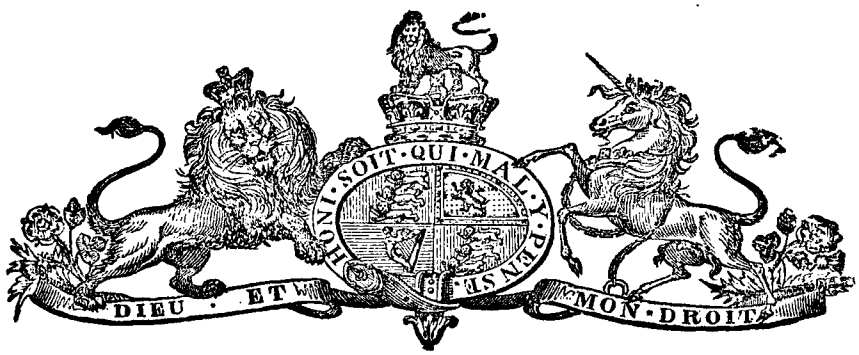


ANNO VICESIMO PRIMO & VICESIMO SECUNDO

VICTORIÆ REGINÆ.

****

CAP. XXIX.

An Act for confirming a Scheme of the Charity Commissioners for Sir *Eliab Harvey*'s Charity in the Town of *Folkestone*. [28th *June* 1858.]

5th Report, dated 26th Feb. 1858, approving Scheme for Harvey's Charity.

WHEREAS the Charity Commissioners for *England* and *Wales*, in their Report to Her Majesty of their Proceedings during the Year One thousand eight hundred and fifty-seven, have reported that they have provisionally approved and certified (among other Schemes for the Application and Management of Charities) a Scheme for Sir *Eliab Harvey*'s Charity in the Town of *Folkestone*, and such Scheme is set out in the Appendix to the said Report, and is also set out in the Schedule to this Act: And whereas it is expedient that the said Scheme should be confirmed: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Scheme confirmed.

I. The said Scheme shall be confirmed and take effect.

SCHEDULE.

SCHEME

For the ADMINISTRATION of the CHARITY called "SIR ELIAB HARVEY'S CHARITY," at Folkestone, in the County of Kent.

1. The Charity shall be managed by the present and future trustees thereof, for the purposes and according to the provisions of this scheme, from the time herein-after appointed for its coming into operation.

2. The tan-house or tan-lade near the Stade at Folkestone, settled upon the trust that the same might be used in perpetuity by the freemen and other inhabitants of Folkestone, and the fishermen there, for tanning their nets, upon payment of certain sums to be applied to its repair and to the repair also of a farm-house at Lympne, in the same county, settled upon different charitable trusts, shall continue subject to the same trusts, except that the persons using the same shall make therefore such rateable payments only to the trustees as shall be required by them for its necessary repair, maintenance, and management. The trustees shall also be at liberty, in their discretion, to apply or set aside any sums of money, not exceeding altogether 5*l.* in any year, out of the rents of the said farm at Lympne, towards the expenses of the repair, maintenance, management, or improvement of the said tan-lade, and shall have power also to establish and enforce such reasonable orders for the government of the persons using the said tan-lade as in their judgment shall be necessary for securing or extending its benefit.

3. The former trusts for providing or appropriating any fisher-boats with the income of the Charity, and for apprenticing boys, otherwise than according to this scheme, shall cease, in order that the funds of the Charity may be more sufficient for the other beneficial purposes thereof to be hereby enlarged or established.

4. The school directed to be maintained out of the income of the Charity for teaching 20 poor children to write and read English, and (if willing) the Latin tongue, shall be open to so many boys, to be admitted thereto under the provisions of this scheme, as the income or funds from time to time applicable to the support thereof, and the sufficiency of the buildings and establishment of the said school, and other circumstances, shall, in the judgment of the trustees, permit or render expedient.

5. The instruction to be given in the said school shall comprise, besides reading and writing, the truths of the Christian religion and Scripture history, grammar, and English history and composition, the Latin and French languages, so far as shall be required by the trustees, arithmetic, algebra, and elementary mathematics, geography and the use of the globes, navigation, mapping, linear drawing, and land measuring, and such physical sciences most applicable to the industrial arts and occupations, and such other subjects, as shall from time to time be required by the trustees for giving to all the scholars a sound practical education, enabling them to advance themselves in life.

6. The religious instruction to be given generally to the scholars shall be in accordance with the doctrines of the Established Church, except that boys whose parents

parents or next friends shall object upon conscientious grounds to their receiving instruction in the catechism or distinctive doctrines of the Established Church, or attending its services, and shall claim for them in writing this exemption, shall be exempted from such instruction and attendance.

7. Subject to any different regulations which may from time to time be made by the trustees, with the assent of the mayor and aldermen of the borough of Folkestone, or, in case of difference, with the approval of the Board of Charity Commissioners for England and Wales, boys shall be admissible to the school at and after the age of eight years, and may remain therein until their completion of the age of sixteen years, or longer, with the special consent of the trustees.

8. The admission of boys and their removal shall belong to the trustees, under such regulations in this behalf as shall be established by them, with the assent of the said mayor and aldermen, or, in case of difference, with the approval of the said Board, a preference among applicants for admission being always given, cæteris paribus, to boys whose parents or next friends shall for the time being be inhabitants of the borough of Folkestone, and, as far as reasonably may be, to the sons of fishermen there; and a list of applicants for admission, in the order of their application, and stating their parentage, ages, and such other circumstances as shall be directed by the trustees, shall be kept by the master of the school, whose duty it shall be to receive such applications, and such list shall be open to examination by the trustees and the said mayor and aldermen, and every of them.

9. For providing sufficient funds in aid of the endowments for the maintenance and improvement of the school, and the reward and advancement of the scholars, such reasonable fees shall be paid by them as the trustees, with the assent of the said mayor and aldermen, or, in case of difference, with the approval of the said Board, shall from time to time require, not exceeding, for boys under the age of twelve years, the rate of 1*l.* per quarter, and for boys above that age, 2*l.* per quarter, such fees to be paid quarterly, in advance, and to be received by the master, or by such person as the trustees shall from time to time appoint, for their account and disposal; and the trustees shall pay one moiety of the net amount of such fees to the master for his use, and shall carry the other moiety thereof to the account of the school fund herein-after directed to be constituted by them; but the said fees may be remitted in any particular cases, wholly or partially, by the trustees and the said mayor and aldermen, or by the trustees, under any regulations established by them, with the assent of the said mayor and aldermen, or, in case of difference, with the approval of the said Board, to any number of scholars not exceeding ten at the same time, as a reward of superior merit, or on account of the comparative poverty of their parents or next friends, or for other sufficient reasons, and particularly to sons of fishermen resident in the said borough. The books and stationery required by the scholars shall be provided by themselves.

10. The master of the school shall be appointed and shall be also removable by the trustees and the said mayor and aldermen jointly, or, in case of difference, then by either of the said bodies, with the approval of the said Board.

11. The master shall be permitted to receive boarders or private pupils to be instructed in the school, under such regulations and upon such terms as shall be made or authorized by the trustees; but such boarders or private pupils shall be taught and placed in the school indifferently with the other scholars, without any distinction of their position, instruction, or treatment in the school.

12. One or more of the houses on the Charity estate near the school-house at Folkestone shall be appropriated therewith by the trustees to the master of the school for his residence and for the uses of the school; and the net rents and profits of all the residue of the said houses and premises which shall remain after paying or providing for all the rates, taxes, or expenses of repair, maintenance, and insurance, and other outgoings payable in respect of all the said buildings and premises, shall be paid to the master for his use.

13. The accumulation of the rents and profits of the said farm at Lympne, which has been commenced by the trustees for replacing a principal sum of 323*l.* belonging to the Charity, and heretofore expended in the repair and improvement of the Charity estate, shall be continued by the trustees by means of their appropriation to that purpose of the yearly sum of 20*l.* out of the same rents and profits and out of the income of the prior accumulations, until, by means of such accumulations, which already exceed the sum of 200*l.*, the whole of the said sum of 323*l.* shall be made up, unless, upon the representation of the trustees to the said Board that the interests of the Charity will be more beneficially promoted by suspending or determining such accumulations, the said Board shall authorize such suspension or determination.

14. The amount of all such accumulations, or so much thereof as shall not be otherwise applied under the following provisions, shall be invested by the trustees, with the approval of the said Board, in the purchase of real estate, to be settled upon the same trusts and for the same purposes to which the said farm at Lympne will be subject under or according to the provisions of this scheme, and until such purchase shall be made, the dividends arising from the investment to be made of the said accumulations under the following provisions shall be applicable in the same manner as the rents of such real estate if purchased would be applicable.

15. Provided, nevertheless, that it shall be lawful for the trustees, with the approval of the said Board, and subject to any directions or conditions under which such approval shall have been expressed, to apply all or any part of the said existing and future accumulations, instead of investing the same in the purchase of real estate under the foregoing provision, in or towards any permanent improvement of the school-buildings or of any other buildings or property of the Charity.

16. The Charity shall also be subject specifically to the provisions of the "Charitable Trusts Act 1853," and the "Charitable Trusts Amendment Act 1855," relating respectively to the improvement and leasing of Charity estates, and to all other provisions of the said Acts not inconsistent with this scheme.

17. All principal monies belonging, or which shall from time to time belong to the Charity, and which shall not be presently applicable and applied to other purposes under this scheme, shall be invested, with the approval of the said Board, in the public funds, either in the name of the Official Trustees of Charitable

Charitable Funds, or in the names of four or more of the acting trustees, as their stock committee, and the dividends arising from such stock, and not otherwise appropriated by this scheme, shall be applicable as part of the general income of the Charity, and shall be paid for that purpose to or according to the direction of the managing trustees.

18. All the real estate belonging to the Charity when this scheme shall come into operation shall be vested by virtue thereof in the Official Trustee of Charity Lands, in trust for the managing trustees, and all real estate of the Charity subsequently acquired may be conveyed to such Official Trustee upon the same trust by order of the said Board.

19. The managing trustees shall from time to time pay out of the net rents and profits of the said farm and the general income of the Charity which shall remain after paying or providing for the payment of all rates, taxes, expenses of repair, and insurance, and other outgoings payable in respect of the premises, all expenses incident to the execution of the trusts, among which they may include the costs reasonably incurred by them in relation to the establishment of this scheme; and shall divide the ultimate residue of the same rents, profits, and income into two moieties, of which one shall be paid to the master of the school for his use, and the other moiety shall be carried to the account of a school fund, to be constituted by the trustees, and to be applied by them to the purposes herein-after directed.

20. The trustees shall pay out of the said school fund the general expenses of warming, cleaning, and managing the school-rooms and buildings; the wages of any servants necessarily employed for the purposes thereof; the salaries, so far as the fund will extend, of any additional teachers to be employed by the trustees in the school; and the costs of any other provisions to be made by them, with the approval of the said Board, for the extension of its benefits. They shall also be at liberty from time to time to appropriate, in their discretion, any proportion of the said fund, not exceeding altogether in any year a moiety thereof, to the increase of the emoluments of the master of the school.

21. The trustees shall cause a public examination of the scholars to be held in the month of June in every year, or at such time as shall be appointed for this purpose by the trustees, with the consent of the Board, by an examiner to be from time to time appointed by themselves, and may pay to such examiner any reasonable remuneration for the discharge of his duties, and they may also award prizes of any value, not exceeding altogether 5*l.* in any year, to the boys who, in proficiency evinced at such public examinations and in general diligence and conduct, shall be found to be most meritorious.

22. The remuneration of the said examiners and the prizes to be awarded to the scholars shall be provided out of the school fund, and all the residue thereof which shall remain after answering the payments herein-before directed or authorized to be made thereout, shall from time to time be applied by the trustees in apprenticing or otherwise advancing in life the most meritorious scholars of the said school on their leaving the same, a preference among the candidates for such advancement being always given, cæteris paribus, firstly, to the sons of fishermen resident in the borough of Folkestone, and secondly, to the sons of other inhabitants thereof.

23. The trustees shall hold meetings for auditing the accounts and transacting the general business of the Charity on the second Wednesday in each of the months of June and December in every year, or on such other days of the same months as shall have been appointed for that purpose by the trustees present at any previous meeting, or at such other times or time in every year as shall be approved for this purpose by the said Board, and also so often as shall be requisite for the due administration of the Charity; they shall also hold a meeting on the first Wednesday next after the time at which this scheme shall come into operation.

24. Special meetings of the trustees may be convened from time to time, as occasion shall be, by any two or more trustees, by notices delivered or sent by the post or otherwise to every other trustee, by the space of fourteen days at the least previously, in which the business to be discussed or transacted at such meeting shall be stated, and no other business shall be transacted thereat.

25. All notices required to be given to the trustees shall be sufficiently given by writing, either delivered personally or addressed to them by the post at their usual or last known places of abode in England, and shall be so delivered or sent, where the circumstances of the case will permit, by the space of fourteen days at the least before the time of holding any meetings to which they shall respectively relate.

26. All meetings of the trustees shall be held in the borough of Folkestone, and, unless otherwise appointed by any such previous resolution as aforesaid, at noon, and in the schoolhouse belonging to the Charity.

27. The trustees may, at their first or any subsequent meeting, appoint a permanent chairman of their meetings, and may make like appointments as often as occasion shall be, and may remove any such chairman at any subsequent meeting; provided that no proposal for the appointment of a permanent chairman, except at such first meeting, or for his removal, shall be made or dealt with at any meeting unless a previous notice of the intention to make such proposal shall have been given in manner aforesaid by the space of fourteen days previously at the least to every trustee other than the trustee making the proposal. If there shall be no permanent chairman, or in case of his absence from any meeting, the trustees present thereat may elect a chairman thereof, and in default of such election the senior of the trustees present, according to the dates or order of their appointment, shall be the chairman of such meeting.

28. Four trustees shall form a quorum at any meeting, and so soon as that number shall be present after the time appointed for holding the same, they shall proceed to the transaction of the business thereof.

29. The resolutions and proceedings of a majority of the trustees present at any meeting shall bind the minority and all absent trustees. In the event of there being an equality of votes at any meeting, the chairman shall have a second or casting vote.

30. If for the space of one hour after the time appointed for holding a meeting less than five trustees shall attend, the present trustees or trustee, if any, or otherwise the clerk to the trustees, may adjourn the same to some convenient period not distant less than seven days; and all meetings may be adjourned by the resolution of the trustees present thereat.

31. The

31. The trustees shall keep minute books, in which the names of the trustees attending each meeting and all the proceedings thereat shall be recorded, and the minutes of every meeting shall be signed by the chairman and countersigned by the clerk, if any.

32. The trustees, with the approval of the said Board, may from time to time establish, revoke, or vary any regulations for the government of their proceedings under or according to this scheme.

33. The trustees may employ a clerk and a receiver for the purposes of the Charity, who shall be respectively removable at their pleasure, or may vest both those offices in the same person, and may assign to every such clerk or receiver any reasonable salary or remuneration, to be accounted as part of the expenses incident to the discharge of the trusts.

34. It shall be the duty of the clerk, subject to any special orders of the trustees, to give notice to them of all general and adjourned and special meetings, and of all business to be transacted thereat, requiring previous notice, and to attend such meetings, and to enter and keep minutes of all proceedings thereat, and to keep also the accounts of the Charity, and to make all payments directed by the trustees to be made by him, and to perform all such acts relating to the Charity as they shall from time to time reasonably require.

35. The full number of the trustees shall be ten, and all vacancies in their body may from time to time be filled up by the surviving or continuing trustees, by election to be made at their first meeting, without previous notice, or at any other meeting, after special notice given of the intention to proceed to such election thereat; but every such election shall require the approval of the said Board of Charity Commissioners for England and Wales to its validity, and shall not be operative without or previously to such approval; and such election, in order to its being forthwith considered by the said Board, shall be certified to the said Commissioners, at the meeting at which the same shall have been made, by the chairman thereof, by writing under his hand, countersigned by the clerk, if any.

36. The present trustees, or such of them as shall be willing to act, shall continue to be trustees of the Charity, subject to such of the following provisions as shall be respectively applicable to them.

37. Every trustee to be hereafter appointed shall become disqualified, and his office shall become vacant, on his ceasing to reside within the borough, or within 20 miles from the parish church of Folkestone, and every present or future trustee also, who shall become bankrupt or insolvent, or shall be permanently resident out of the United Kingdom, or shall become incapable to act, or shall neglect to attend any meeting of the trustees during two consecutive years, or shall resign his office by writing addressed to the clerk, if any, of the trustees, or otherwise to the other trustees for the time being, shall, in any of the said cases, cease to be a trustee.

38. This scheme shall come into operation at the expiration of two calendar months next after the passing of the Act establishing the same.

39. If any doubt or question shall arise among the trustees as to the proper construction or application of any of the provisions of this scheme, or the management of the Charity, application may be made by them to the Charity Commissioners

Commissioners for England and Wales for direction thereon, which direction, when given, shall be binding on the trustees; and any provision hereof which may be found inconvenient or insufficient, or to require to be more exactly adapted to the circumstances of the Charity for the time being, may be modified, explained, extended, or adapted accordingly, by an order either of the Court of Chancery or of the said Commissioners, to be made upon the application of the trustees, so that no such order shall involve any deviation from the main objects and principles of this scheme.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1858.