be it enacted, That a Sum of at least Thirty Pounds shall be set aside each Year as a reserved Fund, in order to meet any unexpected Exigency which may arise to the said Society.

Power to Society to frame Bye Laws.

XXXI. And be it enacted, That it shall be lawful to the said Society at any General Meeting of the same, and after Notice to the several Members as herein provided, to frame from Time to Time such Bye Laws for the Management and Regulation of the said Society, in accordance with the Provisions of this Act, as shall seem to the said Society to be necessary or proper, which Bye Laws shall be engrossed in the Sederunt Book of the Society, and shall be authenticated by the Preses, and a Quorum of the Managers for the Time, and shall remain in force until rescinded by a General Meeting of the Society duly called as aforesaid.

Short Title.

XXXII. And be it enacted, That in citing this Act in other Acts of Parliament, and in all legal Deeds, Instruments, and Proceedings, it shall be sufficient to use the Expression "The *Elgin* Guildry Fund Society Act, 1850."



XXXIII. And

Interpretation of Terms.

XXXIII. And be it enacted, That in this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

Words importing the Singular shall include the Plural Number, and Words importing the Plural shall include the Singular Number:

Words importing the Masculine Gender shall include Females:

The Word "Lands" shall extend to and include Lands, Houses, Feu Duties, Ground Annuals, Ground Rents, Patronages, Teinds, Fishings, Waters, Mines, Minerals, Tenements, Messuages, and Hereditaments of every Description, Tenure, and Quality:

The Word "Conveyance" shall include Disposition, Charter, Procuratory, Instrument of Resignation, Assignation, Transference, Discharge, Renunciation, and all other Writings whatsoever whereby the Right to heritable Property, whether absolutely or in security, in Fee or Life Rent, is constituted, transferred, or extinguished:

The Word "Member" or "Members" shall mean a Member or Members of the said Society for the Time:

The Word "Preses" and the Word "Managers" shall mean respectively the Preses and Managers of the said Society for the Time.

Expenses of Act.

XXXIV. And be it enacted, That the Expenses, Costs, and Charges incident to the preparing, applying for, and obtaining this Act shall be paid and discharged out of the first and readiest of the Income and Property of the said Society.

Public Act.

XXXV. 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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