ANNO SEXTO & SEPTIMO

# GULIELMI IV. REGIS.

*****************************************************

## *Cap.* 25.

**An Act to explain and extend the Powers of the Governors of the Hospital in *Edinburgh* founded by *George Heriot*, Jeweller to King *James* the Sixth. [14th *July* 1836.]**

WHEREAS *George Heriot*, Jeweller to King *James* the Sixth, by his last Will and Testament, dated the Tenth Day of *December* in the Year One thousand six hundred and twenty-three, did, after giving and bequeathing the several Legacies and Bequests in his said Will mentioned and contained, absolutely give and bequeath all the Surplusage, Rest, and Residue of his Estate, Goods, Chattels, Reals and Personals, Money, Household Stuff, Jewels, Plate, and all other Thing and Things, and Sums of Money whatsoever, unto the Provost, Bayliffes, Ministers, and Ordinary Council for the Time being of the Town of *Edinburgh*, for and towards the founding and erecting of an Hospital within the said Town of *Edinburgh* in perpetuity, and for and towards the purchasing of certain Lands in perpetuity to belong unto the said Hospital, to be employed for the Maintenance, Relief, bringing up, and Education of so many poor fatherless Boys, Freemen's Sons of that Town of *Edinburgh*, as the Means which he gave, and the yearly Value of the Lands so purchased by the said Provost, Bayliffes, Ministers, and Council of the said Town, should amount or come unto; and he declared his Will and Mind to be, that the said Hospital should be there erected and governed, and the said fatherless Children ordered,

taught, and guided by such Institutions, Ordinances, and Directions, and in such Manner and Form, as should be digested, limited, appointed, or set down in a certain Book or Writing framed and ordained for that Purpose, either by himself in his Lifetime, and signed with his Hand, or after his Death by Doctor *Walter Balcanqual*, Dean of *Rochester*, and signed with his Hand, and given or delivered unto the said Provost, Bayliffes, Ministers, and Council of the foresaid Town of *Edinburgh* for the Time being, who were thereby named and appointed as Feoffees of Trust in that Behalf; and by the said last Will he further ordained and appointed the said Provost, Bayliffes, Ministers, and Council, and their Successors, as Feoffees, to be Governors of the Lands, Possessions, Revenues, and Goods of the said Hospital; and by a Codicil to his said Will, bearing Date the Twenty-first Day of *January* in the said Year One thousand six hundred and twenty-three (according to the Mode of Computation of Time then known in *England*, but being the Month of *January* following the Date of his said Will), the said *George Heriot* confirmed and ratified his said Will, and gave further Directions to the said Doctor *Walter Balcanqual* in regard to the said intended Hospital, and gave and bequeathed divers other Legacies and Bequests, and he declared that such Codicil should be and be adjudged and taken to be Parcel of his said last Will; and after the Death of the said Testator the said Will and Codicil were duly proved in the Prerogative Court of *Canterbury* on the Sixteenth Day of *February* following the Date of the said Will and Codicil by the Executors therein named and appointed: And whereas the said Doctor *Walter Balcanqual*, Dean of *Rochester*, did, by his Book or Code of Statutes, dated the Thirteenth Day of *July* One thousand six hundred and twenty-seven, declare that the perpetual Governors of the said Hospital should be the Lord Provost, Bayliffes, Ministers, and Ordinary Council of *Edinburgh* for the Time being, and their Successors, and did enact and frame certain Statutes, Ordinances, and Rules for the Government of the said Feoffees of Trust and Governors of the foresaid Hospital, and to be observed in the Election of Boys, Masters, Officers, and Servants into or belonging to the same Hospital, as well as for the Government generally of the Hospital, and did thereby, *inter alia*, declare that the poor Scholars to be chosen and admitted into the said Hospital should all be Children of Burgesses and Freemen of the said Burgh of *Edinburgh*, and amongst these the Kinsmen of the said *George Heriot* to be preferred, and all others indifferently to be admitted without any Respect, and did charge the said Feoffees of Trust and Governors that they should choose no Burgesses Children into the said Hospital if their Parents were well and sufficiently able to maintain them, since the Intention of the Founder was only to relieve the Poor: And whereas, in furtherance of the said Bequest by the said *George Heriot*, a certain Building or Hospital was, in the course of the Period from the Year One thousand six hundred and twenty-eight to One thousand six hundred and fifty, founded and erected within the Town of *Edinburgh*, according to a Plan given or approved of by the said Doctor *Walter Balcanqual*, and certain Lands and other Heritages were from Time to Time purchased and acquired, to pertain and belong thereunto, and certain Boys, Sons of Burgesses and Freemen of the said Town of *Edinburgh*, have been from Time to

Time,

Time, as the Income or Revenue of and belonging to said Hospital was found sufficient, elected, admitted, brought up, and educated within the said Hospital, and afterwards placed out as Apprentices, or sent to the College of *Edinburgh* to complete their Education, and the Number of Boys brought up and educated in the Hospital has for several Years past averaged about One hundred and eighty: And whereas the Revenue of and belonging to the said Hospital, from the feuing out of the Lands of and belonging to the same or Parts thereof, and other Causes, has greatly exceeded what could have been in the Contemplation of the pious Founder of the said Hospital, or of the said Doctor *Walter Balcanqual*: And whereas the Revenue is likely to increase, and the Building or Hospital so founded and erected as aforesaid will be inadequate for the Admission of such a Number of Boys as the said Revenue is or may be adequate for bringing up and educating, and it is expedient by Authority of Parliament to extend the Powers of the said Feoffees of Trust and Governors ordained and appointed by the said *George Heriot*, and also to enable them to found and erect Schools within the said Town of *Edinburgh* for the Education of the Children of Burgesses and Freemen and others, and the more effectually to enable them to apply the Revenue of the said Hospital in accordance with the true Spirit of the pious Donation: May it therefore please Your Majesty, on the humble Petition of Your Majesty's dutiful and loyal Subjects, the Right Honourable the Lord Provost, Bailies, Ministers, and Council of the City of *Edinburgh*, Feoffees of Trust and Governors of the said Hospital, that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act it shall and may be lawful for the Provost, Bailies, Ministers, and Council of the said Town of *Edinburgh* for the Time being, as Feoffees of Trust and Governors of the Hospital founded within the same by the said *George Heriot*, and they are hereby authorized, at such Periods in the Year and under such Rules and Regulations as are set forth in the Statutes of the said Doctor *Walter Balcanqual*, or shall be made in manner herein-after mentioned, to elect, admit, and receive into the said Hospital, there to be maintained, brought up, and educated, such Number of poor Boys, Children of Burgesses and Freemen of the said Town of *Edinburgh*, as the said Hospital shall, with the necessary Masters, Servants, or other Officers, be found adequate to contain, and as the Income or Revenue of the said Hospital shall prove sufficient for.

Certain Boys to be admitted into the Hospital.

II. Provided always, and be it enacted, That the said Feoffees of Trust and Governors choose no Burgesses Children if their Parents be well and sufficiently able to maintain them, and that a Preference in the said Election and Admission shall always be given, first to the Kinsmen of the said *George Heriot*, and second to poor fatherless Boys, Sons of Burgesses and Freemen.

As to the Choice of the Boys.

III. And be it further enacted, That it shall and may be lawful for the said Feoffees of Trust and Governors to fix and determine, from Time

Governors to fix the necessary

Masters, Teachers, and others.

Time to Time, the Number, Kinds, and Qualifications of the Masters, Teachers, Servants, or Officers necessary or requisite of or belonging to the said Hospital or Estate thereof, any thing in the Statutes of the said Doctor *Walter Balcanqual* to the contrary notwithstanding.

Governors to make Rules and Regulations.

IV. And be it further enacted, That it shall and may be lawful for the said Feoffees of Trust and Governors from Time to Time, as heretofore, to make and establish Rules, Regulations, and Bye Laws for the Management of the said Hospital, and Boys admitted into the same, as well while they are therein, as afterwards while any of them receive Aid from the Funds of the said Hospital, and to alter, improve, or add to such Rules, Regulations, and Bye Laws so to be made and established, according as future Experience may direct: Provided always, that such Rules, Regulations, and Bye Laws in Time to come shall be approved of by Two Meetings of the said Feoffees of Trust and Governors specially called for the Purpose of considering the same before being acted upon, and shall not be inconsistent with the Statutes of the said Doctor *Walter Balcanqual*, the Alterations to be made thereon by this Act, the Laws of *Scotland*, and Form of Church Government therein by Law established; and that a Declaration *de fideli administratione* be taken and subscribed by the said Feoffees of Trust and Governors themselves, and by such Officers or Servants as by the foresaid Statutes of Doctor *Balcanqual* are required to take certain Oaths, and that in lieu and place of such Oaths; any thing in the Statutes of the said Doctor *Walter Balcanqual* to the contrary notwithstanding.

The Code of Statutes to be settled and revised.

V. And whereas by Lapse of Time and by the Operation of other Causes Parts of the said Code or Book of Statutes framed by the said Doctor *Walter Balcanqual* have become obsolete, and it has become expedient to revise and in sundry respects by new Statutes or Regulations alter some of the aforesaid Statutes; be it therefore enacted, That it shall and may be lawful to and for the said Feoffees of Trust and Governors from Time to Time, at Meetings specially called for such Purpose, to revise the aforesaid Code or Book of Statutes, and Alterations thereon to be made in virtue of the Powers hereby conferred upon them, and to make such Alterations thereon or Additions thereto as to them shall seem fit and expedient: Provided always, that such Alterations shall be those only which Changes in the Habits of Society and altered Circumstances render expedient, and shall be approved of at Two Meetings of the said Feoffees of Trust and Governors specially called for the Purpose of considering the same, and by not less than Two Thirds of the Governors present at such Second Meeting, and which Second Meeting shall be held at the Distance of not less than Three Months from the said First Meeting, and that the same be thereafter approved of by the Lord President of the Court of Session, His Majesty's Advocate for *Scotland*, and the Dean of the Faculty of Advocates in *Scotland*, all for the Time being, or any Two of them; and when so approved of the Statutes as so altered shall be thenceforth held and used as the Code or Book of Statutes of the said Hospital, until again altered in the same Manner as herein-before provided: Provided

vided always, that all such Alterations shall be consistent with the Laws of *Scotland* and the Form of Church Government therein by Law established.

Governors to erect Schools;

VI. And be it further enacted, That it shall and may be lawful for the said Feoffees of Trust and Governors of the said Hospital, and they are hereby authorized and empowered, out of any surplus Income or Revenue of and belonging to the said Hospital, after providing for the necessary Expence of and belonging to such Number of Boys as the said Hospital shall be adequate to contain, and to be elected and admitted into the same as aforesaid, and of the Apprentice Fees or other Sums to be paid with or for Boys who have left the Hospital, and of the Twenty Pounds in use to be paid annually to each of the Holders of the Ten Bursaries founded by the said *George Heriot* at the College of *Edinburgh*, and of all other Sums and Expences authorized or sanctioned by the said last Will and Testament of *George Heriot*, or Statutes by Doctor *Walter Balcanqual*, or which the said Feoffees of Trust and Governors are entitled to expend, to found and erect One or more Schools within the said Town of *Edinburgh*, to be called "*George Heriot*'s Hospital Schools," and to appoint Masters or Teachers to the same, with such Emoluments and subject to such Conditions and Regulations as the said Feoffees of Trust and Governors shall from Time to Time make and establish, and to elect and admit to be taught and educated therein for such Length of Time and under such Rules and Regulations as the said Feoffees of Trust and Governors shall in like Manner make and establish, first, the Children in poor Circumstances of deceased Burgesses and Freemen of the said Town of *Edinburgh*, second, the Children of Burgesses and Freemen of the said Town whose Parents may not be sufficiently able to maintain them, and of these Two Classes the Kinsmen of the said *George Heriot* to be preferred; and, lastly, the Children of poor Citizens or Inhabitants of *Edinburgh*: Provided always, that no Children of this last Description shall be elected and admitted so long as there are Applications for Admission on behalf of the other Two Classes, qualified as herein-before set forth.

and allow a Sum for Maintenance and Apprentice Fee.

VII. And be it further enacted, That it shall and may be lawful for the said Feoffees of Trust and Governors, and they are hereby authorized and empowered, in such Cases as may appear to them expedient, out of the said surplus Revenue, to allow to any of the Boys in the course of their Education at such Schools, being Sons of Burgesses and Freemen of said Town of *Edinburgh*, such uniform fixed Sum of Money, in lieu and place of Maintenance, and such uniform fixed Sum for Apprentice Fee, after their Education at the said School is completed, as shall be determined by and subject to such Rules and Regulations as the said Feoffees of Trust may from Time to Time make and establish.

Governors incorporated.

VIII. And be it further enacted, That the said Lord Provost, Baillies, Ministers, and Council of the said Town of *Edinburgh* for the Time being shall be and they are hereby declared to be One Body Politic and Corporate, for the Purposes of the said last

last Will and Testament and Codicil of the said *George Heriot*, and Statutes by Doctor *Walter Balcanqual*, and of this Act, by the Name and Style of "The Feoffees of Trust and Governors of *George Heriot* his Hospital," and by that Name shall have perpetual Succession and a Common Seal, and by that Name shall and may sue and be sued, and shall and may hold, whatever may be the Terms in which the Rights and Titles may have been taken, and that without any new Conveyance or Investment, all Lands, Tenements, or Heritages, or other Property, Real or Personal, at present of and belonging to the said Hospital, and may purchase or acquire other Lands, Tenements, or Heritages, or other Property, Real or Personal, to be held by them and their Successors, for the Use of the said Hospital, but for no other Use or Purpose, and also to sell or dispose of any Part of said Real or Personal Property at present belonging or that may belong to said Hospital, if they shall deem it expedient, for the Use and Behoof of the said Hospital, the Price or Consideration Money obtained upon such Sales, other than any Feu Duty, Ground Rent, or annual Payment, being always applied in repairing or ameliorating the other or remaining Property of or belonging to the said Hospital, and any Surplus, in the Purchase of other Lands, Tenements, or Heritages to belong unto the said Hospital.

Their Style.

Deeds to be signed by Preses and Five of the Governors, assembled at Meetings.

IX. And be it further enacted, That every Security, Evident, and Deed shall be deemed and held to be the Security, Evident, and Deed of the said Feoffees of Trust and Governors, which shall be signed, where the same consists of only One Page, by the Preses and at least Five others of the said Feoffees of Trust and Governors, and where the same shall consist of more than One Page, by the Preses upon each Page, and by at least Five others of the said Feoffees of Trust and Governors upon the last Page, who shall have been present or assembled at the Meeting of the said Feoffees of Trust and Governors where any such Security, Evident, or Deed shall have been agreed to be granted; any Law or Practice to the contrary notwithstanding.

Saving Clause.

X. Saving and reserving to the King's most Excellent Majesty, His Heirs and Successors, as also to the Convenery and Fourteen Incorporated Trades of *Edinburgh*, and to all and every other Person or Persons, Bodies Politic and Corporate, all such Right, Title, Interest, Claim, and Demand of, in, and to or out of all or any Part of the Funds or Estate of the said *George Heriot*, or in connexion with his said Hospital, as they, any or either of them, have or might have Claim, Challenge, and Demand in case this Act had never been made; and specially saving and reserving to the said Convenery and Fourteen Incorporated Trades of *Edinburgh* the full Benefit and Effect of whatever Judgment or Judgments may ultimately and finally be pronounced in the Action or Suit lately pending in the Court of Session in *Scotland*, at their Instance, against the said Provost, Baillies, Ministers, and Council of the said City of *Edinburgh*, in the Character of Feoffees of Trust and Governors of the foresaid Hospital, as well as all Rights of Preference under the said Will of *George Heriot* and Statutes of Doctor *Balcanqual* in favour of the said Sons of Members of the said Fourteen Incorporated Trades to the

the Benefits of the foresaid Hospital, as fully and freely as if this Act had never been made; and declaring that the Powers and Authority conferred by this Act upon the Provost, Baillies, Ministers, and Council of the City of *Edinburgh*, as Feoffees of Trust and Governors of the said Hospital, and the incorporating of the said Provost, Baillies, Ministers, and Council for the Time being as One Body Politic and Corporate by the Name and Style of "The Feoffees of Trust and Governors of *George Heriot* his Hospital," shall be held and construed to apply to and be conferred upon the Ministers of *Edinburgh*, and such Person or Persons, or upon such Number of the said Town Council, as in the foresaid Action or Suit shall be finally found and declared to be the Feoffees of Trust and Governors of the said Hospital.

Act to be printed by the King's Printers.

XI. And be it further enacted, That this Act shall be printed by the several Printers to the King's most Excellent Majesty duly authorized to print the Statutes of the United Kingdom; and a Copy thereof so printed by any of them shall be admitted as Evidence thereof by all Judges, Justices, and others.

---

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the King's most Excellent Majesty. 1836.