CHAPTER xvii

An Act to confirm a Scheme of the Charity Commissioners for the application or management of the Charity known as the Hospital of St. Mary Magdalen, otherwise King James's Hospital, in Colchester, in the county of Essex. [14th July 1953.]

WHEREAS the Charity Commissioners in their Report to Her Majesty of their proceedings during the year one thousand nine hundred and fifty-two reported that they had approved and certified a Scheme for the application or management of the Charity known as the Hospital of St. Mary Magdalen, otherwise King James's Hospital, in Colchester, in the county of Essex:

And whereas it is expedient that the Scheme as the same is fully set out and defined in the schedule to this Act should be confirmed:

Be it therefore 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:—

Confirmation of Scheme.

1. The said Scheme is hereby confirmed Provided always that nothing in this Act or in the said Scheme shall be held to interfere with the ordinary jurisdiction over endowed charities now exercisable by the High Court of Justice and the Charity Commissioners.

Short title.

2. This Act may be cited as the Hospital of St. Mary Magdalen (Colchester) Charity Scheme Confirmation Act 1953.

SCHEDULE

SCHEME FOR THE APPLICATION OR MANAGEMENT OF THE CHARITY KNOWN AS THE HOSPITAL OF ST. MARY MAGDALEN, OTHERWISE KING JAMES'S HOSPITAL, IN COLCHESTER, IN THE COUNTY OF ESSEX.

1. *Administration of Charity.*—The above-mentioned Charity and the endowments thereof specified in the schedule hereto shall be administered and managed so as to give effect to the provisions of this Scheme.

DISSOLUTION OF CORPORATION

2. *Dissolution of corporation.*—The body corporate known as the Master and Five Poor Persons of the Hospital of St. Mary Magdalen in Colchester constituted by charter or letters patent dated the 9th October 8 Jac. I is hereby dissolved.

ENDOWMENTS OF BENEFICE

3. *Parsonage house.*—The property number 1 in the said schedule shall be the residence house or parsonage house of the benefice of St. Mary Magdalen, Colchester, and is hereby vested in the rector and his successors incumbents for the time being of the said benefice for his and their residence and occupation.

4. *Endowment capital.*—A sum of £9,304 5*s.* 7*d.* 2½ per cent. Consolidated Stock part of the sum of £14,608 11*s.* 3*d.* like stock specified in the said schedule and one equal half part as nearly as may be of each of the other investments therein specified shall be transferred forthwith under the authority of Orders of the Charity Commissioners into the name of the Church Commissioners for England to be held by them subject to the provisions of the Benefices (Stabilization of Incomes) Measure, 1951, as endowment capital on behalf of the said benefice of St. Mary Magdalen.

ST. MARY MAGDALEN'S HOSPITAL

5. *Endowments and administration.*—The property numbered 2 in the said schedule and the investments remaining after such transfer as aforesaid shall be the endowments of a Charity which shall be administered and managed under the title of St. Mary Magdalen's Hospital (hereinafter referred to as the Charity) subject to and in conformity with the provisions hereinafter contained.

6. *Vesting in Official Trustee.*—The said property numbered 2 is hereby vested in the Official Trustee of Charity Lands for all the estate and interest therein belonging to or held in trust for the Charity.

TRUSTEES

7. *Body of Trustees.*—There shall be a body of Trustees of the Charity which shall consist when complete of three competent persons being—

One ex-officio Trustee ; and

Two co-optative Trustees.

8. *Ex-officio Trustee.*—The ex-officio Trustee shall be—

The RECTOR for the time being of the Ecclesiastical Parish of St. Mary Magdalen, Colchester.

9. *Co-optative Trustees.*—The co-optative Trustees shall be persons residing or carrying on business in or near Colchester.

10. *First co-optative Trustees.*—The following persons shall be the first co-optative Trustees and subject to the provisions hereinafter contained for determination of trusteeship shall be entitled to hold office for the following periods respectively:—

THOMAS OLYOTT, of Runnymede, Bourne Road, Colchester, Retired Police Inspector, for five years from the date of this Scheme;

CYRIL WALTER KIRBY, of 111 Winnock Road, Colchester, Shop Manager, for three years from the date of this Scheme.

11. *Future co-optative Trustees.*—Every future co-optative Trustee shall be appointed for a term of five years by a resolution of the Trustees to be passed at a special meeting. Any competent Trustee may be reappointed.

12. *Declaration by Trustees.*—No person shall be entitled to act as a Trustee whether on a first or on any subsequent entry into office until after signing in the minute book of the Trustees a declaration of acceptance and of willingness to act in the trusts of this Scheme.

13. *Determination of trusteeship.*—Any co-optative Trustee who ceases to be qualified as aforesaid or who is absent from all meetings of the Trustees during a period of two consecutive years and any Trustee who is adjudged bankrupt or makes a composition or arrangement with his creditors or who is incapacitated from acting or who communicates in writing to the Trustees a wish to resign shall cease thereupon to be a Trustee.

MEETINGS AND PROCEEDINGS OF TRUSTEES

14. *Meetings of Trustees.*—The Trustees shall hold at least one ordinary meeting in each year. A special meeting may be summoned at any time by any Trustee upon four days' notice being given to the other Trustees of the matters to be discussed.

15. *Quorum.*—There shall be a quorum when two Trustees are present at any meeting.

16. *Chairman and voting.*—At every meeting the Trustees present shall appoint a chairman. Every matter shall be determined by the majority of votes of the Trustees present and voting on the question. In case of equality of votes the chairman shall have a casting vote whether he has or has not voted previously on the same question but no Trustee in any other circumstances shall give more than one vote.

17. *Minutes and accounts.*—A minute book and books of account shall be provided and kept by the Trustees. All proper accounts in relation to the Charity shall be made out in each year and certified

in such manner as the Charity Commissioners require and copies thereof shall be transmitted to the said Commissioners in compliance with the provisions of the Charitable Trusts Acts.

18. *General power to make regulations.*—Within the limits prescribed by this Scheme the Trustees shall have full power from time to time to make regulations for the management of the Charity and for the conduct of their business including the summoning of meetings, the deposit of money at a proper bank and the custody of documents.

APPLICATION OF INCOME

19. *Expenses of management.*—The Trustee shall first defray out of the income of the Charity the cost of ordinary repairs and insurance and all other charges and outgoings payable in respect of the property of the Charity and all the proper costs, charges and expenses of and incidental to the administration and management of the Charity.

20. *Extraordinary Repair Fund.*—Subject to any Order or Orders of the Charity Commissioners a fund for the extraordinary repair, improvement or rebuilding of the hospital building belonging to the Charity shall be provided and maintained as follows. The Trustees shall pay to the Official Trustees of Charitable Funds out of the income of the Charity a yearly sum of not less than £50 and the said Official Trustees shall invest the yearly sum paid as aforesaid at compound interest in the purchase in their name to the credit of an account to be entitled Extraordinary Repair Fund of any one or more of the stocks, funds or securities (other than real securities) for the time being authorised by law for the investment of trust funds.

21. *Application of clear income.*—Subject to the payments aforesaid the Trustees shall apply the yearly income of the Charity for the benefit of the Almspeople of the Charity or any of the said Almspeople in such manner whether by way of stipend or otherwise as the Trustees from time to time think most advantageous to the recipients having regard to the needs and circumstances of the respective Almspeople and to the income and other circumstances of the Charity: Provided that income of the Charity shall not be applied in relief of rates, taxes or other public funds.

HOSPITAL AND ALMSPEOPLE

22. *Hospital.*—The hospital building belonging to the Charity and the property heretofore occupied therewith shall be appropriated and used for the residence of Almspeople in conformity with the provisions of this Scheme.

23. *Saving for existing Almspeople.*—Appointments of Almspeople under this Scheme shall be made without prejudice to the interests of the existing Almspeople.

24. *Qualifications of Almspeople.*—The Almspeople shall be poor single persons of good character.

25. *Attendance in illness.*—The Trustees may provide the Almspeople, at the cost of the Charity, with any necessary attendance in case of illness or permanent infirmity.

26. *Contributions.*—The Trustees may make it a condition of appointing or permitting any person to be or remain an Almsperson that he or she shall contribute towards the cost of maintaining the said hospital building a weekly sum of such amount as the Charity Commissioners approve from time to time.

27. *Notice of vacancy.*—No appointment of an Almsperson shall be made by the Trustees until a sufficient notice of an existing vacancy, specifying the qualifications required from candidates, has been published by advertisement or otherwise so as to give due publicity to the intended appointment, but it shall not be necessary to publish a notice if a vacancy occurs within twelve calendar months after the last notice of a vacancy has been published. Notices may be according to the form annexed hereto.

28. *Applications for appointment.*—All applications for appointment shall be made in writing to the Trustees in such manner as they may direct. Before appointing any applicant to be an Almsperson the Trustees shall require him or her to attend in person unless he or she is physically disabled or the Trustees are of opinion that special circumstances render this unnecessary. Every applicant must be prepared with sufficient testimonials and other evidence of his or her qualification for appointment.

29. *Selection of Almspeople.*—No Almsperson shall be selected except after full investigation of the character and circumstances of the applicants.

For the purposes of this clause the Trustees may avail themselves of the services of any charity organisation society or other like agency.

30. *Appointments of Almspeople.*—Every appointment of an Almsperson shall be made by the Trustees at a special meeting.

31. *Records.*—The Trustees shall provide and keep a book in which shall be entered the name, age and description of every person appointed to be an Almsperson, the date of every appointment and the date and occasion of every vacancy. They shall also keep a register of all applications for appointment.

32. *Absences from hospital.*—No Almsperson shall be absent from the said hospital building for a period exceeding 72 hours without the consent in writing of the Trustees.

33. *Rooms not to be let.*—No Almsperson shall be permitted to let or part with the possession of the room or rooms allotted to him or her or, except with the special permission of the Trustees, to suffer any person to share the occupation of the same or of any part thereof.

34. *Removal of Almspeople.*—(1) The following persons may be removed from being Almspeople:—

(*a*) Any Almsperson who in the opinion of the Trustees is guilty of insobriety, insubordination, breach of regulations or immoral or improper conduct;

(*b*) Any Almsperson who in the opinion of the Trustees no longer has the required qualifications ;

(*c*) Any Almsperson who has been appointed without having the required qualifications ;

(*d*) Any Almsperson who is suffering from mental or other disease or infirmity rendering him or her unfit to remain an Almsperson.

(2) Upon the removal of any Almsperson the Trustees shall take possession of the room or rooms occupied by him or her.

(3) Any Almsperson removed under section (1) of this clause on account of mental or other disease or infirmity, may, on recovery, be reappointed without previous notice being given of the vacancy.

35. *Regulations.*—The Trustees may from time to time prescribe such reasonable regulations as they consider expedient for the government of the Almspeople, but so that the same shall not be at variance or inconsistent with any of the provisions of this Scheme, and by such regulations may provide that the Almspeople shall render such assistance to each other as is within their power.

MISCELLANEOUS PROVISIONS

36. *Investment of cash.*—All sums of cash belonging to the Charity at any time and not needed for immediate working purposes shall be invested (unless otherwise ordered) as soon as possible under the authority of an Order of the Charity Commissioners in the name of the Official Trustees of Charitable Funds.

37. *Trustees not to be personally interested.*—No Trustee shall take or hold any interest in property belonging to the Charity otherwise than as a Trustee for the purposes thereof and no Trustee shall receive any remuneration, or be interested in the supply of work or goods, at the cost of the Charity.

38. *Appropriation of benefits.*—The appropriation of the benefits of the Charity shall be made by the Trustees from time to time at meetings of their body and not separately by any individual Trustee or Trustees.

GENERAL PROVISIONS

39. *Alteration of Scheme.*—The Charity Commissioners from time to time in the exercise of their ordinary jurisdiction may establish Schemes for the alteration of any of the provisions of this Scheme as if those provisions had been made by the founder in the case of a charity having a founder.

40. *Questions under Scheme.*—Any question as to the construction of this Scheme or as to the regularity or the validity of any acts done or about to be done under this Scheme shall be determined conclusively by the Charity Commissioners upon such application made to them for the purpose as they think sufficient.

41. *Date of Scheme.*—The date of this Scheme shall be the date of the Act of Parliament confirming the same.

FORM OF NOTICE

In the matter of the Charity called ST. MARY MAGDALEN'S HOSPITAL, in COLCHESTER, in the county of ESSEX.

Notice is given that a vacancy exists for an Almsperson of this Charity. Poor single persons of good character are eligible for appointment.

Application for appointment must be made in writing to

at , on or before the , 19 .

Every applicant must state his or her name, address, age and occupation, and must be prepared to produce sufficient testimonials and other evidence of his or her qualification for appointment and, unless physically disabled, to attend in person.

Note.—Almspeople may be required to contribute a small weekly sum towards the cost of maintaining the hospital building of the Charity.

Signed

On behalf of the Trustees.

SCHEDULE OF PROPERTY

The following property situate in the borough of Colchester:—

1. Land having a frontage on the west side to New Town Road with the dwelling-house on the said land known as St. Mary Magdalen's Rectory and numbered 24 New Town Road.

2. Land having a frontage on the east side of 90 feet or thereabouts to Brook Street and adjoining on the south side the churchyard of the church of St. Mary Magdalen, with the building on the said land comprising six almshouses or tenements and known as the Hospital of St. Mary Magdalen otherwise King James's Hospital.

The following investments standing in the name of the Official Trustees of Charitable Funds:—

£14,608 11*s*. 3*d*. $2\frac{1}{2}$ per cent. Consolidated Stock.

£477 12*s*. 7*d*. 4 per cent. Funding Stock, 1960-90.

£889 16*s*. 11*d*. Commonwealth of Australia $3\frac{1}{4}$ per cent. Registered Stock, 1965-69.

£228 12*s*. 5*d*. $3\frac{1}{2}$ per cent. War Stock.

£120 19*s*. 2*d*. 4 per cent. Consolidated Stock.

£1,535 4*s.* 4*d.* British Transport 3 per cent. Guaranteed Stock, 1978-88.

£511 5*s.* 3*d.* 2½ per cent. Consolidated Stock.

£79 15*s.* 7*d.* 3½ per cent. War Stock.

Sealed by order of the Board this 12th day of December, 1952.

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