CHAPTER 12.

An Act to provide for the Settlement of certain Questions between the Free Church and the United Free Church in Scotland, and to make certain amendments of the law with respect to the Church of Scotland. A.D. 1905.

[11th August 1905.]

WHEREAS questions have arisen as to property between the Free Church and the United Free Church in Scotland and judgments have been given by the Courts in favour of the Free Church:

And whereas a Royal Commission appointed to inquire into the matter have reported that the Free Church are unable adequately to carry out all the trusts of the property, and that it is desirable to provide for the allocation thereof, provision being made for the equipment of the Free Church:

And whereas it is expedient to make provision for such allocation by means of the appointment of a Commission:

And whereas it is expedient to amend the law relating to the subscription of the Confession of Faith by Ministers of the Church of Scotland and others:

Be it therefore 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:—

Allocation of Church property between the Free Church and the United Free Church by a Commission.

1.—(1) The Commission established under this Act shall allocate between the Free Church and the United Free Church the property in question as defined by this Act in such manner as appears to the Commission fair and equitable, having regard to all the circumstances of the case, but subject to the provisions of this Act.

(2) The Commission in making their allocation of property under this Act, shall allocate congregational property to the Free Church in any case where they consider that out of those who in the opinion of the Commission were members or adherents of the congregation on the thirtieth day of October, nineteen hundred, and are at the commencement of this Act both resident in the district, and members or adherents of the Free Church or United

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Free Church congregation, at least one-third are members or adherents of the Free Church congregation; with power, however, to make special arrangements where several church buildings are situated in the same neighbourhood, and in any other cases which appear to them to require exceptional treatment; and

(3) The Commission in making their allocation of property under this Act shall, having regard to congregational contributions and other income of the Free Church, make adequate provision for the education of the students for the ministry of the Free Church, for the support, subject to payment of the usual annual contributions (if any) of aged and infirm ministers and of widows and orphans of ministers of that Church, for the support of the ministers of Free Church congregations to which congregational property has been allocated under this Act, for itinerant preachers, and for the general purposes of administration and management of that Church. The funds and property out of which provision may be made for each of the above-mentioned objects shall be those set out in the second column of the First Schedule to this Act, opposite the description of the object in the first column of that schedule.

Orders for carrying allocation into effect.

2.—(1) The Commission may make such orders as they may consider necessary for carrying into effect any allocation under this Act (including the modification of the Acts relating to the Widows and Orphans Fund), and may also, before that allocation is made, make interim orders having temporary effect as respects the property in question as defined by this Act. Any such orders shall have effect as if enacted in this Act, may be recorded in the Register of Sasines or other appropriate register, and shall not be chargeable with stamp duty.

(2) Subject to the provisions of this Act, the Commission, if they think fit, may order that any property (other than congregational property) allocated to either Church under this Act shall be burdened with such bond, or charge, in favour of the other Church or in favour of third parties who may advance money for the purposes of such bond or charge, as they direct. Any congregational property allocated to either Church shall be subject to any bonds, burdens, or debts thereon or in respect thereof, and the Commissioners may charge upon the particular congregational property concerned any moneys expended since thirty-first October, nineteen hundred, on improvements of that property or in paying off debt incurred in respect of that property.

(3) The Free Church and the United Free Church respectively shall hold any property allocated to them under this Act for the purposes of and in accordance with their respective constitutions, and, in allocating to the United Free Church any property which is, at the commencement of this Act, appropriated to any special Church purposes, the Commission shall, so far as possible, provide by their orders that the property shall remain, in the hands of the United Free Church, appropriated to the same or similar purposes.

(4) Any proceedings in any court between the Free Church and the United Free Church as to any property in question as

defined by this Act, and all diligence and execution in any such proceedings, shall, by virtue of this Act, be permanently sisted or stayed, and no such proceedings shall be instituted as respects any such property before that property has been allocated by the Commission under this Act.

(5) No court shall have power to review or interfere in any way with the orders or other proceedings of the Commission, but such orders or proceedings shall not prejudice or affect any rights, duties, and liabilities as regards any property in question as defined by this Act other than those of the Free Church and the United Free Church.

Establishment of Commission.

3.—(1) The Commission under this Act shall consist of five Commissioners to be appointed by His Majesty.

(2) If a vacancy occurs in the office of any Commissioner so appointed by reason of death, resignation, incapacity, or otherwise, His Majesty may appoint some other person to fill the vacancy, and so from time to time as occasion requires.

(3) The Commission may appoint and employ such Assistant Commissioners, officers, and persons, as they think necessary, and may remove any officer or person so appointed or employed.

(4) The salaries and remuneration of any persons so appointed or employed, and all expenses of the Commission incurred in the execution of this Act, shall be paid out of the property in question as defined by this Act, and the Commission may make any orders necessary for the purpose.

(5) The quorum of the Commission shall be three, and in case of an equal division of votes at any meeting of the Commission the person who is Chairman at that meeting shall have a second or casting vote. The procedure, place of meeting, and authentication of documents of the Commission, shall be regulated in such manner as the Commission determine.

(6) The Commission and any Assistant Commissioner appointed under this Act may examine witnesses on oath, and, for the enforcing the attendance of witnesses, after a tender of their expenses, the examination of witnesses, and the production of books and documents, shall have all such powers, rights, and privileges as are vested in any of His Majesty's courts of law.

(7) The powers of the Commission shall be in force until the first day of March nineteen hundred and six, but His Majesty may by Order in Council continue their powers for such further period as His Majesty thinks fit.

Provision defining the property, &c. to be allocated.

4.—(1) All property which, on the thirtieth day of October nineteen hundred, was vested in or held by or on trust for, or was payable to or for behoof of, the Free Church, or was held for the purposes of any school, scheme, mission, or other special object of the said church, or, where any such property has been disposed of since that date, the proceeds of sale thereof or any investments representing the same, including any revenue or accumulations of any such property, proceeds of sale, or investments accruing since the said date, shall, notwithstanding anything that has taken place since said date, be deemed to be property in

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question within the meaning of this Act, subject in any case to any disbursements properly made since the said date (which are hereby declared to stand good), and any person held accountable for any such property, in accordance with an order of the Commission, shall account for the same accordingly.

(2) Such rights, duties, and liabilities (including the right of appointing representatives on bodies of trustees or other boards) as belonged or attached to the Free Church on the thirtieth day of October nineteen hundred shall be subject to allocation by the Commission in the same manner as the property in question within the meaning of this Act.

(3) Any legacies, bequests, or conveyances of property under testamentary writings made before the thirtieth day of October, nineteen hundred, by testators who died thereafter and before the commencement of this Act, in dispute between the Free Church and the United Free Church, shall be allocated to or apportioned between the Churches in such manner as the Commission deem fair and equitable, having regard to what seems to them to have been the intention of the testator, and the capacity of the Churches respectively to carry out any special trusts annexed to the legacy; and all proceedings in any court as regards any disputes between the two Churches in respect of such legacies shall be permanently sisted or stayed.

(4) In this section, the expression "property" includes property heritable and movable and all interests therein; and the expression "rights" includes powers, privileges, and immunities.

Formula of subscription to the Confession of Faith in the Church of Scotland.

5. The formula of subscription to the Confession of Faith required from ministers and preachers of the Church of Scotland as by law established and from persons appointed to Chairs of Theology in the Scottish Universities and the Principal of Saint Mary's College, Saint Andrew's, respectively, shall be such as may be prescribed by Act of the General Assembly of the said Church with the consent of the majority of the presbyteries thereof. The formula at present in use in any case shall be required until a formula in lieu thereof is so prescribed.

Definitions, repeal, and short title.

6.—(1) In this Act the expression "the Free Church" means the association or body of Christians known and designated as the Free Church of Scotland; and the expression "the United Free Church" means the association or body of Christians known and designated as the United Free Church of Scotland, and, unless the context otherwise requires, those expressions respectively include any court, congregation, or college of either Church, or any member thereof as such, or any person acting on behalf of such Church, congregation, or college.

(2) The Acts mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule, both as originally enacted, and as incorporated, ratified, confirmed, or approved by any other Act.

(3) This Act may be cited as the Churches (Scotland) Act, 1905.

SCHEDULES.

FIRST SCHEDULE.

Section 1.

Object.	Funds and Property.
1. Education of students of the Free Church.	1. College endowments and bursary funds; college buildings.
2. Support of aged and infirm ministers of the Free Church.	2. Aged and Infirm Ministers' Fund.
3. Support of widows and orphans of ministers of the Free Church.	3. Widows and Orphans Fund.
4.—(*a*) Support of ministers of Free Church congregations to which congregational property has been allocated under this Act and of itinerant preachers. (*b*) General purposes of administration and management of the Free Church.	4. Sustentation Fund; Home Missions Fund; Highlands and Islands Fund; any moneys which the Commission regard as applicable for these or similar purposes. So far as those funds or moneys are not sufficient, any further amount required for this object shall be provided by such bond or charge as the Commission may direct to be imposed on any land or buildings in Scotland allocated to the United Free Church other than congregational property, colleges, schools, and any land or buildings bequeathed or given for special purposes.

SECOND SCHEDULE.

Section 6.

ENACTMENTS REPEALED.

Act.	Title.	Extent of Repeal.
An Act of the Parliament of Scotland passed in the year one thousand six hundred and ninety-three.	Act for settling the quiet and peace of the Church.	The words "the same to be "the confession of his "faith, and that he owns "the doctrine therein "contained to be the "true doctrine which he "will constantly adhere "to, as"
An Act of the Parliament of Scotland passed in the year one thousand seven hundred and seven.	Act for securing the Protestant religion and Presbyterian Church government.	The words "do and shall "acknowledge and pro-"fess and," and the words "as the confession "of their faith;"

Printed by EYRE and SPOTTISWOODE,

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