ANNO VICESIMO SEPTIMO & VICESIMO OCTAVO

VICTORIÆ REGINÆ.

****

Cap. 2.

An Act to incorporate the Trustees of the *Scots* Episcopal Fund; to alter and amend the Trust Deeds; to empower the Trustees to sell the Estate of *Kildonan* in the County of *Ayr;* to regulate the Investment of the Trust Funds; and for other Purposes relating thereto.

[14th *July* 1864.]

WHEREAS in the Year Eighteen hundred and six Subscriptions were entered into and collected among the Members of the Reformed Episcopal Communion in *Scotland*, and the Friends of Episcopacy in *England* and *Ireland*, for the Purpose of establishing a Fund, thereafter called the *Scots* Episcopal Fund, the Interest of which, together with such annual Subscriptions as might be obtained, should be applied in making an Addition to the Incomes of the Bishops or Clergymen of superior Order, and of the more necessitous of the Presbyters or Clergymen of inferior Order, of the said Reformed Episcopal Communion in *Scotland:* And whereas in the Month of *January* Eighteen hundred and ten the Contributions to the said Fund, and Subscriptions collected, with the Accumulations thereof, amounted to the Sum of Twelve thou-

sand eight hundred and fifty-six Pounds Six Shillings and Fivepence: And whereas at a General Meeting of the Contributors to the Fund, held on the Nineteenth Day of *February* Eighteen hundred and ten, the Management of the Fund thus collected, and the Direction of its Object, were vested in Sir *William Nairne* of *Dunsinnan*, Baronet, One of the Senators of the College of Justice, and commonly called Lord *Dunsinnan*, *Alexander Fraser Tytler* Esquire, of *Woodhouselee*, One of the Senators of the College of Justice, and commonly called Lord *Woodhouselee*, *James Clerk* Esquire, of *Chesterhall* (afterwards *James Clerk Rattray* Esquire, of *Craighall Rattray*), One of the Barons of the Court of Exchequer in *Scotland*, Sir *William Forbes* of *Pitsligo*, Baronet, Sir *John Hope* of *Craighall*, Baronet, *Colin Mackenzie* Esquire, of *Portmore*, One of the Principal Clerks of Session, *John Hay Forbes* Esquire, Advocate, Sheriff Depute of the County of *Perth*, Doctor *Thomas Spens*, Physician in *Edinburgh*, and *Adam Duff* Esquire, Advocate, Sheriff Depute of the County of *Forfar*, as a permanent Committee of Nine Trustees (who were thereupon known as the Trustees of the *Scots* Episcopal Fund), with Powers of filling up Vacancies by the Assumption of new Trustees, and other Powers, as herein-after more fully set forth: And whereas at the Term of *Lammas* or First Day of *August* Eighteen hundred and nine, the said Trustees purchased from *Thomas Adinston* Esquire, of *Carcant*, all and whole the Lands of *Collielaw*, with the Houses, Yards, Teinds, Parsonage and Vicarage, Parts, Pertinents, and Pendicles of the same whatsomever, lying within the Barony of *Pilmuir*, Parish of *Channelkirk*, and Sheriffdom of *Berwick*, at the Price of Twelve thousand Pounds Sterling, with Entry at the Term of *Whitsunday* (or Fifteenth Day of *May*) Eighteen hundred and nine: And whereas by Disposition bearing Date the Seventeenth Day of *December* Eighteen hundred and ten the said *Thomas Adinston* sold, alienated, and disponed to and in favour of the said Sir *William Nairne*, *Alexander Fraser Tytler*, *James Clerk*, Sir *William Forbes*, Sir *John Hope*, *Colin Mackenzie*, *John Hay Forbes*, *Thomas Spens*, and *Adam Duff*, as Trustees, in manner therein-after expressed, and the Survivors or Survivor of them, and the Heirs Male of such Survivor, and to their Assignees, in Terms of the Powers therein-after conferred on them, but not otherwise, declaring the major Part of the Trustees alive at the Time to be a Quorum, all and whole the said Lands of *Collielaw*, and that in trust for the Ends, Uses, and Purposes, and with the Powers, and under the Limitations, Conditions, Provisions, and Declarations after written, which were thereby ordained to be engrossed in the Charters and Infeftments to follow thereupon, *viz.*, *primo*, that the said Trustees should each and every Year apply the whole Free Rent of the Lands and others therein-before disponed, together with the Free Income of any other Funds or Estate vested in or belonging

Disposition or Trust Deed dated 17 Dec. 1810.

to

to them, or which might come to, belong to, or be vested in them, as Trustees aforesaid, in Payment of Salaries to the Persons filling for the Time the Offices of Bishops or Clergymen of superior Order of the Reformed Episcopal Communion in *Scotland*, and in like Payment of Allowances to the Presbyters or Clergymen of inferior Order of the said Communion, or at least to such of the said Presbyters as might from their Merits and Wants be deemed best entitled to claim Aid from the Fund, but declaring that it should be optional to and in the Power of the said Trustees in making each annual Distribution to retain towards Accumulation of Capital any Portion not exceeding One Fifth Part of whatever Income under their Management should arise from Funds not invested in the Purchase of a Land Estate, and the particular Plan of such annual Distribution should be fixed and declared at a Stated Meeting of the Trustees, to be held in the House of the Person filling for the Time the Office of their Secretary, on the Third *Monday* in *February* yearly, at Twelve o'Clock Noon; and it was thereby expressly declared that, notwithstanding the Appointment thereinbefore expressed of a major Part of the Trustees alive at the Time to be a Quorum, the Proceedings at such annual Stated Meetings, whether in regard to the said Distribution, or to any other Acts of Administration or Management whatsoever, should be equally valid and effectual (whether resolved unanimously or by a Majority, although the Number of Trustees present might be fewer than a Majority of those alive at the Time) as if the same had been done and concluded by the whole Trustees alive at the Time, or their Quorum aforesaid; *secundo*, that the said Trustees in each annual Distribution should appropriate, for the Purpose of affording the Salaries for the Bishops or Clergymen of superior Order, not less than Three Fifth Parts, nor more than Two Third Parts of the total Sum which was appointed to be distributed as aforesaid, and should apply the Remainder thereof in Payment of the Allowances aforesaid to the Presbyters or Clergymen of inferior Order, and that no Alteration whatever should be made with respect to this Rule of Proportion until the Year Eighteen hundred and thirty, but whereas in case of any considerable Increase in the Amount of the Fund, it might be expedient to leave it open for future Consideration whether any Change on the said relative Proportions ought or ought not thereafter to be made: Therefore the said Trustees were thereby directed to summon a General Meeting of the Contributors, and of the Heirs Male of the Bodies of such as might be then deceased, by public Advertisement, at least Three Weeks before the Day of Meeting, in Two or more Newspapers, whereof one at least should be published in *London*, and another in *Edinburgh*, and the said Meeting should be held in some convenient Place in *Edinburgh*, at Noon, on the Second *Monday* in *February* Eighteen hundred

hundred and thirty, and another General Meeting should again be summoned in like Manner by the said Trustees, to be held in *Edinburgh*, at Noon, on the Second *Monday* in *February* Eighteen hundred and fifty, and so on vicennially, always on the Second *Monday* in *February* in each Twentieth Year during the Subsistence of the said Trust; and it was thereby declared, that the said Contributors, and the Heirs Male of the Bodies of such as might be deceased, when so assembled at any such Vicennial Meeting, should have Power to make such Alterations as they might think proper in the Proportions of the Fund to be allotted respectively to the Bishops and to the inferior Clergy, but so that no Diminution should be thereby made in the Amount of any Salary or Allowance then payable to any individual Bishop or Clergyman out of the Trust Fund, and the said Trustees should be bound to obey the Instructions with regard to such Alteration which might be resolved on at such Meeting, and declaring that in default of any Resolution at any such Vicennial Meeting appointing a new Rule of Proportion the Rule established at the Time should continue in full Force until altered by a Resolution of the next or some subsequent Vicennial Meeting; *tertio*, that in the Division among the Bishops or Clergymen of superior Order of that Part of the Fund appropriated in each Year for the Salaries aforesaid to be paid to them, the Shares to each Individual should be equal, except that some additional Salary should be allotted to that One among them holding for the Time the Appointment of Primus, and also to that One among them within whose District the City of *Edinburgh* is locally situated, provided he be resident within the said City or its Environs, and it was declared that the Amount of such Additions should be fixed by the said Trustees, who should exert the Discretion so committed to them with becoming Delicacy; provided always, that the Salary to the Bishop within whose District *Edinburgh* is situated should never be more than double the ordinary Salary payable to the other Bishops, and that the Salary to the Primus, if a different Person from the said Bishop within whose District *Edinburgh* is situated, should never exceed the said ordinary Salary, with an Addition of One Third Part more; *quarto*, that in the Distribution to the Presbyters or Clergymen of inferior Order, the Selection of the Persons to whom an Allowance was to be made, as well as the Proportion of Allowance to each, should be fixed from Time to Time by the said Trustees, according to Circumstances, to be judged of by them in their Discretion, declaring, however, that no Presbyter or Clergyman of inferior Order should be admitted to receive any Benefit from the Fund unless he should have been previously recommended to the Trustees as a proper Object of such Aid, either by the Bishop within whose District he officiated at the Time, or by the College of Bishops, and declaring farther that whenever the said College should certify to the

said

said Trustees an Opinion that any Presbyter or Clergyman of inferior Order receiving at the Time any Benefit from the Fund ought not any longer to receive such Aid, the Allowance to such Clergyman out of said Fund should thenceforth be discontinued; *quinto*, that the said Trustees should have Power to appoint a Secretary, and Factors, Cashiers, or Treasurers, One or more, as necessary, and to allow them suitable Salaries, unless such Offices should be filled by a Person or Persons properly qualified, on the Footing of gratuitous Appointment, and they should also have Power to lay out such Sums belonging to the Fund under their Management as might appear to them necessary or useful for the Improvement of the Estate thereby disponed, or the more beneficial Management thereof, as also for the Purchase of any other Land Estate or Estates, and for the Improvement or more beneficial Management of the same; *sexto*, that within Three Months after the Expiration of Three Years, calculated from the Third *Monday* of *February* Eighteen hundred and ten, the Accounts of the Factors, Cashiers, and Treasurers, One or more, should be lodged in the Hands of some One Accountant in *Edinburgh*, to be selected and named by the said College of Bishops, provided such Selection and Nomination should, within Three Months previous to the Third *Monday* in *February* in the Year Eighteen hundred and thirteen, and in every other Year in which the said Accounts are to be so lodged, be duly intimated to the said Trustees, or any One or more of them, or their Secretary, and, failing such Selection and Nomination so intimated, the said Accounts should be lodged in the Hands of any Accountant in *Edinburgh*, to be selected and named by the said Trustees themselves; and the said Accountant should give a written Report upon the said Accounts, and if such Report should declare the said Accounts to be just and correct, the same should be a sufficient Warrant to the said Trustees to discharge and exonerate their Factors, Cashiers, and Treasurers of their Intromissions with the Trust Estate; *septimo*, the said Trustees, and their Quorum foresaid, and the Survivors or Survivor of them, should have full Power to assume new Trustees as often as the Number then existing should be diminished by Death or Resignation, but so as the total Number of Trustees should not at any Time exceed Nine, and they were directed and required to exercise this Power without Delay, whenever the Number of surviving Trustees should be reduced to Four, and whensoever it should be intended so to assume new Trustees, that Purpose should be effected by a Disposition of the Lands and others foresaid, and of every other Estate and whole Funds of every Sort belonging to the said Trustees, for the Uses of the said Trust to be granted by the said surviving Trustees, or their Quorum, in favour of all the Trustees then alive, together with such other Persons as might be assumed by them as aforesaid, not exceeding in all the Number of Nine, which Disposition should contain

tain Procuratory of Resignation and Precept of Sasine, and all usual Clauses, and also a full Engrossment of the whole Ends, Uses, and Purposes, Conditions, Provisions, Declarations, Powers, and Limitations therein expressed, which should also be engrossed *verbatim* in the whole Charters and Infeftments to follow on every such Disposition, but if the said Trustees should fail to execute a new Disposition in manner thereby directed, until the Number of surviving Trustees should be reduced to Three or fewer, or should fail to cause Engross in such Disposition, and in the Charters and Infeftments to follow thereon, all the Ends, Uses, and Purposes, Conditions, Provisions, Declarations, Powers, and Limitations therein expressed, it should become competent to any One of the surviving Trustees to require the other Trustees, or their Quorum aforesaid, under Form of Protest, to execute such Disposition as was therein-before directed in favour of the said surviving Trustees and such other Persons as the Majority of them should nominate, not exceeding Nine in all, or in case of Refusal to make such Nomination within One Kalendar Month after such Requisition, then in favour of the said surviving Trustees, and such other Persons as the Requirer should nominate, not exceeding Nine in all; and in the event that no Trustee should make such Requisition to his Colleagues within Three Months after the Event which reduces the Number of Trustees below Four, it should be competent to the Heir Male of the Body of any deceased Trustee to require the whole surviving Trustees, or their Quorum aforesaid, under like Form of Protest, to execute such Disposition as aforesaid in favour of themselves and such other Persons as the Requirer should nominate, not exceeding Nine in all, and in either event, upon the Elapse of One Kalendar Month after such Protest, it should be competent to the Person making the Requisition, in concurrence with the Persons nominated by him (who should express their Willingness to accept the Trust by a Writing under their Hands to be produced in Court), to follow out the usual Process of Law by Adjudication in Implement against the surviving Trustees or Trustee, or the Heir Male of the last Survivor, for the Purpose of completing a proper feudal Title in the Persons of the newly-named Trustees, including the Survivors, if any, which Title should in like Manner as above expressed contain a full Engrossment of all the Ends, Uses, and Purposes, Conditions, Provisions, Declarations, Powers, and Limitations therein expressed; *octavo*, if any undue Delay should take place in the Progress of Measures once commenced for compelling a Nomination of Trustees as above directed, the Right to and insist to nominate should, *toties quoties*, devolve on the Heir Male of the Body of any other deceased Trustee, and in case of the Decease of all the Trustees without any such Requisition having been made as is therein-before directed, then

it should be competent to any Bishop or Clergyman of the Reformed Episcopal Communion in *Scotland*, or to any Contributor to the Fund, or the Heir Male of the Body of any such Contributor, to apply by Petition to the Court of Session, or either Division of that Court, the Judges of which were thereby humbly supplicated to interpose, and, upon considering the Prayer of any such Petition, to appoint fit and proper Persons to execute the said Trust, to whom it should then become competent to expede proper feudal Titles by Adjudication in Implement against the Heirs Male of the last surviving Trustee; *nono*, it was expressly provided and declared that no Person should be qualified to be nominated as a Trustee for executing the Purposes of the said Trust, or to vote at any of the Vicennial Meetings therein-before appointed to be held, unless he be in Communion with a Protestant Episcopal Church, and it was further declared that in all Cases in which an Heir Male of the Body of a deceased Contributor or Trustee was authorized to act by virtue thereof it should suffice that the Party claiming Right so to act be actually and by Right of Blood entitled to the Character of such Heir Male of the Body, without the Necessity of his sustaining any Representation as such, or being invested with the Title as such by Service; *decimo*, it was thereby declared that the said Trustees should not have Power to sell or alienate the Lands and others therein-before disponed, unless with a view to a beneficial Reinvestment in another Purchase of Land, and in such Case the Disposition to be granted to the Purchaser should be subscribed, not only by every Trustee then alive, but also, in token of Concurrence and Approbation, by the major Part of the Persons filling at the Time the Offices of Bishops or Clergymen of superior Order of the Communion aforesaid, without which Subscriptions the Disposition should be absolutely void and null, as being beyond the Powers of the Granters, and further, in case such Sale should be made with the Views and in the Manner therein prescribed the whole Trustees alive at the Time should be conjunctly and severally responsible for the Safety of the Price until the same should be duly reinvested in another Purchase of Land; *undecimo*, it was further declared that the said Trustees should not have Power to grant any Lease or Leases, or make any Exchange of Land, except in such Manner as it is competent for Heirs of Entail to grant Leases or make Exchanges of Land by virtue of the Provisions of the Act passed in the Tenth Year of the Reign of His Majesty King *George* the Third, intituled *An Act to encourage the Improvement of Lands, Tenements, and Hereditaments in that Part of* Great Britain *called* Scotland, *held under Settlements of strict Entail*, but providing, nevertheless, that any Contract of Excambion made by the said Trustees, even beyond the Powers conferred by the said Act on Heirs of Entail, should be valid and effectual if made with the Concurrence of the major Part of the said Persons filling at the Time the

Offices

Offices of Bishops aforesaid: And whereas the said Sir *William Nairne*, *Alexander Fraser Tytler*, *James Clerk*, Sir *William Forbes*, Sir *John Hope*, *Colin Mackenzie*, *John Hay Forbes*, *Thomas Spens*, and *Adam Duff* made up a Title in their Persons as Trustees aforesaid to the said Lands of *Collielaw*, conform to Charter of Resignation by *John Wauchope*, Writer to the Signet, Trustee upon the Lordship and Estate of *Marchmont*, and specially empowered, as therein expressed, in their Favour, dated the Eighth Day of *February* Eighteen hundred and eleven, and Instrument of Sasine following thereon in their Favour, (excepting the said Sir *William Nairne*, who had then departed this Life,) dated the Thirty-first Day of *August* and registered in the General Register of Sasines at *Edinburgh* the Second Day of *September* Eighteen hundred and eleven: And whereas by Disposition dated the Twenty-first Day of *March* and Twenty-fourth Day of *December* Eighteen hundred and thirty-nine the said *John Hay Forbes* (then One of the Senators of the College of Justice, and commonly called Lord *Medwyn*), Sir *John Hope*, *Adam Duff* (then Sheriff Depute of the County of *Edinburgh*), and *Thomas Spens*, being the whole surviving Trustees named and appointed for the Purposes and under the Conditions above expressed, (the said *Alexander Fraser Tytler*, *James Clerk Rattray*, Sir *William Forbes*, and *Colin Mackenzie* having all departed this Life, assumed Sir *James Milles Riddell* of *Ardnamurchan*, Baronet, *Archibald Hope Cullen* Esquire, Advocate, *Adam Urquhart* Esquire, Advocate, Sir *John Stuart Forbes* of *Pitsligo*, Baronet, and *James Hay Mackenzie*, Writer to the Signet, as Trustees, with the whole Powers and for the whole Purposes and under all the Conditions therein and above expressed, and sold, alienated, and disponed to and in favour of themselves, the said *John Hay Forbes*, Sir *John Hope*, *Adam Duff*, and *Thomas Spens*, and the said Sir *James Milles Riddell*, *Archibald Hope Cullen*, *Adam Urquhart*, Sir *John Stuart Forbes*, and *James Hay Mackenzie*, as Trustees in manner therein expressed, and the Survivors or Survivor of them, and the Heirs Male of such Survivor, and to their Assignees, in Terms of the Powers therein conferred on them and above narrated, but not otherwise, declaring the major Part of the Trustees alive at the Time to be a Quorum, all and whole the said Lands of *Collielaw* as before described, and that in trust for the Ends, Uses, and Purposes, and with the Powers, and under the Limitations, Conditions, Provisions, and Declarations therein, and in the said Disposition of the Seventeenth Day of *December* Eighteen hundred and ten executed by the said *Thomas Adinston*, set forth: And whereas the said *John Hay Forbes*, Sir *John Hope*, Sir *James Milles Riddell*, *Adam Urquhart*, Sir *John Stuart Forbes*, and *James Hay Mackenzie*, then surviving Trustees as aforesaid, (the said *Adam Duff*, *Thomas Spens*, and *Archibald Hope Cullen* having all departed this

this Life,) were duly infeft in all and whole the said Lands of *Collielaw*, conform to Instrument of Sasine in their Favour as Trustees aforesaid registered in the General Register of Sasines at *Edinburgh* the Twenty-fourth Day of *May* Eighteen hundred and fifty: And whereas at an Extraordinary Meeting of the Trustees of the *Scots* Episcopal Fund held on the Thirtieth Day of *January* Eighteen hundred and forty-nine it was resolved to sell the Lands of *Collielaw* to the Right Honourable *James* Earl of *Lauderdale*, at the Price of Ten thousand Pounds Sterling, with the view of investing the Price thereof in Land, along with the other Funds of the Trust, as hereinafter mentioned, in a more profitable Manner: And whereas by Disposition dated the Twenty-sixth Day of *November* Eighteen hundred and forty-nine, the Fifteenth, Sixteenth, Nineteenth, Twenty-third, Twenty-fourth, and Twenty-eighth Days of *January*, the Second, Sixth, Fourteenth, and Twentieth Days of *February*, the Seventh Day of *March*, and the First Day of *April*, all in the Year Eighteen hundred and fifty, and recorded in the Books of Council and Session at *Edinburgh* the Third Day of *June*, thereafter granted with Consent, Concurrence, and Approbation of the whole Persons then filling the said Offices of Bishops or Clergymen of superior Order of the said Reformed Episcopal Communion, in Terms of the Purpose of Trust *decimo* above set forth, the said *John Hay Forbes*, Sir *John Hope*, Sir *James Milles Riddell*, *Archibald Hope Cullen*, *Adam Urquhart*, Sir *John Stuart Forbes*, and *James Hay Mackenzie*, with Consent of *Erskine Douglas Sandford* Esquire, Advocate, *William Pitt Dundas* Esquire, Advocate, and Sir *Archibald Edmonstone* of *Duntreath*, Baronet, Trustees assumed by them, *per* Minutes in the Sederunt Book of the Trust, but in whose Favour no relative formal Deed had been granted, in consideration of the said Sum of Ten thousand Pounds then paid to them the said Trustees by the said *James* Earl of *Lauderdale*, sold and disponed to and in favour of the said *James* Earl of *Lauderdale* all and whole the said Lands of *Collielaw*: And whereas at the Term of *Whitsunday* or Fifteenth Day of *May* Eighteen hundred and fifty-three the Contributions and Subscriptions collected (including the said Sum of Ten thousand Pounds), amounted in the whole to Twenty-four thousand six hundred Pounds Sterling: And whereas at the said Term of *Whitsunday* Eighteen hundred and fifty-three the said *John Hay Forbes*, Sir *John Hope*, Sir *James Milles Riddell*, *Adam Urquhart*, Sir *John Stuart Forbes*, *James Hay Mackenzie*, *Erskine Douglas Sandford*, *William Pitt Dundas*, and Sir *Archibald Edmonstone*, as Trustees aforesaid, purchased from the Very Reverend *Henry Parr Hamilton*, formerly Rector of *Wath* in the County of *York*, then Dean of *Salisbury*, the only surviving Trustee acting under the Trust Disposition and Settlement made and executed by the deceased Doctor *James Hamilton*, Physician in *Edinburgh*, bearing Date the Nineteenth

Estate of Collielaw sold to James Earl of Lauderdale by Disposition of Trustees in 1850.

Day of *January* Eighteen hundred and thirty-eight, and registered in the Books of Council and Session the Twenty-first Day of *November* Eighteen hundred and thirty-nine, as set forth in the Disposition after mentioned, all and whole these Parts of the Lands of *Kildonan* called the *Mains of Kildonan and Blair*, Parts of the Five Pound Land of *Kildonan*, with the Houses, Buildings, Yards, Parts, Pendicles, and Pertinents of the same, lying in the Parish of *Colmonell* and County of *Ayr*, all as specified and described in the Title Deeds thereof, or as otherwise described as follows; *viz.* all and whole the Lands and Barony of *Kildonan*, comprehending all and whole the Five Pound Land of *Kildonan*, *Blair*, and *Longhouselie*, the Thirty Shilling Land of *Thomaston alias Belhomas*, the Ten Shilling Land of *Ballisk*, and the Corn and Waulk Mills of *Kildonan*, with the Multures, Sucken, Sequels, and Pertinents of the same, as also the Manor Place of *Kildonan*, with the whole Houses, Buildings, and Yards, Orchards, Woods, Fishings, and Parts and Pertinents of the said whole Lands lying within the Parish of *Colmonell*, Bailliary of *Carrick* and County of *Ayr*, or as the said Lands are more fully described in a Disposition thereof by the said *James Hamilton* in favour of *James Fergusson* of *Crosshill* Esquire, Advocate, and other Rights and Infeftments of the same, together with the Parsonage Teinds of the said whole Lands, Barony, and others, as also all and whole those Acres of Land, or thereby, lying in the *Bellamage Holm*, being Parts of the Lands of *Barbour* acquired from the Trustees of *David Kennedy* Esquire of *Kirkmichael*, lying in the said Parish of *Colmonell* and Sheriffdom of *Ayr*, with Entry at the Term of *Martinmas* Eighteen hundred and fifty-two: And whereas by Disposition dated the Seventeenth and Twentieth Days of *May*, and recorded in the Books of Council and Session at *Edinburgh* the Twenty-second Day of *July* Eighteen hundred and fifty-three, made and granted by the said *Henry Parr Hamilton* as Trustee foresaid, with Consent of the said *James Hay Mackenzie* as therein mentioned, upon the Narrative therein contained, and in consideration of the Sum of Twenty-two thousand, five hundred Pounds, with the Sum of Seven hundred and eighty-eight Pounds Sixteen Shillings and One Penny, which, with the Sum of Twenty-three Pounds Thirteen Shillings and Elevenpence retained for Property Tax, was the Interest of the Sum of Thirty-two thousand five hundred Pounds from the Term of *Martinmas* then last Eighteen hundred and fifty-two, making together the said Sums of Twenty-two thousand five hundred Pounds and Seven hundred and eighty-eight Pounds Sixteen Shillings and One Penny, the Sum of Twenty-three thousand two hundred and eighty-eight Pounds Sixteen Shillings and One Penny, then paid to him the said *Henry Parr Hamilton* as Trustee foresaid, Ten thousand Pounds whereof, being the Price received for the said Lands of *Collielaw*, formerly possessed by the said Trustees, and sold by them, and which Price they

Disposition of Estate of Kildonan by H. P. Hamilton in favour of Trustees dated 17th and 20th May, and registered in Books of Council and Session 22d July 1853.

they were bound to reinvest in another Purchase of Land, and the Sum of Thirteen thousand two hundred and eighty-eight Pounds Sixteen Shillings and One Penny, Part of the said Trust Funds under the Management of the said Trustees, and also in consideration of the further Sum of Ten thousand Pounds, therein declared to be a Real Burden upon and affecting the Lands and others therein-after disponed, and which Sums of Twenty-two thousand five hundred Pounds and Ten thousand Pounds, amounting to Thirty-two thousand five hundred Pounds, with the Sum of Seven hundred and eighty-eight Pounds Sixteen Shillings and One Penny of Interest as aforesaid, made up the Price of the said Lands and others, the said *Henry Parr Hamilton* as Trustee foresaid, with Consent foresaid, sold, alienated, and disponed to the said *John Hay Forbes*, Sir *John Hope*, Sir *James Milles Riddell*, *Adam Urquhart*, Sir *John Stuart Forbes*, *James Hay Mackenzie*, *Erskine Douglas Sandford*, *William Pitt Dundas*, and Sir *Archibald Edmonstone*, therein designed Trustees in the Management of certain Estates and Monies for the Benefit of the Clergy of the said Reformed Episcopal Communion in *Scotland*, commonly called Trustees of the *Scots* Episcopal Eund, and to the Survivors or Survivor of them, and the Heir Male of such Survivor, and to their or his Assignees, (a Majority of the said Trustees alive at the Time being a Quorum) all and whole the Lands of *Kildonan* and others before described (herein-after called the Estate of *Kildonan*), but that always under the Real Burden before expressed: And whereas the said *John Hay Forbes*, Sir *James Milles Riddell*, *Adam Urquhart*, *Sir John Stuart Forbes*, *James Hay Mackenzie*, *Erskine Douglas Sandford*, *William Pitt Dundas*, and *Sir Archibald Edmonstone*, as Trustees foresaid (the said *Sir John Hope* having departed this Life), were duly infeft in the said Estate of *Kildonan* conform to Instrument of Sasine in their Favour, registered in the General Register of Sasines at *Edinburgh* on the Twenty-seventh Day of *June* Eighteen hundred and fifty-three, but that always under the Real Burden before expressed: And whereas at the Term of *Whitsunday* or Fifteenth Day of *May* Eighteen hundred and fifty-six the said Trustees paid off the Sum of One thousand Pounds on account of the Real Burden foresaid: And whereas by Disposition dated the Third, Sixth, Ninth, and Sixteenth Days of *November* Eighteen hundred and sixty-three, the said Sir *John Stuart Forbes*, *James Hay Mackenzie*, *William Pitt Dundas*, and *Sir Archibald Edmonstone*, being then the whole surviving Trustees infeft in the said Estate of *Kildonan*, (the said *John Hay Forbes*, *Sir James Milles Riddell*, *Adam Urquhart*, and *Erskine Douglas Sandford* having all departed this Life,) assumed *William Forbes* Esquire, of *Medwyn*, *William Stuart Walker* Esquire, of *Bowland*, *William Thomas Thomson* Esquire, Manager of the *Standard* Life Assurance Company, the Honourable *Bouverie Francis Primrose*, Secretary of the Board

Surviving Trustees infeft in Kildonan 27th June 1853.

Board of Manufactures, and *John Stirling* Esquire, of *Kippendavie*, to be Trustees along with themselves in the Management of certain Estates and Monies for the Benefit of the Clergy of the Reformed Episcopal Communion in *Scotland*, commonly called Trustees of the *Scots* Episcopal Fund, and disponed to and in favour of themselves, the said Sir *John Stuart Forbes*, *James Hay Mackenzie*, *William Pitt Dundas*, and Sir *Archibald Edmonstone*, and the said *William Forbes*, *William Stuart Walker*, *William Thomas Thomson*, *Bouverie Francis Primrose*, and *John Stirling*, as Trustees foresaid, all and whole the said Estate of *Kildonan* before described, but that always under the Real Burden of the Sum of Nine thousand Pounds, as therein expressed: And whereas the said Sir *John Stuart Forbes*, *James Hay Mackenzie*, *William Pitt Dundas*, Sir *Archibald Edmonstone*, *William Forbes*, *William Stuart Walker*, *William Thomas Thomson*, *Bouverie Francis Primrose*, and *John Stirling*, as Trustees foresaid, were duly infeft in the said Estate of *Kildonan*, conform to Instrument of Sasine in their Favour registered in the General Register of Sasines at *Edinburgh* on the Nineteenth Day of *November* Eighteen hundred and sixty-three, but that always under the Real Burden of Nine thousand Pounds as therein expressed: And whereas by Deed of Declaration of Trust dated the First, Second, Third, and Seventh Days of *December* Eighteen hundred and sixty-three, the said Sir *John Stuart Forbes*, *James Hay Mackenzie*, *William Pitt Dundas*, Sir *Archibald Edmonstone*, *William Forbes*, *William Stuart Walker*, *William Thomas Thomson*, *Bouverie Francis Primrose*, and *John Stirling* declared that they hold and stand possessed of the said Estate of *Kildonan* in trust for the Benefit of the Bishops and Clergy of the Reformed Episcopal Communion in *Scotland*, and for the Uses and Purposes and under the Conditions and Provisions therein mentioned, being the same as are contained in the said Disposition or Trust Deed, by the said *Thomas Adinston* of the said Lands of *Collielaw*, which Deed of Declaration of Trust is registered in the Books of Council and Session the Ninth Day of said Month of *December* and Year foresaid: And whereas at a General Vicennial Meeting of the Contributors to the said *Scots* Episcopal Fund held at *Edinburgh* on the Eighth Day of *February* Eighteen hundred and thirty, at Twelve o'Clock Noon, it was resolved, in virtue of the Powers contained in the Purpose of Trust *secundo* herein-before set forth, that the said Trustees should in each annual Distribution appropriate for the Purpose of affording the Salaries for the Bishops or Clergymen of superior Order not less than One Half nor more than Three Fifth Parts of the total Sum appointed to be distributed as aforesaid, and should apply the Remainder thereof in Payment of the Allowances aforesaid to the said Presbyters or Clergymen of inferior Order: And whereas at another General Vicennial Meeting of the Contributors to the said *Scots* Episcopal Fund,

Surviving Trustees infeft in Kildonan 19th Nov. 1863.

Deed of Declaration of Trust by the Trustees, dated 1st, 2d, 3d, and 7th and registered 9th December 1863.

Fund, held at *Edinburgh* on the Eleventh Day of *February* Eighteen hundred and fifty, at Twelve o'Clock Noon, it was resolved, in virtue of the Powers contained in the said Purpose of Trust *secundo* hereinbefore set forth, that the said Trustees should, in each annual Distribution, appropriate for the Purpose of affording the Salaries for the Bishops or Clergymen of superior Order not less than Eight Tenth Parts nor more than Nine Tenth Parts of the total Sum which was appointed to be distributed as aforesaid, and should apply the Remainder thereof in Payment of the Allowances aforesaid to the Presbyters or Clergymen of inferior Order during their Survivancy and their holding their present Incumbencies: And whereas the Parties who at present participate in the Benefits of the Income of the said Fund are the Right Reverend *Robert Eden*, Bishop of the united Dioceses of *Moray* and *Ross*, Primus of the Episcopal Church in *Scotland*, the Right Reverend *Charles Hughes Terrot*, Bishop of the Diocese of *Edinburgh*, the Right Reverend *Alexander Penrose Forbes*, Bishop of the Diocese of *Brechin*, the Right Reverend *Charles Wordsworth*, Bishop of the united Dioceses of *Saint Andrews*, *Dunkeld*, and *Dunblane*, the Right Reverend *Thomas George Suther*, Bishop of the Diocese of *Aberdeen*, and the Right Reverend *William Scot Wilson*, Bishop of the united Dioceses of *Glasgow* and *Galloway*, the Reverend *William Minniken*, the Reverend *Archibald McGillivray*, the Reverend *Patrick Cushnie*, the Reverend *Hugh Bethune Moffat*, and the Reverend *James MacLachlan*: And whereas from the Time that the said Estate of *Kildonan* was purchased the Trustees of the *Scots* Episcopal Fund have endeavoured to manage and administer the same in a duly economical and careful Manner, so as to realize as large an annual Income as was possible, to be applied in Payment of Salaries to the Persons filling for the Time the said Offices of Bishops or Clergymen of superior Order of the said Reformed Episcopal Communion in *Scotland*, and in like Payment of Allowances to such of the said Presbyters or Clergymen of inferior Order of the said Communion as are entitled to participate in the Benefits of the said Fund, but the Return from the said Estate of *Kildonan* has been variable and uncertain, and has hitherto been much diminished by large Outlays for necessary Repairs and Improvements as well as by the Expense of Management and the Payment of the Interest of the said Heritable Debt of Nine thousand Pounds affecting the said Estate: And whereas large Outlays will shortly be required for further necessary Repairs and Improvements of the said Estate, by which the Income of the Fund in future Years will be materially diminished: And whereas in these Circumstances it would be beneficial to the said *Scots* Episcopal Trust Fund, and to the said Persons filling for the Time the said Offices of Bishops or Clergymen of superior Order of the Reformed Episcopal Communion in *Scotland*, and such Presbyters or Clergymen of inferior Order as are entitled to

participate in the Benefits of the said Fund, that the said Estate should be sold, and the Price invested in other Property or Securities: And whereas Doubts have arisen, whether, from the Terms of the Purpose of Trust *decimo* herein-before recited, the Trustees of the *Scots* Episcopal Fund have sufficient Power to sell the said Estate of *Kildonan*: And whereas it is expedient, and it would be for the Advantage of the Trust Fund, that the said Trustees and their Successors in Office should have full and free Power of themselves alone to sell the said Estate of *Kildonan*, and also any other Lands which they may hereafter purchase, and that the Powers of Investment and Management conferred by the said Trust Deeds should be extended and enlarged: And whereas it is necessary for the proper and full Exercise of these Powers by the said Trustees and their Successors in Office that the said Purpose of Trust *septimo* herein-before set forth (so far as it requires a Disposition of the whole Estate and Funds of the Trust to be executed whenever it should be intended to assume new Trustees), the said Purpose of Trust *octavo* herein-before set forth, and the said Purpose of Trust *decimo* herein-before set forth, should be cancelled, annulled, and made of no Effect: And whereas it is expedient, in order to the due Administration of the said Trust, that the Trustees of the *Scots* Episcopal Fund should be incorporated: But these Objects cannot be attained without the Authority of Parliament: May it therefore please Your Majesty (upon the humble Petition of Your Majesty's dutiful and loyal Subjects, the said Sir *John Stuart Forbes*, *James Hay Mackenzie*, *William Pitt Dundas*, Sir *Archibald Edmonstone*, *William Forbes*, *William Stuart Walker*, *William Thomas Thomson*, *Bouverie Francis Primrose*, and *John Stirling*, being the present Trustees of the *Scots* Episcopal Fund), 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; (namely,)

Short Title.

1. This Act may be cited for all Purposes as "The *Scots* Episcopal Fund Act, 1864."

Incorporation of Trustees.

2. The said Trustees and their Successors in Office are and shall be, for the Purposes of this Act and of the recited Trust Deeds, incorporated into One Body Politic and Corporate, under the Name of "The Trustees of the *Scots* Episcopal Fund," and as such shall have perpetual Succession and a Common Seal, and by that Name may sue and be sued, and may purchase and acquire and may hold Lands and Heritages for the Use of the said Trust, and sell and dispose of the same, in so far as by the said Trust Deeds and by this Act empowered; declaring always, that a Majority of the Trustees for the Time being shall be a Quorum.

3. The

Estate of Kildonan and other Trust Funds vested in the Corporation.

3. The said Estate of *Kildonan*, and all other Estate, Property, and Funds, heritable and moveable, held by the said Trustees at the Date of the passing of this Act, shall be and are, subject to all existing Debts and Incumbrances affecting the same, hereby vested in the Trustees of the *Scots* Episcopal Fund hereby incorporated (herein-after also termed "the Corporation") for the Purposes of the said recited Trust Deeds and of this Act.

Certain Purposes of the Trust cancelled and annulled.

4. The said Purpose of Trust *septimo* herein-before set forth, in so far as it requires a Disposition of the Lands and Estate and whole Funds of the Trust to be executed whensoever it should be intended to assume new Trustees, the said Purpose of Trust *octavo* herein-before set forth, and the said Purpose of Trust *decimo* herein-before set forth, all as contained in the said Disposition by the said *Thomas Adinston* of the said Lands of *Collielaw*, and also contained or referred to in the said other Title Deeds and Declaration of Trust, are hereby cancelled, annulled, and made of no Effect.

Power to the Corporation to sell Estate of Kildonan.

5. It shall be lawful for the Corporation to sell the said Estate of *Kildonan*, either as a whole or in Parcels, at such Time or Times, and at such Price or Prices, and either by Public Roup or Private Bargain, as to them shall seem expedient, and to grant valid Dispositions and Conveyances thereof to the Purchasers, who shall in no way be accountable for the Application of the Prices paid by them.

Expenses of Sale and Debt on Kildonan to be paid.

6. The Corporation shall, out of the Proceeds of the Sale of the said Estate of *Kildonan*, pay all the Expenses of the Sale and the Debt affecting or which may be made to affect the said Estate.

Trust Funds to be invested and applied by the Corporation.

7. The Balance of the Proceeds of the said Sale and other Funds or Estates hereby vested in the Corporation, or coming into their Possession or Control by future Subscriptions, Donations, or Bequests, (all herein-after described as "the Trust Funds,") shall be invested and applied by the Corporation as by the said Trust Deeds and this Act directed.

Powers of Investment.

8. It shall be lawful for the Corporation to invest the Trust Funds in manner following:

In the Purchase of Lands or any Interest in Land, Feu Duties, Ground Annuals, Ground Rents, or other Heritable Estate in *Scotland:*

In lending on the Security of Lands and Heritages in *Scotland:*

In purchasing any of the Government Stocks or Funds of *Great Britain* or the Stock of the Bank of *England:*

And any such Lands or other Property so purchased may be sold, and other Investments so made may be changed, from Time to Time as

as the Corporation may think fit: Provided always, that the Corporation may accept and hold any other Estate or Funds bestowed upon or granted or bequeathed to them, although different from the Investments hereby permitted.

Power to Corporation to deposit Monies in Bank.

9. Until the Trust Funds shall be invested or reinvested in manner herein-before provided the Corporation may from Time to Time deposit the same, or any Portion thereof, in one or other of the Banks after named, *videlicet*, the Bank of *Scotland*, the Royal Bank of *Scotland*, or the *British* Linen Company, the Deposit Receipts to be taken in name of the Corporation: Provided always, that if any Monies so deposited in Bank shall remain in deposit for a longer Period than Six Months the Interest accruing thereon after such Period shall be added to the Capital of the Trust Funds, and not be applied or be applicable as Income.

Liability of Trustees.

10. The whole Trustees alive at the Time of the Sale of the said Estate of *Kildonan* shall be conjunctly and severally responsible for the Safety of the Price until the same, or the Balance remaining after Payment of the Expenses and Debt herein-before referred to, shall be duly reinvested in one or other of the Modes prescribed by this Act, or deposited in Bank as aforesaid; and in like Manner the whole Trustees alive at the Time shall be so responsible for the Safety of any Monies coming into the Hands of the Corporation by the Sale of Lands or other Change of Investment of the Trust Funds, or by taking Deposits out of Bank or otherwise, until such Monies shall be duly reinvested or redeposited as aforesaid.

Power to Corporation to hold Property on special Conditions or for special Purposes.

11. The Corporation may accept any Lands or other Estate bestowed upon or granted or bequeathed to them on such special Conditions or for such special Purposes as may be prescribed by the Donors thereof, such Conditions or Purposes not being inconsistent with the general Objects of the Trust or the general Law of *Scotland*, and shall hold any such Lands or Estate subject to the Conditions, and apply the same or the Income arising therefrom in the Manner and for the Uses and Purposes, prescribed by such Donors respectively: Provided always, that, except so far as it may be otherwise prescribed by such Donors, the Corporation may dispose of such Lands or Estate, and reinvest the Proceeds in any of the Modes permitted by this Act.

Power to provide Residences for Bishops.

12. The Trustees may by Purchase or otherwise provide a suitable Residence (with or without Grounds adjoining) for the Bishop of any Diocese in *Scotland* within the same, and such Residence shall thereafter be appropriated to the Use of the Bishop of such Diocese: Provided always, that any such Residence may afterwards be

be sold or disposed of with Consent of the Bishop for the Time of the Diocese within which the same may be situated, and the Proceeds shall be applied in providing another Residence for such Bishop or otherwise for his Benefit.

New Trustees how to be appointed.

13. When and so often as it shall be considered necessary to assume new or additional Trustees, such Trustees shall be and be held to be assumed by a Minute to that Effect, signed by a Quorum of the Trustees, entered in the Sederunt Book of the Corporation; and a Duplicate of such Minute, signed as aforesaid, shall be registered in the Books of Council and Session as a probative Writ, which registered Minute, or an official Extract thereof, shall be received as sufficient Evidence of the Death or Resignation of any Trustee and the Assumption of any new or additional Trustee.

Deeds, &c. how to be executed.

14. All Dispositions and other Deeds and Writings which require to be made, granted, and executed by the Corporation shall proceed in their corporate Name, and shall be approved of at a Meeting of the Trustees of the *Scots* Episcopal Fund, called by Letters specifying the Place, Day, Hour, and Purpose of such Meeting addressed by the Secretary or Treasurer of the Corporation, and sent through the Post Office to the ordinary Address of each Trustee at least Seven clear Days before such Meeting, and shall be approved by a Quorum foresaid, who shall either be present at such Meeting or shall intimate their Concurrence by Letters addressed by them to the Secretary or Treasurer and read at such Meeting and entered in the Minutes; and all such Deeds and Writings shall be subscribed by a Quorum foresaid, and shall be sealed with the Common Seal of the Corporation, and all Deeds and Writings of the Corporation so subscribed and sealed shall be good, valid, and effectual to the Person or Persons to whom or in whose Favour the same shall be granted: Provided always, that in regard to Leases of Heritable Properties, Receipts for Interest, Dividends, Feu Duties, Rents, and Sums of Money, the Corporation may delegate and appoint a Factor or Treasurer to subscribe the same; and any Lease or Receipt so subscribed shall be as good, valid, and effectual as the Deeds and Writings executed in manner herein-before provided.

Expenses of Act.

15. The Corporation shall pay out of the Trust Funds all the Costs, Charges, and Expenses which shall have been incurred in and about applying for, obtaining, and passing this Act.

General Saving of Rights.

16. Saving and reserving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all and every other Person or Persons, Bodies Politic or Corporate, his, her, and their Heirs and Successors, Executors, Administrators, and Assigns, (other than and except

except the said Trustees, and the said Bishops or Clergymen of superior Order, and Presbyters or Clergymen of inferior Order, of the said Reformed Episcopal Communion in *Scotland*,) all such Estate, Right, Title, Interest, Claim, and Demand whatsoever in, to, or out of the said Estate of *Kildonan* and the said *Scots* Episcopal Fund as they might have, or might claim, challenge, or demand, and that in the same Manner and as amply as if this Act had never been passed.

Purposes of Trust to remain in force except as altered.

17. Nothing in this Act contained shall be held to alter, innovate, change, or defeat the Purposes of the Trust above recited and contained in the Deed of Declaration of Trust aforesaid, dated and recorded in the Month of *December* Eighteen hundred and sixty-three, as hereinbefore mentioned, except in so far as regards the Purposes of Trust *septimo*, *octavo*, and *decimo* above recited, and in so far as necessary for carrying the Purposes of this Act into effect.

Act as printed by Queen's Printers to be Evidence.

18. This Act shall not be a Public Act, but shall be printed by the several Printers to the Queen's most Excellent Majesty duly authorized to print the Statutes of the United Kingdom, and a Copy thereof so printed by any of them shall be admitted as Evidence thereof by all Judges, Justices, and others.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1864.