ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

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C A P. LXXVII.

An Act for improving the Condition and extending the Benefits of Grammar Schools.

[7th *August* 1840.]

WHEREAS there are in *England* and *Wales* many endowed Schools, both of Royal and Private Foundation, for the Education of Boys or Youth wholly or principally in Grammar; and the Term "Grammar" has been construed by Courts of Equity as having reference only to the dead Languages, that is to say, Greek and Latin: And whereas such Education, at the Period when such Schools or the greater Part were founded, was supposed not only to be sufficient to qualify Boys or Youth for Admission to the Universities, with a view to the learned Professions, but also necessary for preparing them for the superior Trades and Mercantile Business: And whereas from the Change of Times and other Causes such Education, without Instruction in other Branches of Literature and Science, is now of less Value to those who are entitled to avail themselves of such charitable Foundations, whereby such Schools have, in many Instances, ceased to afford a substantial Fulfilment of the Intentions of the Founders; and the System of Education in such Grammar Schools ought therefore to be extended and rendered

more generally beneficial, in order to afford such Fulfilment; but the Patrons, Visitors, and Governors thereof are generally unable of their own Authority to establish any other System of Education than is expressly provided for by the Foundation, and Her Majesty's Courts of Law and Equity are frequently unable to give adequate Relief, and in no Case but at considerable Expence: And whereas in consequence of Changes which have taken place in the Population of particular Districts it is necessary, for the Purpose aforesaid, that in some Cases the Advantages of such Grammar Schools should be extended to Boys other than those to whom by the Terms of the Foundation or the existing Statutes the same is now limited, and that in other Cases some Restriction should be imposed, either with reference to the total Number to be admitted into the School, or as regards their Proficiency at the Time when they may demand Admission; but in this respect also the said Patrons, Visitors, and Governors, and the Courts of Equity, are frequently without sufficient Authority to make such Extension or Restriction: And whereas it is expedient that in certain Cases Grammar Schools in the same Place should be united: And whereas no Remedy can be applied in the Premises without the Aid of Parliament: Be it therefore declared and 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 whenever, after the passing of this Act, any Question may come under Consideration in any of Her Majesty's Courts of Equity concerning the System of Education thereafter to be established in any Grammar School, or the Right of Admission into the same, whether such Question be already pending, or whether the same shall arise upon any Information, Petition, or other Proceedings which may be now or at any Time hereafter filed or instituted, for whatever Cause the same may have been or may be instituted, according to the ordinary Course of Proceedings in Courts of Equity or under the Provisions of this Act, it shall be lawful for the Court to make such Decrees or Orders as to the said Court shall seem expedient, as well for extending the System of Education to other useful Branches of Literature and Science in addition to or (subject to the Provisions herein-after contained) in lieu of the Greek and Latin Languages, or such other Instruction as may be required by the Terms of the Foundation or the then existing Statutes, as also for extending or restricting the Freedom or the Right of Admission to such School, by determining the Number or the Qualifications of Boys who may thereafter be admissible thereto, as free Scholars or otherwise, and for settling the Terms of Admission to and Continuance in the same, and to establish such Schemes for the Application of the Revenues of any such Schools as may in the Opinion of the Court be conducive to the rendering or maintaining such Schools in the greatest Degree efficient and useful, with due Regard to the Intentions of the respective Founders and Benefactors, and to declare at what Period and upon what Event such Decrees or Orders, or any Directions contained therein, shall be brought into operation, and that such Decrees and Orders shall have Force and

Courts of Equity empowered, whenever a Question comes before them, to make Decrees or Orders extending the System of Education and the Right of Admission into any School, and to establish Schemes for the Application of its Revenues, having due Regard to the Intentions of the Founder.

Effect notwithstanding any Provisions contained in the Instruments of Foundation, Endowment, or Benefaction, or in the then existing Statutes: Provided always, that in case there shall be any special Visitor appointed by the Founder, or other competent Authority, Opportunity shall be given to such Visitor to be heard on the Matters in question, in such Manner as the Court shall think proper, previously to the making such Decrees or Orders.

Before making such Decrees the Courts shall consider the Intentions of the Founders, the State of School, &c.

II. Provided always, and be it enacted, That in making any such Decree or Order the Court shall consider and have regard to the Intentions of the Founders and Benefactors of every such Grammar School, the Nature and Extent of the Foundation and Endowment, the Rights of Parties interested therein, the Statutes by which the same has been hitherto governed, the Character of the Instruction theretofore afforded therein, and the existing State and Condition of the said School, and also the Condition, Rank, and Number of the Children entitled to and capable of enjoying the Privilege of the said School, and of those who may become so capable if any extended or different System of Education, or any Extension of the Right of Admission to the said School, or any new Statutes, shall be established.

Court not to dispense with the principal Objects, or the Qualifications required, unless Revenues are insufficient.

III. Provided also, and be it enacted, That, unless it shall be found necessary from the Insufficiency of the Revenues of any Grammar School, nothing in this Act contained shall be construed as authorizing the Court to dispense with the teaching of Latin and Greek, or either of such Languages, now required to be taught, or to treat such Instruction otherwise than as the principal Object of the Foundation; nor to dispense with any Statute or Provision now existing, so far as relates to the Qualification of any Schoolmaster or Under Master.

Standard of Admission not to be lowered where Greek and Latin is retained.

IV. Provided also, and be it enacted, That in extending, as hereinbefore provided, the System of Education or the Right of Admission into any Grammar School in which the teaching of Greek or Latin shall be still retained, the Court shall not allow of the Admission of Children of an earlier Age or of less Proficiency than may be required by the Foundation or existing Statutes, or may be necessary to show that the Children are of Capacity to profit by the Kind of Education designed by the Founder.

Where the teaching of Greek and Latin is dispensed with, analogous Instruction to be substituted, &c.

V. Provided also, and be it enacted, That whenever, on account of the Insufficiency of the Revenues of any Grammar School, the Court shall think fit to dispense with the teaching of Greek or Latin, the Court shall prescribe such a Course of Instruction, and shall require such Qualifications in the Children at the Period of their Admission, as will tend to maintain the Character of the School as nearly as, with reference to the Amount of the Revenues, it may be analogous to that which was contemplated by the Founder; and that whenever, on the like Account, the Court shall think fit to dispense with any Statute or Provision as far as relates to the Qualification of any Schoolmaster or Under Master, the Court shall substitute such Qualification as

as will provide for every Object implied in the original Qualification, which may be capable of being retained notwithstanding such Insufficiency of the Revenues.

Qualifications of new Schoolmasters and Right of Appointment regulated.

VI. Provided also, and be it enacted, That in case the Appointment of any additional Schoolmaster or Under Master shall be found necessary for the Purpose of carrying the Objects of this Act into execution, the Court shall require the same Qualification in such new Schoolmaster or Under Master respectively as may be required by the existing Statutes in the present Schoolmaster or Under Master, except such as may be wholly referable to their Capability of giving Instruction in any particular Branch of Education; but that every other Qualification implied in the Qualification of the original Schoolmaster or Under Master, and capable of being retained, shall be retained and required in such new Schoolmaster or Under Master; and the Court shall also in such Case declare in whom the Appointment of such new Schoolmaster or Under Master shall be vested, so as to preserve as far as may be the existing Rights of all Parties with regard to Patronage.

Schools to be Grammar Schools, though Greek and Latin dispensed with, and Masters subject to the Ordinary.

VII. Provided also, and be it enacted, That although under the Provisions herein-before contained the teaching of Greek or Latin in any Grammar School may be dispensed with, every such School, and the Masters thereof, shall be still considered as Grammar Schools and Grammar Schoolmasters, and shall continue subject to the Jurisdiction of the Ordinary as heretofore; and that no Person shall be authorized to exercise the Office of Schoolmaster or Under Master therein without having such Licence, or without having made such Oath, Declaration, or Subscription as may be required by Law of the Schoolmasters or Under Masters respectively of other Grammar Schools.

Extension of Right of Admission not to prejudice existing Rights.

VIII. Provided also, and be it enacted, That whenever the Court shall think fit to extend the Freedom of or the Right of Admission into any Grammar School, such Extension shall be so qualified by the Court that none of the Boys who are by the Foundation or existing Statutes entitled to such Privilege shall be excluded, by the Admission of other Boys into the said School, either from such School itself or from Competition for any Exhibition or other Advantage connected therewith.

Where several Schools are in one Place and the Revenues of any are insufficient, they may be united.

IX. And be it enacted, That in case there shall be in any City, Town, or Place any Grammar School or Grammar Schools, the Revenues of which shall of themselves be insufficient to admit of the Purposes of their Founder or Founders being effected, but which Revenues if joined to the Revenues of any other Grammar School or Grammar Schools in the same City, Town, or Place would afford the Means of effecting the Purposes of the Founders of such several Schools, it shall be lawful for the Court of Chancery to direct such Schools to be united, and the Revenues of the Schools so united to be applied to the Support of One School to be formed by such Union, and which shall be carried on according to a Scheme to

be settled for that Purpose under the Direction of the said Court: Provided always, that before Application shall be made to the Court to direct such Union the Consent of the Visitor, Patron, and Governors of every School to be effected thereby shall be first obtained.

Consents necessary to Union.

X. Provided always, and be it enacted, That no new Statutes affecting the Duties or Emoluments of any Schoolmaster or Under Master shall be brought into operation as regards any such Master who shall have been appointed previously to the passing of this Act without his Consent in Writing; but that in case any such Schoolmaster or Under Master as last aforesaid shall be unwilling to give such Consent as aforesaid, and shall be desirous or willing to resign his Office on receiving a retiring Pension, it shall be lawful for the Governors, if there be any competent to act, or if there be no such Governors, for the Visitor, to assign to such Master such Pension as to them or him (as the Case may be) shall seem reasonable from the Time of his Resignation, which Pension, if approved as herein-after mentioned, the Trustees of the said School are hereby authorized and required to pay to him, or his Order, according to the Terms of such Assignment.

Present Schoolmasters not to be affected, but to be at liberty to resign on receiving Pensions.

XI. And be it enacted, That any Schoolmaster appointed in any Grammar School after the passing of this Act shall receive his Appointment subject to such new Statutes as may be made and confirmed by the Court of Chancery, in pursuance of any Proceedings which may be commenced under this Act, within Six Months after such Vacancy shall have occurred.

How new Appointment of Master to be made.

XII. Provided always, and be it enacted, That the Term on the Expiration of which any Right of Nomination or Appointment of the Master in any Grammar School would otherwise lapse shall, on the first Avoidance of the Office which shall occur after the passing of this Act, be computed from the Time of the Confirmation of the new Statutes by which the School is to be in future governed, or if no Proceedings are pending for the Purpose of having Statutes established from the Expiration of the Time within which such Proceedings may be instituted, and not from the Time of the Avoidance.

Lapse of Right of Nomination of Master shall take place from Time of settling the new Statutes.

XIII. And whereas it is expedient that the Discipline of Grammar Schools should be more fully enforced; be it declared and enacted, That in all Cases in which sufficient Powers, to be exercised by way of Visitation or otherwise in respect of the Discipline of such Schools, shall already exist and be vested in any Person or Persons, it shall be lawful for such Person or Persons to exercise the same when and so often as they shall deem fit, either by themselves personally or by Commission, without being first requested or required so to do, and likewise to direct such Returns to be made by the Masters of such Schools, of the State thereof, of the Books used therein, and of such other Particulars as he or they may think proper, and also to order such Examinations to be held into the

Where sufficient Powers of Discipline exist, the Persons possessing to be at liberty to exercise them.

Proficiency of the Scholars attending the same as to him or them may seem expedient.

Where such Powers not sufficient, Court may enlarge them.

XIV. And be it enacted, That in all Cases in which any Person or Persons, having Authority, by way of Visitation or otherwise, in respect of the Discipline of any Grammar School, may not have sufficient Power properly to enforce the same, it shall be lawful for the Court of Chancery to order and direct that the Powers of such Person or Persons shall be enlarged to such Extent and in such Manner, and subject to such Provisions, as to the said Court shall seem fit.

Where no such Powers, Court may create them.

XV. And be it enacted, That in all Cases in which no Authority to be exercised by way of Visitation in respect of the Discipline of any Grammar School is now vested in any known Person or Persons, it shall be lawful for the Bishop of the Diocese wherein the same is locally situated to apply to the Court of Chancery, stating the same; and the said Court shall have Power if it so think fit to order that the said Bishop shall be at liberty to visit and regulate the said School in respect of the Discipline thereof, but not further or otherwise.

Court of Chancery may substitute a Person to act pro hâc vice in certain Cases.

XVI. And be it enacted, That in event of the Person or Persons by whom Powers of Visitation in respect of the Discipline of any Grammar School ought to be exercised refusing or neglecting so to do within a reasonable Time after the same ought to be exercised, or in the event of its being uncertain in whom the Right to exercise such Powers is vested, such Powers shall be exercised *pro hâc vice* by some Person specially appointed by the Authority of the Court of Chancery, on Application made by any Person or Persons interested in such Grammar School: Provided always, that nothing herein contained shall exempt any Visitor from being compelled by any Process to which he is now amenable to perform any Act which he is now compellable to perform.

Proviso.

Court of Chancery to have Power to appoint Mode of removing Masters.

XVII. And whereas it is expedient to provide for the more easy Removal of unfit and improper Masters; be it declared and enacted, That it shall be lawful for the Court of Chancery to empower the Person or Persons having Powers of Visitation in respect of the Discipline of any Grammar School, or who shall be specially appointed to exercise the same under this Act, and the Governors, or either of them, after such Inquiries and by such Mode of Proceeding as the Court shall direct, to remove any Master of any Grammar School who has been negligent in the Discharge of his Duties, or who is unfit or incompetent to discharge them properly and efficiently, either from immoral Conduct, Incapacity, Age, or from any other Infirmity or Cause whatsoever.

Power in certain Cases to assign retiring Pension.

XVIII. Provided always, and be it enacted, That in case the Cause for which any Master be removed shall be Incompetency from Age or other Infirmity, it shall be lawful for the said Governors,

with

with the Approbation of the Visitor, to assign to the Use of such Master any Portion of the annual Revenues of the said Grammar School in One or more Donations, or by way of Annuity determinable on the Death of such Master, or on any other specified Event during his Life, or to assign to him any Part of the Estate of the said Grammar School for his Occupation for a Term determinable in like Manner; provided that there shall remain sufficient Means to provide for the efficient Performance of the Duties which belong to the Office from which such Master shall be removed.

Premises held over by Masters dismissed, or ceasing to hold Office, to be recovered in a summary Way.

XIX. And for the more speedy and effectual Recovery of the Possession of any Premises belonging to any Grammar School which the Master who shall have been dismissed as aforesaid, or any Person who shall have ceased to be Master, shall hold over after his Dismissal or ceasing to be Master, except under such Assignment as may have been made under the Provisions of this Act, the Term of such Assignment being still unexpired, and the Premises assigned being in the actual Occupation of the Master so dismissed or ceased to be Master, be it enacted, That when and as often as any Master holding any Schoolroom, Schoolhouse, or any other House, Land, or Tenement, by virtue of his Office, or as Tenant or otherwise under the Trustees of the said Grammar School, except on Lease for a Term of Years still unexpired, shall have been dismissed as aforesaid, or shall have ceased to be Master, and such Master, or (if he shall not actually occupy the Premises or shall only occupy a Part thereof) any Person by whom the same or any Part thereof shall be then actually occupied, shall neglect or refuse to quit and deliver up Possession of the Premises, or of such Part thereof respectively, except such as are herein-before excepted, within the Space of Three Months after such Dismissal or ceasing to be Master, it shall be lawful for Justices of the Peace acting for the District or Division in which such Premises or any Part thereof are situated, in Petty Sessions assembled, or any Two of them, and they are hereby required, on the Complaint of the said Trustees or their Agents, and on the Production of an Order of the Court of Chancery declaring such Master to have been duly dismissed or to have ceased to be Master, to issue a Warrant, under their Hands and Seals, to the Constables and Peace Officers of the said District or Division, commanding them, within a Period to be therein named, not less than Ten nor more than Twenty-one clear Days from the Date of such Warrant, to enter into the Premises, and give Possession of the same to the said Trustees or their Agents, in such Manner as any Justices of the Peace are empowered to give Possession of any Premises to any Landlord or his Agent under an Act passed in the Session of Parliament held in the First and Second Years of the Reign of Her present Majesty, intituled *An Act to facilitate the Recovery of Possession of Tenements after due Determination of the Tenancy.* 1 & 2 Vict. c. 74.

Master shall not set up Title, &c.

XX. Provided always, and be it enacted, That nothing in this Act or the said recited Act shall extend or be construed to extend

extend to enable any Master so dismissed, or ceasing to be Master as aforesaid, to call in question the Validity of such Dismissal, provided that the same shall have proceeded from the Persons authorized to order the same, after such Inquiries and by such Mode of proceeding as required in that Behalf, or to call in question the Title of the Trustees to Possession of any Premises of which such Master shall have become possessed by virtue of his late Office, or as Tenant or otherwise under the Trustees of the said Grammar School for the Time being.

Applications to Court to be made by Petition.

Such Petitions to be decided under 52G.3. c. 101.

XXI. And whereas it is expedient to facilitate Applications to the Court of Chancery under this Act; be it enacted, That all Applications may be heard and determined and all Powers given by this Act to the Court of Chancery may be exercised in Cases brought before such Court by Petition only, such Petitions to be presented, heard, and determined according to the Provisions of an Act passed in the Fifty-second Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to provide a summary Remedy in Cases of Abuses of Trusts created for charitable Purposes.*

If Crown is Patron, Lord High Chancellor or Chancellor of Duchy of Lancaster shall act.

XXII. And be it enacted, That in every Case in which the Patronage of any Grammar School, or Right of appointing the Schoolmaster or Under Master thereof, is vested in the Crown, the Lord High Chancellor, or the Chancellor of the Duchy of *Lancaster* in respect of any Grammar School within the County Palatine of *Lancaster*, shall be considered as the Patron of such Grammar School for the Purposes of this Act.

Powers of Lord Chancellor to be exercised by LordKeeper, &c.

XXIII. And be it enacted, That the Powers and Authorities herein-before given to the Lord High Chancellor shall and may be exercised in like Manner by and are hereby given to the Lord Keeper or Lords Commissioners for the Custody of the Great Seal respectively for the Time being.

Saving of Rights of Ordinary.

Certain Foundations exempted from this Act.

XXIV. Provided always, and be it enacted, That neither this Act nor any thing therein contained shall be any way prejudicial or hurtful to the Jurisdiction or Power of the Ordinary, but that he may lawfully execute and perform the same as heretofore he might according to the Statutes, Common Law, and Canons of this Realm, and also as far as he may be further empowered by this Act; and that this Act shall not be construed as extending to any of the following Institutions; (that is to say,) to the Universities of *Oxford* or *Cambridge*, or to any College or Hall within the same, or to the University of *London*, or any Colleges connected therewith, or to the University of *Durham*, or to the Colleges of *Saint David's* or *Saint Bee's*, or the Grammar Schools of *Westminster*, *Eton*, *Winchester*, *Harrow*, *Charter House*, *Rugby*, Merchant Tailors, *Saint Paul's*, *Christ's Hospital*, *Birmingham*, *Manchester*, or *Macclesfield*, or *Louth*, or such Schools as form Part of any Cathedral or Collegiate Church.

XXV. And

XXV. And be it enacted, That in the Construction and for the Purposes of this Act, unless there be something in the Subject or Context repugnant to such Construction, the Word "Grammar School" shall mean and include all endowed Schools, whether of Royal or other Foundation, founded, endowed, or maintained for the Purpose of teaching Latin and Greek, or either of such Languages, whether in the Instrument of Foundation or Endowment, or in the Statutes or Decree of any Court of Record, or in any Act of Parliament establishing such School, or in any other Evidences or Documents, such Instruction shall be expressly described, or shall be described by the Word "Grammar," or any other Form of Expression which is or may be construed as intending Greek or Latin, and whether by such Evidences or Documents as aforesaid, or in Practice, such Instruction be limited exclusively to Greek or Latin, or extended to both such Languages, or to any other Branch or Branches of Literature or Science in addition to them or either of them; and that the Words "Grammar School" shall not include Schools not endowed, but shall mean and include all endowed Schools which may be Grammar Schools by Reputation, and all other charitable Institutions and Trusts, so far as the same may be for the Purpose of providing such Instruction as aforesaid; that the Word "Visitor" shall mean and include any Person or Persons in whom shall be vested solely or jointly the Whole or such Portion of the visitatorial Power as regards the Subject of the Enactment or Provision, or any Powers in regard to the Discipline or making of new Statutes in any School; that the Word "Governors" shall mean and include all Persons or Corporations, whether Sole or Aggregate, by whatever Name they may be styled, who may respectively have the Government, Management, or Conduct of any Grammar School, whether they have also any Control over the Revenues of the School as Trustees or not; that the Word "Trustees" shall mean and include all Persons and Corporations, Sole or Aggregate, by whatever Name they may be styled, who shall have the Management, Disposal, and Control over the Revenues of any Grammar School, whether the Property be actually vested in them or not; that the Word "Statutes" shall mean and include all written Rules and Regulations by which the School, Schoolmasters, or Scholars are, shall, or ought to be governed, whether such Rules or Regulations are comprised in, incorporated with, or authorized by any Royal or other Charter, or other Instrument of Foundation, Endowment, or Benefaction, or declared or confirmed by Act of Parliament, or by Decree of any Court of Record, and also all Rules and Regulations which shall be unwritten, and established only by Usage or Reputation; that the Word "Schoolmaster" shall mean and include the Head Master only, and the Word "Under Master" every Master, Usher, or Assistant in any School except the Head Master; and that the Word "Master" shall mean and include as well any Head Master as Under Master; that the Words "Discipline" or "Management" of a School shall mean and include all Matters respecting the Conduct of the Masters or Scholars, the Method and Times of Teaching, the Examination into the Proficiency of the Scholars of any School, and the ordering of Returns or Reports with reference to such Particulars, or any of them; and that any Word importing the Singular Number only

Construction of Terms.

only shall mean and include several Persons or Things as well as one Person or Thing, and the converse.

Act may be amended this Session.

XXVI. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

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