CHAPTER xxiv.

An Act for incorporating the Trustees of the Deed of Mortification by the deceased John Strachan of Craigcrook Writer to the Signet for enlarging the powers of the Trustees and for other purposes. A.D. 1897.

[3rd June 1897.]

WHEREAS the deceased John Strachan of Craigcrook Writer to the Signet (herein-after called "the founder") died on the twenty-second day of April one thousand seven hundred and nineteen leaving a deed of mortification and donation (herein-after called "the deed of one thousand seven hundred and ten") dated the twentieth day of July one thousand seven hundred and ten and also a deed of mortification (herein-after called "the deed of foundation") dated the twenty-fourth day of September one thousand seven hundred and twelve which superseded the deed of one thousand seven hundred and ten except as regards certain pecuniary legacies therein contained all of which were afterwards duly paid and discharged the deed of foundation being in the following terms :—

"Be it kend to all men be thir pnts. Me Jon. Strachan off Craig-
" crook Forasmuch as God in his goodnes (to whom I give thanks)
" hes blessed me in my pains and industrie in my employment
" I do out of ane thankfull resentment & comemoration of his
" kyndnes and love to me and withall that none of my relations or
" nearest of kin may have any right To what shall hapen in land or
" money To belong to me the tyme of my decease except what I
" have left or may leave under my hand Therefor I doe debar and
" precluid them therfrom upon considerations knowen to me And
" be thir pnts. upon the provisions restrictions and limitations
" underwrîn I the said John Strachan for charitable and pious uses
" Assigne and Dispone All and haill the maills and dewties of the
" Lands off Craigcrook as payable be the tennant therof present or to
" cum furth of the lands theroff with the rents of the maner place
" yeards dowcot and haill pertinents park & garners house the
" lands themselves maner place & others forsaid never to be sold in

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" regaird the same are hereby mortified wt. the rents theroff As
" also I hereby mortifie assigne and dispone the maills and dewties
" off the lands of north Clermistoun and Boddrins presently possest
" be Thomas Walls the lands therof also never to be sold but to
" remayn as mortiffied lands for ever Lykas the Rent of my
" dwelling house in Edr. the house lykwayes never to be sold but to
" remain as mortified land And in lyk maner I mortifie assigne
" and dispone the @ rent of all soumes of money that shall happen
" to belong to me the tyme off my decease the prinll soumes to
" remain and secured as prinll soumes being mortiffied And in
" regaird I am to mak some Statutes anent the forsaid Mortificãon.
" & Mannagers theroff I doe hereby recomend to two Advocats
" two wryters to the Signet and the presbitry of Edr. att the sight
" of the Lords of Session any two of ther number to oversee the
" premiss and to employ ane discreet person to uplift the rents when
" dew for whos pains I allow yearly ane hundred merks And as
" uplifted to imploy the same at the forsaid persons order to poor
" old men and women & orphans And I allow yearly to the
" Advocats poor yearly for yr pains fyftie merks Scots and to the
" wryters to the Signet ane hundred merks yearly and ordains the
" rights of my lands and the bands belonging to me to be secured
" att the fornamed persons their sight And for the Ministers of
" the presbitry their pains I allow yearly Twenty pound Scots to
" be payed to on off them successively for ane bible And to begin
" with the Moderator of the presbitry and therafter yearly ilk on per
" vices as the presbitry shall appoynt Provyding alwayes Lykas it is
" hereby expressly provyded that thir pnts. are not to wrong or
" alter my wyf her lyverent in the saids lands of Craigcrook and
" others above mentioned but the same to stand in force as conceaved
" as also any legacies or other things I have left or shall leave by
" word or wryt to any person by wryt under my hand to stand and
" recomends to the persons above spec̃d to order the payment
" theroff as therin is mentioned Lykas it is hereby expressly
" provyded and declared that it shall be in my power att any tyme
" dureing lyfe to alter thir pnts. and to annull the same in haill or
" in pairt either by word or wryt And for the more security I
" consent to the registrãon hereof in the books of Councill and
" Session therin to remain for preservation and for that effect
" constitute
" my prors In witnes wheroff I have wrĩn and subt. thir pnts. wt.
" my hands att Edr. the twenty-fourth day of September On
" thousand sevin hundred and twelve years befor thir witness̃
" Mr. Patrick Strachan wryter in Edr. and Walter Hamilton his
" s̃vant" (signed) "Jo. Strachan, Pat. Strachan Wittness,
" Wal. Hamilton Wittness":

And whereas the deed of one thousand seven hundred and ten was registered in the Books of Council and Session on the twenty-seventh day of March one thousand seven hundred and twenty-one and the deed of foundation was registered in the Books of Council and Session on the fourth day of August one thousand seven hundred and nineteen:

And whereas the founder is not known to have made any statutes anent the said Mortification and Managers thereof:

And whereas Trustees and Managers of the said Mortification were duly appointed by the Faculty of Advocates the Society of Writers to the Signet and the Presbytery of Edinburgh to act under the deed of foundation and those in office in the year one thousand seven hundred and twenty-one were Mr. Archibald Hamilton of Dalserf Advocate and Mr. John Horn of Westhall Advocate (both nominated by the Faculty of Advocates) Mr. Thomas Pringle Writer to the Signet and Mr. Alexander Glass Writer to the Signet (both nominated by the Society of Writers to the Signet) and Mr. James Heart one of the ministers of Edinburgh moderator for the presbytery thereof for himself and in name of the said presbytery appointed by an act of the said presbytery dated the sixteenth day of March one thousand seven hundred and twenty-one:

And whereas by ratification disposition and assignation dated the eighteenth day of April and registered in the Books of Council and Session the nineteenth day of August both in the year one thousand seven hundred and twenty-one granted by William Strachan brother-german and heir and nearest of kin to the founder on the recital of the deed of foundation and of the deed of one thousand seven hundred and ten and also of a "legacie" dated the eleventh day of August one thousand seven hundred and sixteen whereby the founder left and bequeathed to the use of the poor of the parish of Cramond the sum of one hundred pounds Scots (which sum was afterwards duly paid to the kirk session of the said parish) and on the recital of the nomination of the said Trustees and Managers of the said Mortification in office in the year one thousand seven hundred and twenty-one and of their having required him to complete the deed of foundation and the deed of one thousand seven hundred and ten as being heir to the founder which he was ready to do the said William Strachan not only ratified approved and perpetually confirmed the deed of foundation and the deed of one thousand seven hundred and ten in the whole heads articles and clauses thereof with all that might follow thereupon but also for rendering the said Mortification more complete and for establishing the right to the mortified subjects habili modo in the persons of

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the said Trustees and Managers in office in the year one thousand seven hundred and twenty-one and their successors in the trust for the ends and uses therein mentioned granted procuratory for serving him nearest and lawful heir in general to the founder and likewise heir in special to the founder "In All & Haill the sds Lands of "Craigcrook with houses biggings yeards Orchyeards park "Dovecoatt Teynds and pertinents yrof As also In all & haill "The saids Lands of North Clermistoun and Bottoms" (otherwise Boddoms being the lands referred to in the deed of foundation under the name of Boddrins) "wt. houses biggings Teynds and whole "pertinents of the samen all lying wtin the parioch of Crammond "& Sherriffdome of Edr. As also In all & haill the lodging or "dwelling house in Edinbr. which pertained to ye sd John Strachan "lying wtin the sd Burgh of Edr. on the north syde of the "high street of the samen being the second story of the fore-"land Immediatly above the entry to ye wryters Court" and for causing his services to be retoured to Chancery and taking out precepts and obtaining him infeft thereupon with power also to his procurators to obtain him decerned and confirmed by the Commissary of Edinburgh executor dative as nearest of kin to the founder and the said William Strachan by the said ratification disposition and assignation as if he had been then already served retoured entered and infeft and seised as heir to the founder and as if he had been then already decerned and confirmed executor to the founder in implement of the deed of foundation sold alienated gave granted doted mortified and disponed in the most sure firm absolute and entire manner eleemosynar to and in favour of the said Trustees and Managers of the said Mortification in office in the year one thousand seven hundred and twenty-one nominated and appointed in manner foresaid and to their successors in the said trust to be appointed from time to time by the said Faculty Society and Presbytery as Trustees and Fide-Commissaries for the use and behoof of poor old men women and orphans All and Haill the said lands of Craigcrook with houses biggings yards orchards park dovecot teinds and pertinents thereof as also All and Haill the said lands of North Clermiston and Boddoms with houses biggings teinds and whole pertinents of the same all lying within the parish of Cramond and sheriffdom of Edinburgh and likewise All and Haill the foresaid lodging or dwelling-house in Edinburgh which pertained to the founder (which lands of Craigcrook North Clermiston and Boddoms are in the title deeds thereof made up in the person of the founder described as follows viz. All and Haill the town and lands of Craigcruik with the manor place houses biggings yards orchards dovecots and sundry pertinents of the same whatsoever lying within the sheriffdom of Edinburgh and parish of Cramond All and Haill the lands of

Clarbarstoun with houses biggings yards tofts crofts outsets annexis connexis dependencies parts pendicles tenants tenandries services of free tenants and all and sundry their pertinents together with common pasturage full power privilege and liberty of pasturing their goods and of casting winning and away leading of peats turves fuel feal and divot within the muir of Cramond and haill bounds thereof at their will and pleasure in all time coming with free ish and entry lying within the sheriffdom of Edinburgh and also All and Haill that oxengate of Temple land which is one of those two oxengates of Temple lands lying in the property or tenement of Cramond and Clarbarstoun and sheriffdom of Edinburgh to wit that oxengate of Temple land which lies in the territory of Clarbarstoun of which oxengate four acres lie on the east part of the arable land of Clarbarstoun under the muir of Cramond and acres of land lie on the south part of the said arable land of Clarbarstoun between the lands of old pertaining to William Cramond on the south part and the lands of the abbot and convent of Saint Colme on the north part as the said acres extend themselves in length from the lands of Hungarsland even to the Muir of Clarbarstoun lying within the sheriffdom of Edinburgh) and in like manner the said William Strachan by the said ratification disposition and assignation mortified and assigned to the before-named persons and their successors foresaid and for the use above mentioned all debts and sums of money as well heritable as moveable which were due and addebted to the founder at the time of his death and to which the said William Strachan had or might have right as heir or executor to him with the bonds bills tickets accounts and other vouchers and instructions of the said debts and the said William Strachan's general retour decreet dative and confirmed testament as heir and executor to the founder by which he had or might have right to the same but with and under the provisions and declarations therein contained including a provision that the before-named persons Trustees and Managers of the said Mortification and their successors from time to time in the said trust were and should be obliged to employ and give out the rents maills and duties of the said mortified lands and the annual rents of the mortified sums conform to the design and appointment of the founder expressed in the deed of foundation the whole superplus of the said rents and annualrents (after satisfying the annual payments directed by the deed of foundation to be made to the said Faculty for their poor to the said Society and to a minister of the said Presbytery) except the necessary charges of collecting and receiving the same and other incidents that might occur in the management to be given out distributed and divided by the said Trustees among poor old men women and orphans

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according to their discretion and also a provision that in accordance with the deed of foundation the executing of the whole trust above-mentioned should be at the sight and under the review of the Lords of Session any two of their number when their lordships should think it needful to require the same and that whether it should be required or not the amount of the said mortifications for the preceding year should be upon the first Tuesday of January yearly laid before the said Lords or any two to be named by them to be revised and approved:

And whereas in virtue of the procuratory for that effect contained in the said ratification disposition and assignation titles were made up in the person of the said William Strachan to the said lands of Craigcrook North Clermiston and Boddoms and to the founder's dwelling-house in Edinburgh and the said William Strachan was duly decerned and confirmed executor dative qua nearest of kin to the founder:

And whereas sasine of the said lands of Craigcrook North Clermiston and Boddoms was expede upon the said ratification disposition and assignation in favour of the said Archibald Hamilton John Horn Thomas Pringle and Alexander Glass and James Heart in name of the said Presbytery of Edinburgh as then Trustees and Managers of the said Mortification nominated and appointed in manner above-mentioned for themselves and in name and behalf of their successors in the said trust to be appointed from time to time by the said Faculty Society and Presbytery as Trustees and Fide-Commissaries for the use and behoof of poor old men women and orphans conform to instrument of sasine dated the third and recorded in the New Particular Register of Sasines Reversions &c. within the sheriffdoms of Edinburgh Haddington Linlithgow and Bathgate on the sixteenth both days of April one thousand seven hundred and twenty-four:

And whereas the foresaid dwelling-house in Edinburgh was in the year one thousand seven hundred and fifty-four purchased from the then Trustees and Managers of the said Mortification by the Commissioners for public buildings in Edinburgh appointed by an Act passed in the twenty-sixth year of the reign of His Majesty King George the Second chapter thirty-six intituled "An Act for "erecting several publick buildings in the City of Edinburgh and "to impower the Trustees therein mentioned to purchase lands for "that purpose and also for widening and enlarging the streets of "the said city and certain avenues leading thereunto" in virtue of the powers conferred by said Act:

And whereas no evidence can be found that any subsequent title to or infeftment in the said lands of Craigcrook North Clermiston and Boddoms has been made up or expede other than a charter of

confirmation of the lands of Craigcrook granted by the superior of these lands on the twenty-sixth day of November one thousand eight hundred and eighteen:

And whereas by decreet pronounced by the Lords of Council and Session on the twenty-first day of July one thousand seven hundred and twenty-six anent the bill of suspension presented and given in to the said Lords by the said Archibald Hamilton and John Horn and Ronald Campbell and Alexander Stevenson Writers to the Signet then Managers appointed by the Faculty of Advocates and Society of Writers to the Signet of the said Mortification in virtue of the deed of foundation against the ministers and members of the Presbytery of Edinburgh the said Lords found that the whole members of the Presbytery of Edinburgh were entitled to vote in the management of the foresaid Mortification:

And whereas by contract of excambion dated the third fourth and twenty-sixth days of May and the second day of June and registered in the sheriff court books of Edinburgh the fourth day of June all in the year one thousand eight hundred and twenty-four entered into between William Ramsay Ramsay Esquire of Barnton with the consent of his curators therein named and designed on the one part and the Reverend Sir Henry Moncrieff Wellwood Baronet one of the ministers of Saint Cuthberts preses of the last general meeting of the Trustees for managing the said Mortification and as specially authorised to enter into the said contract by their minute dated the second day of February then last on the other part on the recital of a joint application presented to the sheriff depute of the county of Edinburgh in terms of the Act of Parliament passed in the tenth year of the reign of his Majesty King George the Third chapter fifty-one intituled "An Act to "encourage the improvement of lands tenements and heredita- "ments in that part of Great Britain called Scotland held under "Settlements of Strict Entail" and of the proceedings in said application and also of the interlocutor pronounced therein whereby the said contract of excambion was authorised to be executed the said William Ramsay Ramsay with consent foresaid sold alienated and disponed from himself and the heirs of entail called to the succession of the entailed estates of Barnton and others to and in favour of John Dickson Esquire and James L'Amy Esquire two of the Faculty of Advocates named and appointed by the act of the Faculty therein mentioned to be Trustees and Managers for the time upon the part of the said Faculty Walter Dickson Esquire and James Nairne Esquire of the Society of Writers to the Signet named and appointed by the said Society to be Managers of the said trust for the time by their act therein mentioned Doctor Thomas Davidson and others the then ministers of the Presbytery of Edinburgh and

A.D. 1897. Robert Douglas and others elders and the other constituent members of the said Presbytery as then Trustees and Managers under the deed of foundation and to their successors in the said trust to be appointed from time to time by the said Faculty and Society and to the members of the said Presbytery of Edinburgh for the time as Trustees and Fide-Commissioners for the use and behoof of poor old men women and orphans heritably and irredeemably All and Whole these twelve acres and thirty-three falls of land or thereby being part of the said William Ramsay Ramsay's entailed estate of Barnton and bounded as follows viz. on the east by the road leading to Corstorphine from the proposed new road from Blackhall to Cramond Bridge on the south and west by part of the said lands of North Ciermiston belonging to the said Mortification and on the north by the foresaid new road from Blackhall to Cramond Bridge with the haill parts pendicles and pertinents of the same lying within the parish of Cramond and county of Edinburgh with all right title and interest claim of right property and possession which the said William Ramsay Ramsay and his foresaids had or could pretend to the said lands teinds and others above described or to any part or portion thereof In consideration whereof the said Sir Henry Moncrieff Wellwood authorised as aforesaid sold alienated and disponed to and in favour of the said William Ramsay Ramsay and the heirs of his body whom failing to the other heirs of entail substituted to him by the deed of entail therein mentioned of the said estates of Barnton and others under the whole conditions provisions clauses irritant and resolutive declarations and other clauses contained in the said deed of entail and titles following thereupon All and Whole these eight acres three roods and twenty falls of land or thereby part of the lands of North Clermiston belonging to the said Trustees which eight acres three roods and twenty falls are bounded as follows viz. on the north by the old road leading from Queensferry to Edinburgh on the east and west by the lands of Barnton and on the south by the proposed new line of road leading from Cramond Bridge to Edinburgh with the teinds parsonage and vicarage of the said eight acres three roods and twenty falls and whole parts pendicles and pertinents of the same lying within the said parish of Cramond and sheriffdom of Edinburgh:

And whereas sasine of the said twelve acres and thirty-three falls of land or thereby part of the estate of Barnton was expede upon the said contract of excambion in favour of the then Trustees for managing the said Mortification conform to instrument of sasine dated the thirteenth day of December one thousand eight hundred and twenty-four and recorded in the New Particular Register of Sasines Reversions &c. within the sheriffdoms of Edinburgh

Haddington Linlithgow and Bathgate on the ninth day of February one thousand eight hundred and twenty-five: A.D. 1897

And whereas no evidence can be found that any subsequent title to or infeftment in the said twelve acres and thirty-three falls of land or thereby has been made up or expede:

And whereas the said lands of Craigcrook North Clermiston and Boddoms (excepting the portion of the lands of North Clermiston disponed to the said William Ramsay Ramsay as aforesaid) and the foresaid twelve acres and thirty-three falls of land formerly part of the estate of Barnton and the annualrents and proceeds of said lands with a reserve fund of three hundred pounds set aside to meet unexpected or extraordinary demands form the whole property and funds of the foresaid Mortification and the farm of Craigcrook part of said lands is burdened with certain terminable improvement rentcharges amounting in the aggregate to the sum of forty-three pounds eight shillings and seven pence yearly:

And whereas statutes for the management of the foresaid Mortification have from time to time been made by the Trustees and Managers thereof and approved of by the two Lords Overseers appointed by the said Lords of Council and Session in terms of the deed of foundation the subsisting statutes being those approved of by the Lords Overseers on the eighteenth day of March one thousand eight hundred and fifty-eight:

And whereas the persons at present acting or entitled to act as Trustees and Managers of the foresaid Mortification are two members of the Faculty of Advocates nominated by the Faculty two members of the Society of Writers to the Signet nominated by the Society and the whole members of the Presbytery of Edinburgh numbering one hundred and upwards and including the ministers of all charges within the bounds of the Presbytery the Professor of Divinity in the University of Edinburgh and the elders appointed by the kirk sessions within said bounds to be members of the Presbytery:

And whereas it is expedient for the better management of the foresaid Mortification that the Trustees thereof should be incorporated that the whole property of the Mortification should be vested in them as so incorporated that the mode of executing and authenticating deeds and other writings to be granted by them or on their behalf should be regulated that provision should be made for regulating the appointment of future Trustees and also for regulating the meetings of the Trustees the appointment of committees of their number the appointment of officers and other matters connected with the management of the Mortification:

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And whereas the said lands of Craigcrook North Clermiston and Boddoms (excepting as aforesaid) and the foresaid piece of land formerly part of the estate of Barnton are situated near to the city of Edinburgh and it would improve the value of the said lands and increase the revenues derived therefrom if the Trustees were authorised to grant feu rights and long leases of the said lands:

And whereas it is expedient that the Trustees should be authorised to borrow money for the purpose of laying out the said lands for feuing and letting on long lease and for other purposes:

And whereas the objects aforesaid cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and 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:—

Short title.

1. This Act may be cited for all purposes as the Craigcrook Mortification Act 1897.

Interpretation.

2. In the construction of this Act the following words shall have the several meanings hereby assigned to them unless there shall be something in the subject or context repugnant to such construction (that is to say):—

The expression "the deed of foundation" shall mean the deed of mortification herein-before recited executed by the said John Strachan on the twenty-fourth day of September one thousand seven hundred and twelve;

The expression "the Mortification" shall mean the Mortification established by the deed of foundation;

The expression "the Trustees" shall mean the Trustees of the Mortification incorporated by this Act;

The expression "the present Trustees" shall mean the whole Trustees and Managers acting or entitled to act at the date of the commencement of this Act under the deed of foundation;

The expressions "the preses" and "the clerk and factor" shall mean the persons appointed by the Trustees to be their preses and clerk and factor respectively for the time being;

The expression "the Faculty" shall mean the Faculty of Advocates;

The expression "the Society" shall mean the Society of Writers to Her Majesty's Signet;

The expression "the Presbytery" shall mean the Presbytery of Edinburgh;

The expression "the Court" shall mean the Court of Session in Scotland in either of the divisions thereof.

Commencement of Act.

3. This Act except where otherwise expressly provided shall commence and take effect on and from the first day of January one thousand eight hundred and ninety-eight.

Incorporation of Trustees.

4. From and after the commencement of this Act the present Trustees shall cease to be Trustees of the Mortification and the persons to be appointed by the Faculty the Society and the Presbytery respectively as in this Act provided shall be the Trustees of the Mortification in their stead and the persons so to be appointed are hereby incorporated by the name of "The Trustees of the Craigcrook Mortification" and by that name shall be a body corporate and politic with perpetual succession and a common seal for the purpose of administering the affairs of the mortification in accordance with the deed of foundation and this Act and with power to purchase and hold lands and to sue and be sued and with all other rights powers and privileges of a corporate body.

Constitution of Trustees.

5. The Trustees shall consist of the following persons (that is to say):—

Two persons to be appointed by the Faculty;
Two persons to be appointed by the Society; and
Fifteen persons to be appointed by the Presbytery.

Mode of appointment of Trustees by the Faculty and the Society.

6.—(1) The Faculty and the Society shall as hitherto each appoint annually two members of their respective bodies to be Trustees of the Mortification and such persons shall hold office for one year from the first day of January next after the dates of their respective appointments and shall retire at the end of such year but shall be eligible for re-appointment.

(2) The first Trustees to be appointed by the Faculty and Society respectively shall be appointed by those bodies at any meeting to be held in the year one thousand eight hundred and ninety-seven and the Trustees so appointed shall come into office on the first day of January one thousand eight hundred and ninety-eight.

(3) The Faculty and the Society respectively may at any time supply any vacancy that may occur by death resignation disqualification or otherwise among the persons appointed by them respectively to be Trustees and the person appointed to supply such vacancy shall hold office for the same period as the person in whose room he is so appointed would have held office.

Mode of appointment of Trustees by the Presbytery.

7.—(1) The Presbytery shall appoint any fifteen of their number to be Trustees of the Mortification and except as herein-after otherwise provided the persons so appointed shall hold office for three years from the first day of January next after the date of their appointment and shall retire in rotation as herein-after provided but shall be eligible for re-appointment.

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(2) The first fifteen Trustees to be appointed by the Presbytery shall be appointed at any meeting of the Presbytery to be held in the year one thousand eight hundred and ninety-seven and the Trustees so appointed shall come into office on the first day of January one thousand eight hundred and ninety-eight.

(3) The first fifteen Trustees appointed by the Presbytery shall retire as follows (that is to say) Five of their number on the first day of January one thousand eight hundred and ninety-nine five on the first day of January one thousand nine hundred and the remaining five on the first day of January one thousand nine hundred and one.

(4) It shall be determined by the Presbytery when making the appointment which of such fifteen Trustees first appointed shall retire at the said respective dates and thereafter the five Trustees appointed by the Presbytery who have been longest in office shall retire on the first day of January in each year.

(5) The Presbytery shall at any meeting of the Presbytery to be held in the year one thousand eight hundred and ninety-eight appoint five of their number to be Trustees of the Mortification who shall come into office on the first day of January one thousand eight hundred and ninety-nine in place of the five Trustees appointed by the Presbytery then retiring and shall hold office for three years and so on in each succeeding year.

(6) Any Trustee appointed by the Presbytery (not being an elder) who shall cease to be a member of the Presbytery shall thereby ipso facto cease to be a Trustee but no Trustee appointed by the Presbytery being an elder and who continues to be a member of a kirk session within the Presbytery shall be disqualified to act as a Trustee merely by reason of his ceasing to be a member of the Presbytery.

(7) The Presbytery may at any time supply any vacancy that may occur by death resignation disqualification or otherwise among the persons appointed by them and the person appointed to supply such vacancy shall hold office for the same period as the person in whose room he is so appointed would have held office.

Trustees may resign.

8.—(1) Any Trustee may at any time resign his office by letter addressed to the preses or to the clerk and factor and such letter shall be entered in the minutes of the next meeting of the Trustees from and after which meeting such resignation shall be held to take effect.

(2) In the event of any vacancy occurring in consequence of the death resignation or disqualification of a Trustee or otherwise the clerk and factor shall forthwith intimate the fact to the Faculty the Society or the Presbytery according as such vacancy shall fall to be filled up by one or other of these bodies.

Proceedings not to be invalidated by failure to appoint Trustees.

9. Notwithstanding any failure or delay or defect in the appointment of any Trustee and notwithstanding any vacancy occurring by reason of the death resignation or disqualification of any Trustee or otherwise the Trustees shall not be prevented from acting in the execution of the deed of foundation and this Act nor shall any act or proceeding of the Trustees or of any committee appointed by them be invalidated or be illegal in consequence of any such vacancy or of any defect in the appointment of any one or more Trustees provided the number of Trustees entitled to act shall not thereby be reduced below five.

Stated meetings of Trustees.

10.—(1) Stated meetings of the Trustees shall be held at such hours as to them shall seem fit on the second Monday of January the third Monday of March and the first Monday of November in each year or on such other stated days not being less than three in each year as the Trustees may appoint and they may adjourn such meetings from time to time.

(2) At all meetings of the Trustees five Trustees shall form a quorum.

(3) In the event of any stated meeting of the Trustees failing from the non-attendance of a quorum of the Trustees such meeting shall be held to be adjourned from day to day at the same hour until a quorum shall attend.

Appointment of preses.

11.—(1) At their first stated meeting in each year the Trustees shall appoint one of their number to be preses who shall continue in office till the first day of January in the following year and shall be eligible for re-appointment The preses shall preside at each meeting of the Trustees that shall be held during the year of his appointment In the event of the office of preses from any cause becoming vacant the Trustees shall supply the vacancy at their next meeting.

(2) In the absence of the preses from any meeting or in the event of the office of preses being vacant one of the Trustees to be chosen for that purpose by a majority of the Trustees present shall preside in his room at such meeting.

(3) At every meeting of the Trustees the preses or the Trustee presiding in his room shall have a deliberative vote and also in case of equality of votes a casting vote.

Special meetings of Trustees.

12. A special meeting of the Trustees may at any time be called by the preses and shall at any time be called by the clerk and factor on a requisition addressed to the clerk and factor by any five or more of the Trustees The notice calling such special meeting shall specify the objects for which the meeting is called and the Trustees shall meet in pursuance of such notice and proceed to the consideration and disposal of the matters so specified.

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Property vested in Trustees.

13. From and after the commencement of this Act all lands and other property heritable and moveable real and personal wherever situated which shall then belong to or be held by or be vested in the present Trustees or their predecessors in office or any one or more of them or any other person or persons for their behoof or for the uses and purposes specified in the deed of foundation whether held absolutely or in security or under reversion shall be and the same are hereby vested in the Trustees in trust for the uses and purposes specified in the deed of foundation and in this Act and shall in future so far as not inconsistent with the terms of this Act or with the deed of foundation as modified by this Act be held managed sold conveyed assigned transferred released discharged or otherwise disposed of by the Trustees under their corporate name without the necessity of any connecting or continuing title or separate investiture other than this Act and all charters dispositions contracts of excambion conveyances grants securities sasines and other deeds instruments and writings whatsoever which before the commencement of this Act have been made granted executed or taken to and in favour of the present Trustees or their predecessors in office or any one or more of them or any other person or persons for their behoof or for the uses and purposes aforesaid shall be as valid and of as full force and effect in favour of the Trustees as if the same had been made granted executed or taken in favour of the Trustees.

Mode of executing deeds by Trustees.

14.—(1) All deeds and writings (other than receipts for money received on account of revenue) which shall be made and granted by the Trustees shall when duly stamped be held to be validly executed if sealed with the common seal of the Trustees and subscribed by any two of their number and by the clerk and factor or should the office of clerk and factor be at any time vacant by any three of their number and in all matters and proceedings whatsoever wherein it shall be requisite to make any declaration or affidavit by or on behalf of the Trustees such declaration or affidavit may be made by any one of the Trustees or by the clerk and factor and in all actions and diligence the books of the Mortification or excerpts therefrom certified by one of the Trustees or by the clerk and factor shall be legal evidence.

(2) All receipts for money received on account of revenue shall be signed by the clerk and factor or by some other officer specially authorised by the Trustees to that effect.

Office of Trustees to be in Edinburgh.

15. The office of the Trustees and the place for their meetings shall be in Edinburgh with power to the Trustees if they think fit to convene and hold meetings in such other convenient places as they may appoint.

Service of writs on Trustees.

16. Any summons notice writ or other document whatsoever requiring to be served upon the Trustees may be served by the same being sent by post or delivered personally to the clerk and factor or by being left at the office of the Trustees or in case there shall be no such clerk and factor and no such office by being delivered personally to the preses.

Business at meetings of Trustees.

17. The Trustees may from time to time do all such acts as shall appear to them to be necessary or fitting to be done in order to carry into full operation and effect the objects and purposes of the deed of foundation and this Act and they shall cause minutes of all resolutions determinations acts and proceedings at each of their stated and other meetings and the names of all Trustees present at such meetings to be entered in a book or books to be provided for that purpose which minutes shall be subscribed by the preses or some other Trustee present at such meeting and duly authorised by the Trustees to that effect and when so subscribed shall be deemed to be duly authenticated.

Books and accounts to be kept.

18. The Trustees shall cause to be kept regular and distinct books and accounts of the affairs and management of the Mortification and shall cause the said books and accounts to be brought to a balance as upon the thirty-first day of December in each year or as upon such other day as they may at any stated meeting prescribe.

Accounts and audit thereof.

19. The accounts of the Mortification for each year ending on the thirty-first day of December or on such other day as may be prescribed by the Trustees shall be made up as soon as conveniently may be after that day and shall within one month from the date of their being so made up be audited by an auditor to be appointed by the Trustees And at the second stated meeting in each year the Trustees shall receive and take into consideration the accounts of the affairs and management of the Mortification and the report of the auditor upon the said accounts and shall cause the accounts to be docqueted and signed as correct by the preses or other Trustee presiding at such meeting or give such other instructions and adopt such measures as may be considered necessary in the circumstances of the case.

Committees of Trustees.

20.—(1) The Trustees may from time to time appoint a committee or committees of their own number and may devolve upon such committee or committees all or any of the powers and duties of the Trustees under the deed of foundation and this Act.

(2) At the first stated meeting in each year the Trustees shall appoint a standing committee of their number for the year then current who shall take a general charge of the affairs of the Mortification and prepare all business remitted to them Such standing

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committee shall consist of the preses for the time being who shall be convener and six other Trustees and shall include at least one Trustee appointed by the Faculty and one Trustee appointed by the Society In the event of a vacancy occurring in the standing committee during the year by death resignation or otherwise such vacancy shall be filled up at the next meeting of the Trustees.

(3) No committee shall consist of less than five members and a majority of the members of each committee shall be a quorum.

(4) Failing special provision each committee shall appoint one of their number to be their convener and to preside at their meetings and in the absence of the convener from any meeting of a committee one of the other members of such committee to be chosen for that purpose by a majority of the members present shall preside in his room at such meeting.

(5) At every meeting of a committee the convener or other member of such committee presiding in his room shall have a deliberative vote and also in case of equality of votes a casting vote.

(6) Unless otherwise directed by the Trustees the proceedings of all committees shall be reported to and be subject to the approval of the Trustees.

Appointment of officers.

21. The Trustees may appoint and employ a clerk and factor an auditor (who shall be a chartered accountant) and such other officer or officers including law agents and counsel of their own number or others as they may deem necessary to conduct the affairs business and accounts of the Mortification and may from time to time dismiss such clerk and factor auditor or other officer or officers or may arrange for their retirement and may appoint other persons in their places and may out of the income of the Mortification pay to such clerk and factor auditor and other officers such salaries or remuneration or such allowance on retirement as the Trustees may deem proper or in the case of law agents and counsel the usual professional remuneration The Trustees may require the clerk and factor or other officer or officers to find security for their intromissions to such amount as the Trustees shall consider reasonable and proper.

Duties of officers.

22. The clerk and factor or other officer specially authorised for the time being shall receive all rents feu-duties and other moneys payable to the Trustees and make all necessary payments on their behalf and he shall lodge in bank in name of the Trustees all sums received by him on their behalf and shall not be entitled to retain in his hands more than fifty pounds for a longer period than ten days The receipt of the clerk and factor or other officer authorised as aforesaid for moneys paid to him on account of revenue shall at

all times be a sufficient discharge for the moneys therein expressed to be received and shall wholly exonerate the person paying the same from seeing to the application thereof.

Power to grant feus and long leases.

23. Notwithstanding anything to the contrary contained in the deed of foundation the Trustees may grant feus and long leases of the lands now belonging or that may hereafter belong to the Mortification in such lots and at such rate or rates of feu-duty or ground rent as to them shall seem fit not being less than the rent which at the time of granting such feus or long leases the ground feued or let would bring if let as an agricultural subject and for that end the Trustees may grant execute and enter into all necessary feu charters feu contracts and long leases or other deeds instruments or writings containing all usual and necessary clauses.

Power to execute works.

24. The Trustees may lay out the lands now belonging or that may hereafter belong to the Mortification for the purpose of feuing or letting on long lease and may for that end make and maintain streets footpaths roads drains sewers water channels and other works and may provide lay and maintain water pipes mains and connexions and other works and apparatus for water supply and may provide lay and maintain pipes mains connexions and other works and apparatus for lighting by gas And the Trustees may enter into contracts agreements or arrangements with reference to any of the above matters with the Lord Provost magistrates and town council of the city of Edinburgh the Edinburgh and District Water Trustees the Water of Leith Purification and Sewerage Commissioners or any other local authority corporation or public body or with any company or person.

Power to borrow money.

25. The Trustees may at any time and from time to time borrow and raise such sum or sums of money not exceeding in the whole the sum of three thousand pounds as they may consider necessary for the purpose of laying out for feuing or letting on long lease the lands now belonging or that may hereafter belong to the Mortification or for any of the purposes of the deed of foundation or of this Act including payment of the expenses of and incident to the preparing for obtaining and passing of this Act and that upon the security of all or any of the property and estate heritable and moveable real and personal belonging to the Mortification and shall have power to make execute and deliver to the person or persons advancing such sum or sums of money all necessary bonds and dispositions in security bonds of annualrent bonds of cash credit bonds and assignations in security or other deeds instruments or writings containing powers of sale and all other usual and necessary clauses and their receipts for the sums to be borrowed and

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raised as aforesaid shall absolutely discharge all persons paying the money mentioned in such receipts from being bound to inquire or see as to the manner or purpose in or for which such money is dealt with or applied and from inquiring as to the necessity or propriety of raising the same under the powers of this Act or from being affected by impropriety in the raising of the same or by the fact that the full sum or any sum by this Act authorised to be borrowed and raised has already been so borrowed and raised Provided that when and so often as the said sum of three thousand pounds or any part thereof shall be borrowed and raised for the purposes aforesaid the Trustees shall either arrange with the person or persons advancing the same for the same being repaid out of the annual income of the Mortification by instalments extending over a period of not less than twenty or more than thirty years from the date or dates of advance or the Trustees shall out of the income of the Mortification yearly set aside by way of sinking fund such sum as will enable the sum so borrowed and raised to be paid off and discharged at the expiration of not less than twenty or more than thirty years from the date when the same was so borrowed and raised.

Trustees may raise money by improvement loan charge.

26. Nothing in this Act contained shall prevent the Trustees from obtaining advances by way of improvement loan charge upon absolute orders made by the Board of Agriculture in pursuance of the powers vested in them by the Board of Agriculture Act 1889 or by any body upon whom the powers of the Board of Agriculture may be hereafter devolved and any advance so obtained shall not be held to form part of the sum of three thousand pounds by this Act authorised to be borrowed and raised.

Power to excamb lands.

27. Notwithstanding anything to the contrary contained in the deed of foundation the Trustees may make excambions of any portions of the lands and heritages belonging to the Mortification for an equivalent in lands or heritages lying contiguous to the same or being convenient to be held with the same and that although the heritages to be given and taken in exchange may consist of different descriptions of heritable property and may give or receive any money (not exceeding five hundred pounds) for equalising the values of the heritages to be given and taken in exchange.

Power of investment.

28. The capital funds of the Mortification including therein such sums if any as may be set aside by way of sinking fund as in this Act provided may from time to time be laid out and invested by the Trustees in the purchase of or on loans on the stocks funds and securities or other property heritable or moveable real or

personal in which gratuitous trustees are or may hereafter be by any public Act applicable to England or to Scotland empowered to invest their trust funds or in the purchase of the stocks or shares of any bank in Scotland incorporated by Royal Charter or by or under any local or general Act of Parliament having at the date of the commencement of this Act its head office in Scotland and any sums that may be set aside by way of sinking fund as aforesaid may be lent to the Trustees themselves for any of the purposes for which they are by this Act authorised to borrow money provided that the sums so lent together with the sums previously borrowed and not repaid shall not exceed in the aggregate the sum of three thousand pounds.

Mortification to be a trust.

29. The Mortification shall be a trust within the meaning of the Trusts (Scotland) Acts 1861 to 1891 and in so far as not inconsistent with the deed of foundation and this Act the Trustees shall have all the powers privileges and immunities by the said Acts conferred upon gratuitous trustees.

Administration of Mortification.

30. The Mortification shall in accordance with the deed of foundation and this Act be administered by the Trustees for the use and behoof of poor old men and women and orphans to be from time to time selected by them subject always to the rules and regulations contained in the schedule to this Act or such other rules and regulations as may hereafter be made thereanent in manner mentioned in this Act.

Present statutes rescinded.

31. From and after the commencement of this Act the subsisting statutes byelaws rules and regulations for the management of the Mortification shall cease to be operative.

Payments to be made to Faculty Society and Presbytery.

32. The Trustees shall cause the clerk and factor or other officer duly authorised for that purpose to pay annually to the Faculty and the Society respectively the sums of two pounds fifteen shillings and sixpence and five pounds eleven shillings and one penny being the equivalents of the sums of fifty merks Scots and one hundred merks Scots directed by the deed of foundation to be allowed yearly to the poor of the Faculty and to the Society respectively and also to pay to the Presbytery the sum of one pound thirteen shillings and fourpence being the equivalent of the sum of twenty pounds Scots directed by the deed of foundation to be allowed yearly for providing a bible for one of the ministers of the Presbytery which last-mentioned sum shall notwithstanding anything contained in this Act be disposed of by the Presbytery according to use and wont.

Power to make rules and regulations.

33. The Trustees may make such rules and regulations in addition to or in substitution for all or any of those contained in the

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schedule to this Act as they may think necessary and proper for the management of the Mortification Provided that such rules and regulations be not repugnant to the laws of that part of the United Kingdom called Scotland or to the provisions of the deed of foundation as amended and enlarged by this Act And provided that no such rule or regulation to be made as aforesaid and no variation or rescission of any rule or regulation shall be held to be in force unless the same shall have been sanctioned at one meeting of the Trustees and shall have been confirmed at a subsequent meeting of the Trustees held not sooner than one month after the meeting at which the same was sanctioned.

Application to Court of Session for direction in case of doubt.

34. In the event of any question or doubt arising as to the construction of the deed of foundation or of this Act or as to the proper operation and administration of the Mortification or in consequence of there being at any time less than five Trustees entitled to act or in consequence of any other special fact or occurrence the Trustees or so many of them as may be entitled to act for the time may apply to the Court for direction and that by petition disclosing the circumstances material for the consideration of the Court who thereupon shall order such intimation or service as they shall think fit and shall have full power and discretion to give such direction as they shall consider just and best for the ends and uses of the Mortification and thereupon the Trustees acting on such direction shall be held to have discharged their duty as Trustees and to be relieved of all responsibility in the subject matter of the said application and the expense of such application and of all proceedings connected therewith shall be defrayed as the Court shall direct.

Costs of Act.

35. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Trustees out of the moneys by this Act authorised to be borrowed and raised and that in preference to all other payments whatsoever.

The SCHEDULE in this Act referred to.

RULES AND REGULATIONS FOR THE MANAGEMENT OF THE MORTIFICATION.

(1) All meetings of the Trustees shall be called by circulars delivered at or posted to the address of each Trustee at least two days before the day of meeting.

(2) The clerk and factor or other officer appointed by the Trustees for that purpose shall in addition to the duties made incumbent on him by the Act keep the minute books and other books and accounts of the Mortification and shall have the custody of the writs securities and other papers of the Mortification. He shall further receive the petitions of applicants for the benefits of the Mortification and make up rolls of such applicants and of the pensioners from time to time appointed by the Trustees and shall summon meetings of the Trustees and of the standing committee and other committees appointed by the Trustees.

(3) The report of the auditor upon the accounts of the Mortification for the previous year and also a statement of the affairs of the Mortification as at the close of such accounts and a prospective statement of the affairs of the Mortification for the current year which statements shall be prepared by the clerk and factor or other officer appointed by the Trustees for that purpose shall be laid before the standing committee for their approval and the standing committee shall report upon such accounts and statements to the second stated meeting of the Trustees.

(4) After deduction of all necessary expenses of management improvements and repairs and all other annual outgoings authorised by the Act including interest on moneys borrowed and the sums to be annually paid or set aside in or towards repayment of principal and likewise of such sum not exceeding fifty pounds annually as the Trustees may from time to time think fit to set aside towards forming and maintaining a fund of not more than three hundred pounds to meet unexpected or extraordinary demands on the Mortification the free yearly income of the Mortification shall be bestowed in pensions on poor men and women born in Scotland or who have resided in Scotland for not less than ten years and who in either case shall be duly certified to be of good character and of the age of sixty-three years at least and on orphan families being children under fourteen years of age and whose father or mother was born in Scotland or has resided in Scotland for not less than ten years or such member or members of such families as may be under fourteen years of age and special regard shall be had as heretofore to the claims of such persons or families as have no other pension or fixed revenue and have formerly been in creditable circumstances no person being considered qualified to be received as a pensioner who has lived in the capacity of a servant or journeyman or as the wife or son or daughter of a servant or journeyman and has never occupied a higher station the Trustees having power to judge according to their discretion with regard to the claims of all applicants to whom these descriptions do not apply.

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(5) The pensions shall be granted for life or such other period and shall be of such amount not exceeding thirty pounds yearly as the Trustees may from time to time determine with reference to each case it being in the power of the Trustees to place a husband and wife or brothers and sisters or a family of orphan children on the roll of pensioners as if they were one individual and to grant the reversion of the whole or any part of the pension allotted to such persons or families to the survivors or survivor of them.

(6) The roll of pensioners shall be made up annually at the second stated meeting in each year and for this purpose the petitions and certificates representing the claims and necessities of applicants for the benefit of the Mortification shall be given in to the clerk and factor or other officer appointed by the Trustees for that purpose on or before the thirty-first day of January in each year and shall thereafter be circulated by him among the members of the standing committee who shall meet at least a week previous to such stated meeting and shall draw up a report to be laid before that meeting with reference to such petitions and certificates.

(7) Before proceeding to consider such petitions and certificates or to recommend the admission of new pensioners the standing committee shall carefully examine and in making their report shall have regard to the annual accounts for the preceding year and the existing and prospective statements of the affairs of the Mortification to be prepared by the clerk and factor or other officer as aforesaid.

(8) No addition shall be made to the roll of pensioners made up as aforesaid at any subsequent meeting during the year then current but persons may at any time be removed from the roll by the Trustees and payment of pensions may be suspended till the next stated meeting by order of the standing committee.

(9) The Trustees in making up the roll of pensioners shall have strict regard to the state of the funds as shown by the annual report of the standing committee and they shall as nearly as may be so adjust the number of pensioners and the amount of pensions that the whole free income of the Mortification for the year then current shall be consumed Provided that no pensioner once admitted to the roll shall be removed or have his or her pension diminished merely for the purpose of enabling the Trustees to set aside a sum towards forming a fund to meet future unexpected or extraordinary demands as aforesaid.

(10) Payment shall be made to the pensioners of one half of the sum allowed them for yearly pension on the Tuesdays following the first Mondays of May and November yearly With this view a copy of the roll shall be made out with three columns the first to contain the names and designations of the pensioners the second the sums allotted to them respectively and the third (on the top of which shall be written a general discharge) the subscriptions of the pensioners or of those duly authorised to receive the pensions in their names At the end of the roll there shall be an order on the clerk and factor or other officer subscribed by the preses or by any two of the Trustees to pay the sums contained in it to the persons specified The clerk and factor or other officer shall account according to the roll so made up and the sums therein contained that have been discharged and there shall be a new copy of the roll with the necessary alterations written out and subscribed by the preses or by any two

of the Trustees every half year The clerk and factor or other officer foresaid shall send no money to absent pensioners unless a certificate or some sufficient evidence of their being alive shall have been produced to him.

(11) The Trustees may if they think it expedient in any case administer the pension as they deem best on behalf of the pensioner or may pay the pension to a trustee guardian relative friend or other person on behalf of the pensioner and the receipt of such trustee guardian relative friend or other person on behalf of the pensioner shall be as effectual to the Trustees as the receipt of the pensioner.

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