CHAPTER 44.

An Act to amend the Church of Scotland (Property and Endowments) Act, 1925, to make further provision with regard to the properties and endowments of the Church of Scotland, and for purposes connected therewith.

[28th July 1933.]

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, as follows :—

Amendment of principal Act, 15 & 16 Geo. 5. c. 33. s. 34.

1. The following paragraph shall be substituted for paragraph (*g*) of subsection (1) of section thirty-four of the Church of Scotland (Property and Endowments) Act, 1925 (hereinafter referred to as the "principal Act"):—

"(*g*) the statutory properties and endowments of the parish transferred to the General Trustees under or by virtue or in pursuance of this subsection shall be held by the General Trustees for the same ends, uses and purposes as those for which they were held by the trustees or other persons in whom they were vested prior to their being so transferred, or, if the General Assembly shall by Act of Assembly at any time so direct, shall be sold or otherwise disposed of, and the proceeds shall be held and applied by the General Trustees (or by any body to whom the General Assembly may delegate or may have delegated the necessary powers) in accordance with the provisions of section thirty-six of this Act. Provided that no ground used as a burial ground shall be put to any other use."

Transfer of churchyards attached to parishes quoad sacra, and parliamentary churches.

2.—(1) Notwithstanding anything contained in paragraph (*g*) of subsection (1) of section thirty-four of the principal Act, and without prejudice to anything therein contained, the trustees or other persons by whom any churchyard forming part of the statutory properties and endowments of a parish quoad sacra or connected with a

parliamentary church is held, or the General Trustees if any such churchyard shall have become vested in them, may by notice in writing require the local authority to take over such churchyard, and as from the date of such notice such churchyard shall, without the necessity of any further conveyance, be transferred to and vested in the local authority, and the provisions of section thirty-two of the principal Act shall apply to any churchyard so transferred in like manner as they apply to a churchyard transferred under that section.

(2) For the purposes of this section the expression "local authority" shall as regards any churchyard, mean the council of the county or burgh within which the churchyard is situated, or, in the case of a churchyard situated partly in a county and partly in a burgh, the council of the county and the council of the burgh as regards the parts of the churchyard respectively situated in the county and in the burgh.

Non-statutory properties and endowments of quoad sacra parishes.

3.—(1) The trustees or other persons in whom any properties or endowments, whether heritable or moveable, of a parish quoad sacra, other than the statutory properties and endowments of the parish, are vested shall, if so required by the General Trustees, convey or transfer such properties and endowments (hereinafter referred to as non-statutory properties and endowments) or any of them in the option of such Trustees or other persons as aforesaid to the General Trustees or to any other body authorised for the purpose by the General Assembly, or to a permanent body of local trustees, and on their so conveying or transferring the same, such trustees or other persons as aforesaid shall be thereby fully exonered and discharged of the trust under which the said properties and endowments were held without the necessity of any further release, discharge or exoneration.

(2) The General Trustees shall as regards any non-statutory properties and endowments vested in them, and any trustees or other persons shall as regards any such properties or endowments vested in them, have power, subject to the provisions of any deed of trust, conveyance or other deed applicable thereto and to the approval of the presbytery of the bounds, to sell or otherwise dispose of such properties and endowments and to apply the proceeds thereof in the first place to meet the proper

requirements of the parish as such requirements may be determined by the General Assembly, or by any body to which the General Assembly may delegate the necessary power, and any remainder after these requirements have been fully met shall be applied for such ends, uses and purposes as the General Assembly may direct:

Provided always that—

(i) the consent of the General Assembly declared by Act of Assembly shall be required to the sale or disposal of any such properties and endowments, except where by the terms of the deed of trust, conveyance or other deed under which any such properties and endowments are held the General Trustees or any trustees or other persons holding the same have power to sell or to dispose thereof without such consent; and

(ii) where it is proposed under the authority of the General Assembly to transfer the statutory properties and endowments of a parish quoad sacra to a new area, the non-statutory properties and endowments of such parish, or the proceeds of the sale of the same, if sold, may, with the like approval of the presbytery of the bounds and of the kirk session of the parish concerned, also be transferred along with the statutory properties and endowments of such parish to such new area.

Chapels of ease and mission churches.

4. Any trustees or other persons in whom any chapel of ease, mission church or church hall is vested or the General Trustees if the same shall be vested in them shall have power, subject to the provisions of any deed of trust, conveyance or other deed applicable thereto, to sell or otherwise dispose of the same and to apply the proceeds thereof for such ends, uses and purposes as the General Assembly may direct. Provided always that the consent of the General Assembly declared by Act of Assembly shall be required to the sale or disposal thereof, except where by the terms of the deed of trust, conveyance or other deed under which any chapel of ease, mission church or church hall is held the trustees or other persons or the General Trustees holding the same

have power to sell or to dispose thereof without such consent.

Parliamentary churches and manses, &c.

5. Notwithstanding anything in the Act 5 George IV, chapter 90, or in the principal Act, the General Trustees shall, subject to the consent of the General Assembly, declared by Act of Assembly, have power, subject to the provisions of any deed of trust, conveyance or other deed applicable thereto, to sell or otherwise dispose of any parliamentary church or manse, or any other subjects connected therewith vested in them under section twenty-three of the principal Act and to apply the proceeds thereof for such ends, uses and purposes as the General Assembly may direct. Provided always that no ground used as a burial ground shall be put to any other use.

Power to dispose of certain churches and manses erected under the Act of 1844.

6. Notwithstanding anything contained in the titles under which any of the churches or manses of the parishes quoad omnia referred to in section twenty-four of the principal Act and specified in the Eighth Schedule thereto are held, the General Trustees shall, upon the same becoming vested or having become vested in them, in terms of the said section of the principal Act, have power, subject to the consent of the General Assembly, declared by Act of Assembly, to sell or otherwise dispose of any of the said churches or manses or any glebes or other subjects connected therewith, so far as such glebes or other subjects shall be vested in the General Trustees, and the General Trustees shall apply the proceeds thereof in the first place to meet the proper requirements of the parish as such requirements may be determined by the General Assembly, or by any body to which the General Assembly may delegate the necessary power, and any remainder after these requirements have been fully met shall be applied for such ends, uses and purposes as the General Assembly may direct: Provided always that no ground used as a burial ground shall be put to any other use.

Suppression or union of parishes.

7. Notwithstanding anything contained in any Act of Parliament, decree of the Court of Session or Court of Teinds, or deed of constitution or in the titles, deeds or certificates relating to any parish quoad sacra or any parish quoad omnia included in the Eighth Schedule to

the principal Act, the General Assembly or any body to which the General Assembly may have delegated the necessary powers may, by Act of Assembly or by resolution of such body, suppress any such parish or alter or extend the bounds of any such parish or unite any such parish with any other parish or parishes, and on the suppression of any such parish quoad sacra or quoad omnia the area or district thereof shall be united to and form part of such other parish or parishes as the General Assembly or such body as aforesaid (as the case may be) may direct; or if no such direction is given, such area or district shall be reunited to and form part of the parish from which it was disjoined on the erection of the parish suppressed, or where such area or district was disjoined from more than one parish then the several parts thereof shall be reunited to and form parts of the parishes from which they were respectively so disjoined:

Provided that—

(i) the consent of the minister of any such parish who was appointed thereto prior to the passing of the principal Act shall be necessary to any suppression of that parish or to any union thereof or of any part thereof with any other parish or parishes, or to any union therewith of any part of the area or district of any other parish; and

(ii) no such parish the stipend whereof is payable out of teinds shall be suppressed or united with any other parish or parishes, nor shall any part of any area or district be united with any such parish, until a teind roll therefor shall have been made up in terms of the provisions of the principal Act and shall have become final.

Application of properties and endowments on suppression or union of quoad sacra parishes.

8. Upon the suppression of any parish quoad sacra or of any parish quoad omnia included in the Eighth Schedule to the principal Act, or upon the alteration or extension of the bounds of such parish or the uniting of the same with any other parish or parishes by the General Assembly or by such body as aforesaid, whether such suppression or uniting shall have taken place prior to the commencement of this Act or shall take place at any

date subsequent thereto, the following provisions shall have effect :—

(1) Any obligation by any third party contained in any bond or other deed or document representing or making provision for part or the whole of the statutory endowments of the parish being a parish quoad sacra, or any obligation at common law for payment of the stipend or part of the stipend of the parish being a parish quoad omnia, shall not be prejudiced or affected by such suppression or union or alteration or extension of bounds, but shall remain in full force and effect unless and until expressly discharged or otherwise dealt with by the General Trustees, and the statutory properties and endowments of the parish being a parish quoad sacra shall be held, or if the General Assembly by Act of Assembly so direct, shall, subject to the provisions of any deed of trust, conveyance or other deed applicable thereto, be sold or otherwise disposed of by the General Trustees, and the income of such properties and endowments or the proceeds thereof, if sold or otherwise disposed of as well as the income of such proceeds, shall be applied by the General Trustees, subject to the provisions of section thirty-six of the principal Act, for such ends, uses and purposes as the General Assembly may direct. Provided always that—

(*a*) Any bond of annual rent or other heritable security permanently provided or secured for the maintenance of the church or manse of any parish quoad sacra shall, if such church or manse is sold or otherwise disposed of, be discharged by the General Trustees as regards the subject so sold or disposed of, quoad the obligation for such maintenance, unless the debtor in such bond or other heritable security consents to such obligation remaining in full force and effect; but that without prejudice to any obligations for payment of stipend or otherwise contained in such bond of annual rent or other heritable security such as aforesaid, or for the maintenance of any church or manse remaining

unsold or undisposed of and falling to be retained for any ecclesiastical purpose; and

(*b*) no ground used as a burial ground shall be put to any other use:

(2) The non-statutory properties and endowments (if any) of the parish being a parish quoad sacra may, subject to any provisions applicable thereto contained in any deed of trust, conveyance or other deed relating to any such non-statutory property or endowment, be sold or otherwise disposed of and the income of such properties and endowments and the proceeds thereof, if sold or otherwise disposed of as well as the income of such proceeds, shall be applied by the trustees or other person in whom the same may then be vested for behoof of the parish or district concerned, or by the General Trustees, if the same shall then have become vested in them, in the first place to meet the proper requirements of the parish as such requirements may be determined by the General Assembly, or by any body to which the General Assembly may delegate the necessary power, and any remainder after these requirements have been fully met shall be applied for such ends, uses and purposes as the General Assembly may direct. Provided always that the consent of the General Assembly declared by Act of Assembly shall be required to the sale or disposal of any such properties and endowments, except where by the terms of the deed of trust, conveyance or other deed under which any such properties and endowments are held the General Trustees or any trustees or other persons holding the same have power to sell or to dispose thereof without such consent:

(3) Without prejudice to the provisions of section five of this Act, where the church or manse in the parish being a parish quoad sacra is a parliamentary church or manse, such church or manse and any other subjects connected therewith and situated within the parish shall after the transfer thereof to the General Trustees under the principal Act be held

by the General Trustees, or if the General Assembly by Act of Assembly so direct, shall, subject to the provisions of any deed of trust, conveyance or other deed applicable thereto, be sold or otherwise disposed of by the General Trustees and the proceeds thereof shall be applied for such ends, uses and purposes as the General Assembly may direct. Provided always that no ground used as a burial ground shall be put to any other use.

Rights of superiors and others.

9.—(1) Nothing in this Act contained shall prejudice or affect the patrimonial rights or interests of superiors or other persons conferred by or reserved under any Act, Decree of the Court of Session or Court of Teinds, deed of constitution, deed of trust, or any feu charter, feu contract, deed, conveyance or other document relating to the properties and endowments, whether statutory or non-statutory, of any parish or to any chapel of ease, mission church or church hall, or to any parliamentary church or manse or any other subjects connected therewith, and all such rights and interests shall continue to have the like force and effect as if this Act had not passed.

(2) Where any ground has been feued for a nominal feu-duty for the site of the church or manse of any parish and where nothing is stated in the feu charter, feu contract or other deed under which such ground is feued as to the feu-duty which is to be payable by the vassal in the event of the church or manse being sold or disposed of for other than any ecclesiastical purpose, the feu-duty to be payable for the said ground after such sale is effected shall be such sum as shall be agreed upon between the superior and the General Trustees or other vassal, or such sum as, failing agreement, shall be determined by an arbiter to be appointed by the sheriff.

(3) Before selling or otherwise disposing of the ground or any part thereof on which any church or manse included in the Tenth Schedule to the principal Act as extended by section fifteen of this Act has been erected, the General Trustees shall give to any heritor whose lands adjoin such ground or part and by whose predecessor in title such ground or part was originally granted or disponed without valuable consideration for the erection of the church or manse, an opportunity

to purchase or take in feu such ground or part at such price or feu-duty and on such terms as may be agreed upon between the General Trustees and such heritor, or, as failing agreement, may be determined by an arbiter appointed by the sheriff on the application of either party.

Vesting of stipends of ministers of burgh churches, &c.

10. The stipend payable to the minister of any burgh church or parliamentary church or the church of any parish quoad omnia mentioned in the Eighth Schedule to the principal Act shall, as from the date of the passing of this Act, if the benefice shall then be vacant, and, if the benefice shall not then be vacant, as from the occurrence of the first vacancy after the said date, be deemed to vest de die in diem in the minister entitled thereto without prejudice to the payment of any stipend vested in him or in any former incumbent according to the law and practice existing at the passing of this Act, and subject to the satisfaction of any claim for Ann on the part of the widow or other representatives of a deceased incumbent:

Provided that the minister of any such church as aforesaid, being the incumbent of the benefice at the date of the passing of this Act, or where an assistant and successor has been appointed to such minister, either the minister or the assistant and successor, with the consent of the assistant and successor or of the minister (as the case may be), or, failing such consent, with the authority of the presbytery, may elect, by intimation in writing addressed to the General Trustees, that the provisions of this section shall apply to his stipend, and in such cases the benefice shall, for the purposes of this section be deemed to have become vacant as at the date of the said intimation.

Vesting of glebe feu-duties, &c.

11.—(1) Where the General Trustees or the minister of any parish is entitled to receive payment of any feu-duties or rents in respect of the glebe of the parish, or the income of any Government or other securities or investments representing the price or consideration received in respect of the sale of the glebe or part thereof or of any right therein, including any rents or royalties received in respect of or under any lease or agreement applicable to any minerals underlying such glebe or part thereof or of any mineral wayleaves, such feu-duties, rents, royalties, or income shall be deemed to vest de die in diem any law or practice to the contrary notwithstanding, and neither

the widow nor any other representative of such minister shall have any claim thereto after his death in name of Ann.

(2) This section shall not take effect until all rights in or in relation to the glebe specified in section thirty of the principal Act shall have been transferred to the General Trustees in accordance with the provisions of that Act, and, except in the case of a benefice which is or was actually vacant at the date of such transfer, unless and until a vacancy in the benefice occurring after that date shall have been filled:

Provided however that the minister being the incumbent of the benefice at the date of such transfer, or, where an assistant and successor has been appointed to such minister, either the minister or the assistant and successor, with the consent of the assistant and successor or of the minister (as the case may be) or, failing such consent, with the authority of the presbytery, may elect, by intimation in writing addressed to the General Trustees, that the provisions of this section shall take effect as if a vacancy in the benefice had occurred, and in such case the benefice shall, for the purposes of this section, be deemed to have become vacant as at the date of the said intimation.

General Assembly may specify parish church.

12. Where in any parish, parochial district or area as defined by the General Assembly, or by any body to which the General Assembly may have delegated or may hereafter delegate the necessary powers, there are two or more separate churches or benefices, it shall be competent for the General Assembly to declare that such one of the churches within the parish, district or area concerned as the General Assembly may specify shall be deemed to be the church of the parish, and that the minister and elders or kirk session of such church shall be deemed to be the minister and elders or kirk session thereof for the purposes of any Act, Act of Sederunt, trust deed, scheme of administration or other public or private instrument, deed or document having reference to the minister or to the elders or to the kirk session (as the case may be) of the parish as trustee or trustees ex officio, and, where the General Assembly shall have so declared, the church so specified shall be deemed to be the church and the minister and elders or the kirk session thereof for the time being shall be deemed to be the

minister and elders or kirk session (as the case may be) for the purposes aforesaid.

Notarial execution by minister of wills, &c.

13.—(1) A minister of the Church of Scotland who has been appointed to a charge without limit of time or for a period of years to officiate as minister shall, in any parish in which such charge or any part thereof is situated, have the like power as regards the notarial execution of wills or other testamentary writings as is conferred by subsection (1) of section eighteen of the Conveyancing (Scotland) Act, 1924, on a parish minister acting in his own parish. 14 & 15 Geo. 5. c. 27.

(2) A certificate by one of the principal clerks, or the principal clerk if there shall be only one, of the General Assembly, stating the parish in which the charge of any such minister is situated shall be accepted as conclusive evidence thereof.

(3) In the foregoing provisions of this section the expression "minister" shall include an assistant and successor or a colleague and successor of such minister.

(4) Any reference in subsection (1) of section eighteen of the Conveyancing (Scotland) Act, 1924, to an assistant and successor shall be deemed to include a reference to a colleague and successor.

Appointment of interim chairman or vice-chairman of General Trustees during a vacancy.

14. In the event of the death, resignation or incapacity of the chairman or vice-chairman of the General Trustees between the close of one General Assembly and the meeting of the next General Assembly, the General Trustees are hereby authorised to appoint an interim chairman or vice-chairman (as the case may be) until the first meeting of the General Assembly occurring thereafter, or in the case of incapacity such earlier date as may be specified.

Amendment of principal Act with regard to parliamentary churches.

15. Section twenty-three of and the Tenth Schedule to the principal Act shall apply to the following churches in like manner in all respects as if they were mentioned in the said schedule, viz.:—Muckairn, Kilmeny and Salen, in the county of Argyll; Rothiemurchus and Inch in the county of Inverness; and Deerness, N. Ronaldshay and Sandwick, in the county of Orkney and Shetland; and accordingly the said schedule shall have effect as if the words "manse only" wherever they occur were omitted.

Mortifications and endowments in certain parishes quoad omnia.

16. The following section shall be substituted for section twenty-five of the principal Act:—

"25. Where in the case of a parish quoad omnia (not being one of the parishes quoad omnia mentioned in the Eighth Schedule to this Act) there exists any mortification or other endowment not derived from teinds which is for the benefit of the minister or parish either by way of stipend or by way of provision of a manse, glebe or other subjects, the Commissioners shall, upon application made to them by the General Trustees, inquire into all circumstances relating to such mortification or endowment and may thereafter, by order, provide for the transfer of the mortification or endowment or of the properties forming the subject of such mortification or endowment to the General Trustees:

"Provided that, except in the case of a benefice which is actually vacant at the passing of this Act, any order made by the Commissioners under this section shall not take effect unless or until the benefice shall have become actually vacant after such passing."

Amendment of principal Act, s. 44.

17. Section forty-four of the principal Act in so far as it empowers the Secretary of State to give direction with respect to the preservation of books, records or documents, shall apply in any case where the Secretary of State is satisfied that the powers and duties of the heritors of a parish have been extinguished, notwithstanding that intimation of such extinction may not have been made by the clerk to the heritors of the parish in pursuance of the said section.

Interpretation.

18. In this Act, unless the context otherwise requires, the expression "the Church" means the Church of Scotland as now constituted by the Union of the said Church with the United Free Church of Scotland on the second day of October 1929; the expression "The General Assembly" means the General Assembly of the said Church as now so constituted; the expression "the statutory properties and endowments of the parish" has the meaning assigned to it in section thirty-four of the principal Act; the expression "parliamentary church or manse" means any church or manse mentioned in the Tenth Schedule to the principal Act, together with

any land whether described as churchyard, glebe or otherwise, connected with any such church or manse; and other expressions have the like meaning as in the principal Act.

Citation.

19. This Act may be cited as the Church of Scotland (Property and Endowments) Amendment Act, 1933, and the principal Act and this Act may be cited as the Church of Scotland (Property and Endowments) Acts, 1925 and 1933.

CHAPTER 45.

An Act to provide for regulating the catching, landing, and sale of sea-fish, for the constitution of a Sea-fish Commission, and for purposes connected with the matters aforesaid.

[28th July 1933.]

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, as follows:—

Regulation of landing of foreign-caught sea-fish.

1.—(1) Subject to the provisions of this section, the Board of Trade, after consultation with the appropriate Ministers, may by order regulate the landing in the United Kingdom of sea-fish which have not been both—

(*a*) taken by British fishing-boats registered in the United Kingdom, the Isle of Man or any of the Channel Islands; and

(*b*) brought to land in the United Kingdom without having been previously landed outside the United Kingdom;

and, without prejudice to the generality of the power conferred by the foregoing provisions of this section, an order under this section may determine for any such period as may be specified in the order—

(i) the descriptions of such sea-fish as aforesaid which may be landed in the United Kingdom;

(ii) the quantity of such sea-fish, or of any description thereof, which may be so landed: