



## CHAP. 2.

An Act to authorise the Sale of a part or parts of the Lands and Estates of Lochbuy and Fishnish and others, in the Island of Mull and County of Argyll, for the purpose of paying certain debts due by the now deceased Donald Maclaine of Lochbuy, and by his Trust Estates, and of satisfying certain provisions made by him in favour of his Children; or to charge parts of such Lands and Estates with portions of the said debts and provisions; and for other purposes.

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[24th July 1871.]

**W**HEREAS by a trust disposition and deed of settlement executed by Donald Maclaine, Esquire, of Lochbuy, in the island of Mull and county of Argyll, in Scotland, now deceased (herein-after called the truster), dated the thirteenth day of March one thousand eight hundred and sixty-two, and recorded along with the codicil herein-after recited in the books of Council and Session at Edinburgh the sixteenth day of October one thousand eight hundred and sixty-three, the said Donald Maclaine, in order to regulate the management and distribution of his means and estate after his decease, did thereby dispoise and assign to Mrs. Emilie Guillaumine Vincent or Maclaine his spouse; Murdoch Gillian Maclaine, and Anthony Vincent Maclaine, his sons; Angus Maclaine, residing in Inverleith Row, Edinburgh; Donald Maclachlan, residing at Hazlemount, Ryde, Isle of Wight; Donald Crawford, fellow of Lincoln College in the University of Oxford, residing in Edinburgh; Thomas Bonhote, merchant in London, and Angus Gregorson, banker in Oban, and to such other person or persons as he might thereafter name, or as should be assumed in virtue of the powers therein-after written, to act in the trust thereby created, and to the acceptors or acceptor, and survivors and last survivor of the persons thereby named, or to be named or assumed as aforesaid, as Trustees for executing the trust thereby created heritably and irredeemably, all and sundry lands and heritable estate of whatever kind, as also

Trust disposition and settlement of Donald Maclaine, Esquire, of Lochbuy, dated 13th March 1862.

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First, that his Trustees should, from the produce of his means and estate, pay all his just and lawful debts and funeral expenses, including mournings for his wife and family, and should also pay the expenses of executing the said trust:

Secondly, that his Trustees should deliver to the said Mrs. Emilie Guillaumine Vincent or Maclaine, his spouse, to be retained by her in absolute property, his carriage and carriage horses and all the napery that should belong to him at his death, along with the best piano that might then belong to him, the furniture of her own bedroom and boudoir, and the ornamental furniture and china and collection of curiosities brought by him from Java, recommending to his said spouse, as he thereby did, that she should distribute the articles thus bequeathed to her among his children at her death, and that in such proportions and in such manner as to her might seem proper; and that his Trustees should further, during the life of the said Mrs. Emilie Guillaumine Vincent or Maclaine, his spouse, allow her the use of the plate, crystal, and china that should belong to him at his death, and pay to his said spouse an annuity of one thousand pounds sterling, and that in equal portions at two terms in the year, Whitsunday and Martinmas, commencing the first payment of five hundred pounds at the first of these terms that should arrive after his death, a corresponding allowance being made for any time that might intervene between his death and that term, with interest on each terms payment from the term of payment until paid, and that if his said spouse should so desire, his Trustees should allow her during her life the possession and use of the mansion



house and home farm of Lochbuy, with the free command and use of the contents of the cellar at Lochbuy and of the stock on the home farm; but it was declared that in that event, that is, in the event of his said spouse taking the liferent of the mansion house and home farm of Lochbuy, the annuity of one thousand pounds provided to her as aforesaid should be restricted to an annuity of five hundred pounds sterling, payable half-yearly at the terms and with interest as aforesaid; and further, that all sums that might be paid to his said spouse under any separate bond of annuity that he might execute in her favour should be imputed in payment pro tanto of the annuity thereby provided to her, whether it were the said annuity of one thousand pounds or the said annuity of five hundred pounds:

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Thirdly, that on his son, Anthony Vincent Maclaine, attaining the age of twenty-five years complete, his said Trustees should make over to him the contract of lease of the coffee land of Banaran in the Island of Java, entered into between him and the Government of Java, or the price thereof if meanwhile sold by them, or in his said son's option, to be exercised as therein-after mentioned, all his heritable property situate in or near the town of Oban, Argyllshire, and all other heritable property which he might thereafter acquire, not being heritable bonds or bond and dispositions in security, or the price thereof if meanwhile sold by the said Trustees, and meanwhile should make him a yearly allowance of two hundred and fifty pounds sterling till he should attain the age of twenty-one years, and thereafter and until he should attain the age of twenty-five years a yearly allowance of five hundred pounds sterling, which yearly allowance, whether of two hundred and fifty pounds or of five hundred pounds, should be paid half-yearly in equal portions at Whitsunday and Martinmas, commencing the first payment at the first of these terms that should occur after the truster's death, and should bear interest from the respective terms of payment till paid, it being declared by the truster that his said Trustees should have power to make advances to such amount as they might think fit for establishing his said son in life, which advances should form a charge on the portion of the truster's estate thereby destined to his son as aforesaid; and that on attaining the age of twenty-one he should be called on by the said Trustees to declare whether he elected to take the said coffee land of Banaran or the price thereof, if meanwhile sold by the said Trustees, or the truster's heritable property in or near Oban, and other heritable property, not



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being heritable bonds or bonds and dispositions in security, which he might thereafter acquire as aforesaid, or the price thereof if meanwhile sold by them; and that failing his doing so within twelve months after being so required by the said Trustees, such Trustees should themselves declare an election, and according as they might decide the said coffee land of Banaran, or the said heritable property in or near Oban, and other heritable property, not being heritable bonds or bonds and dispositions in security, which the truster might thereafter acquire, or the price of the said coffee land of Banaran, or heritable property in or near Oban, and other heritable property, not being heritable bonds or bonds and dispositions in security, which he might thereafter acquire, if meanwhile sold by them, should, on the truster's said son attaining the age of twenty-five years as aforesaid, be made over to him as in full of the provision made to him as aforesaid, but subject to payment of all sums paid to him or on his account other than the said annual allowance; and if, when the truster's eldest son, Murdoch Gillian Maclaine, should have attained the age of twenty-five years, there should be funds at the command of the said Trustees sufficient to satisfy the provision therein-after made in favour of the truster's daughters, and to clear off all debts charged thereon other than the annuity provided to his said spouse, the estates in Mull then belonging to him, his Trustees should in that case, in addition to the foregoing provision in his favour, pay his said son, Anthony Vincent Maclaine, the sum of five thousand pounds sterling out of the surplus funds, if any, in their hands; or if they had no funds available for this purpose after making provision for payment of said debts and for the sums settled on the truster's daughters, then that they should charge the said sum of five thousand pounds on the said estates in Mull then belonging to him, it being declared by the said trust disposition and settlement that the interest of the sum payable to the truster's said son, Anthony Vincent Maclaine, under any separate bond of annuity that he might grant in his favour, should be imputed in payment pro tanto of the yearly allowance to be made to his said son as aforesaid till he should attain the age of twenty-five, such interest being the interest that should actually be received by him, and the principal sum payable to him under such separate bond of annuity should be imputed in payment pro tanto of the said sum of five thousand pounds; and further, that in the event of the said Anthony Vincent Maclaine dying intestate before attaining the age of twenty-five years, leaving lawful



children, the said Trustees should hold for behoof of his children the provisions thereby made in his favour and make payment therefrom to each of his daughters, if there should be more than one, of the sum of one thousand pounds sterling, and if there should be not more than one, should pay her the sum of two thousand pounds sterling, and should pay, assign, or dispose the residue of said provisions to his son, if there should be but one, and if more than one, then to his sons equally among them, and failing such sons or son then the said residue should revert to the truster's trust estate, it being by the said deed provided that until their majority if sons, and until their majority or marriage if daughters, the children of the said Anthony Vincent Maclaine should not be entitled to payment of and should have no vested interest in the foregoing provisions in their favour, but should meanwhile have right to the annual proceeds of the same :

Fourthly, that the said Trustees should pay to each of the truster's daughters, on her attaining the age of twenty-one years or on her being married, the sum of five thousand pounds sterling, and until the occurrence of one of these events should make payment to each of the sum of one hundred pounds sterling yearly, payable half-yearly in equal portions at the terms of Whitsunday and Martinmas, commencing the first payment at the first of these terms that should occur after his death, it being by the said deed also declared that the sum provided to each of the truster's said daughters by any bond of annuity that he might execute in her favour should be imputed in payment pro tanto of the sum of five thousand pounds thereby provided to her, and that a deduction corresponding to the amount of the interest actually paid to her on the sum payable to her under such bond of annuity should be made from the yearly allowance of one hundred pounds provided to her as aforesaid ; and further, that it was the truster's wish that his said daughters, while unmarried, should reside in family with their mother :

Fifthly, that the said Trustees should at the first term of Whitsunday or Martinmas that might occur after the truster's death make payment to Mrs. Christian Maclaine, his mother, of the sum of one hundred pounds sterling, and to each of his sisters of the sum of twenty-five pounds sterling :

Sixthly, that until the truster's eldest son, Murdoch Gillian Maclaine, should attain the age of twenty-one years the said Trustees should make payment to him yearly of the sum of three hundred pounds sterling, and thereafter and until he



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should attain the age of twenty-five years, of the sum of five hundred pounds sterling, which yearly allowance, whether of three hundred pounds or five hundred pounds, should be payable half-yearly in equal portions at the terms of Whitsunday and Martinmas, commencing the first payment at the first of these terms that should occur after the truster's death, and should further make such advances as might be necessary for the purchase of a commission and for steps of promotion for him in the Army; but it was declared that the said yearly allowance, whether of three hundred pounds or five hundred pounds, should be payable to him only in so far as his annual income from any lands to which he might succeed as heir of entail might fall short of these sums respectively during the periods for which they were made payable as aforesaid, and to no greater extent; and on the truster's said son, Murdoch Gillian Maclaine, attaining the age of twenty-five years, or as soon thereafter as his said Trustees should be enabled to discharge by payment the debts affecting the estates in Mull then belonging to the truster, other than the annuity thereby provided to his said spouse, his said Trustees should execute a disposition and deed of entail of all the lands and other heritages situated in the Island of Mull then belonging to him, and also of his plate, but subject as regards such plate to the life-rent of his said spouse, and subject as regards the said lands and other heritages to the annuity provided to her as aforesaid, and that in favour of the said Murdoch Gillian Maclaine and the heirs male of his body; whom failing, the said Anthony Vincent Maclaine and the heirs male of his body; whom failing, any other heir male of the truster's body; whom failing, Emilie Guillaumine Maclaine, his eldest daughter, and the heirs male of her body; whom failing, Rosa Elizabeth Maclaine, the truster's second daughter, and the heirs male of her body; whom failing, Christian Sarah Maclaine, the truster's youngest daughter, and the heirs male of her body; whom failing, any other daughters, her sisters, that might be born to him in their order, and the heirs male of their bodies; whom failing, the other heirs female of the truster's body; whom failing, the other heirs male of the body of the deceased Murdoch Maclaine, Esquire, of Lochbuy, the father of the truster; whom failing, the truster's sisters Lillas Maclaine, Jane Maclaine, Elizabeth Henrietta Maclaine, and Mary Anne Maclaine, in their order, and the heirs male of their bodies; and failing them, the other heirs female of the body of the truster's father; whom all failing, the truster's heirs what-



soever, it being by the said deed declared, that throughout the whole course of succession above prescribed, heirs portioners should in every case be excluded, and that the eldest daughter should succeed without division, and also that any heir male of the body of the truster's said father who might be called to the succession under the said destination after the heirs of the truster's own body, should, as a condition of his succession, make payment to the truster's brothers and sisters who might then survive of the sum of six thousand pounds sterling equally among them, subject to the provision that the descendants of any of the truster's brothers and sisters who might have died should be entitled to the share which their parent would have received if then in life; and, farther, that in the event of the succession under the said destination opening to any of the truster's sisters, or their issue, the person so succeeding should make payment to his sisters who might then survive of the sum of six thousand pounds sterling equally among them, subject to the provision that the descendants of any of the truster's said sisters who might have died should be entitled to the share which such deceased sister would have received had she survived, which disposition and deed of entail appointed to be executed by the Trustees as aforesaid the truster directed should be granted, with the condition and declaration that every member of entail succeeding to the estates to be thereby conveyed should bear the name, style, and arms of Maclaine of Lochbuy, and that such deed of entail should contain a clause authorising registration of the deed in the Register of Tailzies, in terms and to the effect specified in the eighteenth section of the Act twenty-first and twenty-second Victoria, caput seventy-six, subject to the provision that the institute and heirs of entail should have power to grant feu rights of any part of the lands to be thereby settled in entail, not being lands situated within three miles of the Castle of Moy, but only for payment to the institute and heirs of entail of adequate feu duties and casualties of superiority, and that the said disposition and deed of entail should be so framed as to bind the institute as well as the heirs of entail, and that the said trustees should cause the same to be recorded in the Register of Tailzies and in the books of Council and Session, and completed by infetment, all at the expense of the truster's trust estate, but declaring, as it was thereby specially provided and declared, that the said Trustees should be at liberty, and they were thereby authorised, if they should see fit, to exclude from the said disposition and deed of entail the truster's estate of Kinloch in Mull, and to dispone the same in fee simple to his said son,

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Anthony Vincent Maclaine, and the heirs of his body ; whom failing, to his sisters and their issue in their order, excluding heirs portioners, and the eldest daughter succeeding always without division :

Seventhly, that in the event of the death of the said Murdoch Gillian Maclaine without issue male before he should have attained the age of twenty-five years, the provisions above mentioned, made with reference to him, should be held in all respects as applicable and should be applied to the said Anthony Vincent Maclaine, who should be held as substituted in room and place of the said Murdoch Gillian Maclaine, and the provisions thereby made in favour of the said Anthony Vincent Maclaine should be held as recalled quoad him, and renewed in favour of his younger brother, if such brother should then exist, subject to the same conditions as are prescribed with reference to the said Anthony Vincent Maclaine himself, and failing such younger brother they should be held as absolutely recalled, save as regards any lands in Mull not then belonging to the truster, but which he might thereafter acquire, which lands should in that event become the property of the said Anthony Vincent Maclaine, it being by the said deed declared that in the event of the death of the said Murdoch Gillian Maclaine, before attaining the age of twenty-five years without issue male, but leaving issue female, then the said Trustees should on his death pay to each of his lawful daughters the sum of one thousand pounds sterling, and if he should leave only one daughter should pay to her the sum of two thousand pounds sterling :

Eighthly, that the said Trustees should hold the residue, if any, of the truster's estate, and pay the annual proceeds thereof to his said spouse during her life, to the extent of five hundred pounds sterling per annum, and that in addition to the provisions in her favour above mentioned, and should pay the capital of said residue when released of the said life interest provision in favour of his said spouse to his children equally among them, to his sons on their attaining the age of twenty-five years, and to his daughters on their attaining the age of twenty-one years, or on their being married :

Ninthly, it was by the said trust disposition and settlement declared that the provisions above mentioned made in favour of the truster's sons, the said Murdoch Gillian Maclaine and Anthony Vincent Maclaine, and the truster's daughters respectively, should not, in so far as regards the fee or capital of the same, become vested in his said sons until they should attain the age of twenty-five years respectively, nor in his daughters



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until the term of payment of the same, but that nevertheless his son, the said Anthony Vincent Maclaine, should have power to dispose of the provisions thereby made in his favour by any testamentary writing under his hand in favour of his lawful children, though such writing should be executed before his attaining the age of twenty-five years, and that in the event of the death of any of the truster's daughters before the term of payment of the sum provided to her, such sum shall accrue to and be divided amongst her surviving sisters, the children of any sister who might have predeceased her being entitled to the share which their mother would have received had she survived :

And it was further declared that the provisions above mentioned in favour of the truster's children should be in full satisfaction to them of all claims, legal or conventional, competent to them against him or the estates, real and personal, thereby conveyed, all which claims should by their acceptance of the said provisions be held as discharged, and in like manner that the provisions thereby made in favour of his said spouse should be in satisfaction, and were by her thereby accepted as in satisfaction, of all claim of *jus relictæ* *terce*, or other legal claim competent to her, and of all provisions in her favour, whether made by contract of marriage, deed of settlement, or otherwise, all which claims were by her thereby renounced and discharged, in evidence of which she subscribed the said deed ; and the truster by the said deed gave full power to his said Trustees to make up and complete in their persons as Trustees aforesaid all proper titles to the whole lands and other heritable or real estate, property, and effects thereby conveyed, or to which his Trustees might at any time have right as falling under the trust thereby created, or to any part or portion of the same, with power to grant feu rights of lands, not being lands lying within three miles of the Castle of Moy, and that for payment of such feu duties and casualties of superiority as they might think proper, with power also to grant leases of lands, and of mines, metals, minerals, and substances therein or in any part thereof, upon such terms and conditions, and for payment of such rents or lordships, and for such endurance as the said Trustees should think proper, and to grant such temporary abatements of rents as the circumstances of the times and of the tenants should appear to render necessary, or such allowances to tenants as the said Trustees should think fit, in respect of expenditure made or undertaken by such tenants for improvements or repairs on their farm or farms, or on the buildings thereon ; as also to expend such sums as they might consider proper in the amelioration of the heritable estate thereby conveyed, and to appoint

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Codicil to trust disposition and settlement, dated 2nd May 1863.

And whereas by a codicil to his said trust disposition and settlement, dated the second day of May one thousand eight hundred and sixty-three, the truster in the first place declared that three of his Trustees and executors resident in Great Britain should form a quorum; and that until his sons, Murdoch Gillian Maclaine and Anthony Vincent Maclaine, should respectively attain the age of twenty-one years, his other Trustees and executors named in the foregoing deed of settlement, or three of their number resident in Great Britain, should be entitled to exercise all the powers conferred on his Trustees and executors by the said deed; in the second place he recalled the direction to his Trustees to make over to his son, Anthony Vincent Maclaine, on his attaining the age of twenty-five years, the contract of lease of the coffee land of Banaran in the Island of Java, or the price thereof, or in his option all his heritable property situated in or near the town of Oban, and all other heritable property which the truster might acquire after the date of the said deed of settlement, not being heritable bonds or bonds and dispositions in security, or the price thereof; and he also recalled the direction to his Trustees to make his said son, Anthony Vincent Maclaine, a yearly allowance of five hundred pounds sterling from the time of his attaining the age of twenty-one years until he should attain the age of twenty-five years; and he also recalled the direction to his Trustees to pay to his said son, Anthony Vincent Maclaine, the sum of five thousand pounds or to charge that sum on the estates in Mull belonging to him on the contingency specified in the said deed of settlement; and in lieu of the provisions thus



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recalled he directed his Trustees to make over to his said son, Anthony Vincent Maclaine, on his attaining the age of twenty-five years complete, his estate of Kinloch in the Island of Mull, and that free of the annuity provided to his mother; and meanwhile and until his said son, Anthony Vincent Maclaine, should attain the age of twenty-one years, he provided that his said Trustees should make him the yearly allowance of two hundred and fifty pounds provided by his said deed of settlement, and thereafter and until he should attain the age of twenty-five years should pay to him as they should fall due the rents of the estate of Kinloch, free of all deductions, excepting public and parochial burdens and the expenses of collecting the same; it being, however, declared that in the event of the death of the truster's said son, Murdoch Gillian Maclaine, before attaining the age of thirty years, leaving a lawful son succeeding him, such son should thereupon make payment to the said Anthony Vincent Maclaine of the sum of three thousand pounds sterling, and failing payment, that sum and the interest that might accrue thereon should form a charge on the estates by the said deed of settlement directed to be entailed; and the said truster by the said codicil earnestly recommended to his said son, Anthony Vincent Maclaine, not to part with the said estate of Kinloch, and relied that, if circumstances should render it necessary or greatly expedient for him to do so, he would in the first place make offer of the estate at a fair price to the said Murdoch Gillian Maclaine, and failing him his heirs succeeding or entitled to succeed to him under the said entail directed to be executed as aforesaid; and the truster directed and declared that with these variations the provisions and declarations of his said deed of settlement regarding his said son, Anthony Vincent Maclaine, or his children, and the provisions in his and their favour, should remain in full force and be applicable and be applied to the said estate of Kinloch in like manner as they would have been applicable to the provisions thereby recalled; in the third place, the truster recalled the declaration, that in the event of the death of any of his daughters before the term of payment of the sum by his said deed of settlement provided to her, such sum should accrue to and be divided among her surviving sisters, the children of any sister who might have predeceased her being entitled to the share which their mother would have received had she survived, and in lieu thereof he declared that in the event of the death of one of his daughters before the term of payment of the sum provided to her as aforesaid, that sum to the extent of two thousand pounds thereof should be payable in equal shares to her surviving sisters, or the children per stirpes of any of her sisters who might have predeceased her leaving issue, and the balance should revert to his estate and form part of the residue thereof;



A.D. 1871. and in the event of the death of another of his daughters before the term of payment of the sum provided to her as aforesaid, that sum to the extent of one thousand pounds thereof should be payable to her surviving sister, or to the children of any sister who might have predeceased her leaving issue, and the balance should revert and return to his estate, and form part of the residue thereof; in the fourth place, the truster directed and declared that after his son, Murdoch Gillian Maclaine, should have attained the age of twenty-five years, and until the execution of the disposition and deed of entail, which by his said deed of settlement his Trustees were directed to execute, they should in lieu of the yearly allowance of five hundred pounds provided to him by his said deed of settlement, make payment to him of the sum of eight hundred pounds sterling yearly during the life of Mrs. Emilie Guillaumine Vincent or Maclaine, his mother, and after her death of the sum of one thousand pounds yearly, which yearly allowance, whether of eight hundred pounds or one thousand pounds, should be payable in equal portions at the terms of Whitsunday and Martinmas, commencing the first payment at the first term of Whitsunday or Martinmas that should occur after his attaining the age of twenty-five years, and after the death of the said Mrs. Emilie Guillaumine Vincent or Maclaine respectively; and the truster authorised his Trustees, if they should see cause, to make such addition to the said allowance, whether of eight hundred pounds or one thousand pounds, as they might think proper; in the fifth place, the truster directed that in the deed of entail to be executed by his said Trustees, as provided by his said deed of settlement, it should be declared that the provisions of the Act tenth of George the Third, caput fifty-one, commonly known as the Montgomery Act, and the provisions of the Act fifth of George the Fourth, caput eighty-seven, commonly called the Aberdeen Act, should be applicable thereto, and be available to the institute and heirs of entail to be thereby called to the succession of his estate to be thereby entailed:

Disposition  
and deed of  
entail of  
Lochbuy,  
Fishnish,  
&c. executed  
by Archibald  
Maclaine,  
Esquire,  
dated 31st  
May 1776.

And whereas a disposition and deed of entail, dated the thirty-first day of May one thousand seven hundred and seventy-six, was executed by Archibald Maclaine, Esquire, younger, of Lochbuy, herein-after called the entailer, whereby the said entailer, with the special advice and consent of John Maclaine, Esquire, of Lochbuy, his father, sold and disposed to the heirs male to be lawfully procreated of his body, and the heirs male to be procreated of their bodies in the course of succession; whom failing, to the said John Maclaine, of Lochbuy, the entailer's father, and the heirs male to be lawfully procreated of his body; whom failing, to Captain Murdoch Maclaine, of the Royal Highland Emigrants, son of the deceased Lauchlan Maclaine, the entailer's granduncle, and the heirs male to be law-



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fully procreated of his body; whom failing, the other heirs of entail therein specified, all and whole the lands and barony of Moy, comprehending, inter alia, firstly, the penny land of Moy, with the castle thereof, the halfpenny land of Croit, the penny land of Cameron, the penny land of Dibidell and Discaig, the twopenny lands of Laggan, the halfpenny land of Barachendroman, the penny land of Kinloch-spelve, the halfpenny land of Garmon, the penny land of Corvillan, commonly called Corvilla, the penny land of Drimnathain, commonly called Drimnatain; the penny land of Ardsaleyne, commonly called Crogan, the halfpenny land of Juredill, the halfpenny land of Glenbyre, the halfpenny land of Kinnacraig, commonly called Ingart, the halfpenny land of Derrynacuilen, and the halfpenny land of Roishill (which lands and others are known as and are hereafter styled the lands and estate of Lochbuy); and secondly, the penny land of Fininish, commonly called Fishnish, the halfpenny land of Corinahenich, the penny land of Balmeanach, the penny land of Lochbarkle, commonly called Lederkle, the penny lands of Rousillis, commonly called Rhoillis, the penny land of Corachy, the penny land of Pennygown, the penny land of Leiter Ardnathriel, and the Loch of Lochbuy (which lands in the second place above specified are herein-after styled the lands and estates of Fishnish and others), with all and singular woods, fishings, parts, pendicles, privileges, superiorities, and all other pertinents pertaining and belonging to the lands aforesaid, all lying within the Island of Mull and sheriffdom of Argyll:

And whereas the said disposition and deed of entail was, after the death of the said entailer, duly registered in the Register of Tailzies upon the eighteenth day of January one thousand seven hundred and eighty-five:

Disposition and deed of entail registered 18th Jan. 1785.

And whereas no infestment followed, and no title was made up upon the said disposition and deed of entail by or in the person of the said entailer:

No investiture made up by entailer.

And whereas upon the death of the said entailer he was succeeded in the said lands and estates disposed and conveyed by the said disposition and deed of entail, by Murdoch Maclaine, described in the said deed of entail as Captain Murdoch Maclaine, of the Royal Highland Emigrants, who having been duly served nearest and lawful heir of tailzie and provision, cum beneficio inventarii, to the said entailer, proceeded to make up and complete titles to the said lands and estates, and was infest and seised therein conform to instrument of sasine in his favour, dated the fifteenth day of October one thousand seven hundred and eighty-five, and recorded in the General Register of Sasines the tenth day of December in the same year, following upon a charter of resignation in his favour

Entailer succeeded in entailed lands and estates by Murdoch Maclaine, who made up titles thereto.



A.D. 1871. under the Great Seal, dated the fourth day of July one thousand seven hundred and eighty-five, and which was written to the seal and registered and sealed the seventh day of September following :

Murdoch Maclaine succeeded in entailed lands and estates by his son Murdoch Maclaine (secundus), who also made up titles thereto.

And whereas the said Murdoch Maclaine possessed the said lands and estates upon the said titles thus made up by him until his death on the fifth day of July one thousand eight hundred and four, when he was succeeded therein by his son Murdoch Maclaine (secundus), who was infeft in the said lands and estates conform to instrument of sasine in his favour, dated the thirteenth day of May in the year one thousand eight hundred and fourteen, and recorded in the General Register of Sasines, at Edinburgh, on the twenty-third day of June in the same year, following upon a precept from Chancery in his favour as nearest and lawful heir of tailzie and provision therein to his father the said Murdoch Maclaine :

Entailed lands and estates possessed by Murdoch Maclaine (secundus) till his death.

And whereas the said Murdoch Maclaine (secundus) possessed the said lands and estates upon the said titles made up by him thereto until his death on the twentieth day of August one thousand eight hundred and forty-four :

Bond and disposition in security granted by Murdoch Maclaine (secundus) for 2,139*l.* 3*s.* interest and penalties.

And whereas the said Murdoch Maclaine (secundus) by bond and disposition in security, dated the ninth day of July one thousand eight hundred and twenty-two, bound himself, his heirs, executors, and successors, conjunctly and severally, with certain other parties, to make payment to Mrs. Ann Vernona Simmons Gaskin Anderson of Tushielaw, heir of entail and provision therein mentioned, of the sum of two thousand one hundred and thirty-nine pounds three shillings, with the due and legal interest thereon, and of certain penalties therein set forth in the event of the non-punctual payment of the said principal sum and interest :

Action brought by assignee of creditor in bond and disposition in security to attach and adjudge lands of Lochbuy and others, and for payment of sums thereby due.

And whereas the said principal sum and a certain amount of interest due thereon not having been paid in terms of the said bond and disposition in security, and the same, together with all sums of money due thereby, having been assigned and conveyed by Benjamin Thomas Gaskin Anderson, of Tushielaw and Hirlop, heir of entail of the said Mrs. Ann Vernona Simmons Gaskin Anderson, and as such duly vested with the said bond and disposition in security, and all sums of money thereby due, to Sir John Andrew Cathcart of Carleton, Baronet, the said Sir John Andrew Cathcart brought an action of declarator and adjudication and payment in the Court of Session in Scotland against the said Murdoch Maclaine (secundus) for the purpose of having the said lands and estates of Lochbuy and Fishnish and others adjudged from the said Murdoch Maclaine (secundus), and decerned and declared to pertain and belong to the said Sir John Andrew Cathcart, his heirs and assigns, heritably for payment and satisfaction to them of the sums of money



due to him as such assignee as aforesaid by the said bond and disposition in security: A.D. 1871.

And whereas in the course of the proceedings in the said action, the said Murdoch Maclaine (secundus) died, and Murdoch Maclaine (tertius), his eldest son, and heir of tailzie and provision, was sisted as a party defender therein in his room:

And whereas it was found by a judgment pronounced by the Lord Ordinary (Ivory) in the said action, upon the nineteenth day of February one thousand eight hundred and forty-six, that the investiture following upon the said disposition and deed of entail was defective and insufficient to protect the said lands and estates of Lochbuy and Fishnish and others, against the contraction of debt by the heirs in possession thereof, and in particular was insufficient to protect the same against the debt libelled, and which formed the subject matter of the said action, and his lordship adjudged, decerned, and declared in the said action in terms of the libel:

And whereas the said Murdoch Maclaine (tertius), having reclaimed against the said judgment to the second division of the said Court of Session, their lordships were pleased, upon the first day of July one thousand eight hundred and forty-six, to adhere to the said judgment of the said Lord Ordinary in the said action:

And whereas it having been established by the said judgment that, notwithstanding the said disposition and deed of entail, the said lands and estates were not protected against the claims of the creditors of the heir of entail in possession, the same, as part of the estate of the said Murdoch Maclaine (secundus), were on the twentieth day of September one thousand eight hundred and forty-six sequestrated in terms of the Act second and third Victoria, caput forty-one, and on seventeenth of May one thousand eight hundred and forty-seven were transferred to Archibald Borthwick, Trustee in the sequestration, conform to Act and warrant by the sheriff of the county of Argyll, in favour of the said Archibald Borthwick, dated the said seventeenth day of May one thousand eight hundred and forty-seven, and conform to abbreviate of adjudication in favour of the said Archibald Borthwick as Trustee foresaid recorded in the Register of Abbreviates of Adjudications at Edinburgh on the twentieth day of May one thousand eight hundred and forty-seven:

And whereas the said lands and estates of Lochbuy were exposed for sale by public auction by the said Archibald Borthwick as Trustee foresaid upon the twenty-eighth day of August one thousand eight hundred and fifty-five, and were at said sale purchased by the truster in whose favour a disposition thereof was granted by the said Archibald Borthwick as Trustee foresaid, with consent of the com-

Murdoch Maclaine (secundus) having died in course of proceedings in action, Murdoch Maclaine (tertius), his son, sisted as party defender therein.

Judgment of Lord Ordinary in action finding that investiture following upon entail defective and insufficient to protect lands and estates against debts of heirs, and adjudging and declaring in terms of libel.

Judgment of Lord Ordinary adhered to by court (second division).

Effect of judgment that lands and estates not protected against claims of creditors.

Lands and estates of Lochbuy purchased by truster.



A.D. 1871. — missioners elected and confirmed in the said sequestration, dated the fourth, fifth, and eighth days of October one thousand eight hundred and fifty-five, upon which disposition the truster obtained a charter of adjudication and resignation from the Crown, dated the thirtieth day of October one thousand eight hundred and fifty-five, in virtue of which he was duly infeft, conform to instrument of sasine recorded in the General Register of Sasines, at Edinburgh, on the thirty-first day of October one thousand eight hundred and fifty-five :

Murdoch  
Maclaine  
(tertius) died  
uninfeft in  
lands.

And whereas the said Murdoch Maclaine (tertius) died without issue in the month of August eighteen hundred and fifty uninfeft in the said lands and estates, an infeftment which he had expedite in the said lands and estates of Lochbuy and Fishnish, and others, having been reduced as null and void by decree of the Court of Session, dated the thirtieth of November one thousand eight hundred and forty-seven, and no subsequent infeftment having been expedite by him :

Titles made  
up by truster  
to lands of  
Fishnish and  
others.

And whereas the debts for payment of which the estates of the said Murdoch Maclaine (secundus) were sequestrated having been satisfied and paid out of the price of the lands and estate of Lochbuy, purchased by the truster as aforesaid, the truster made up a title to the said lands of Fishnish and others by infeftment on a Crown writ of Clare constat, dated the twenty-fifth, and with warrant of registration thereon recorded in the General Register of Sasines, at Edinburgh, the twenty-sixth day of November one thousand eight hundred and sixty-two, proceeding on a decree of service by the sheriff of Chancery in Scotland in his favour, as heir male of tailzie and provision in special of the said Murdoch Maclaine (secundus) his father, and he also obtained a disposition of the said lands of Fishnish and others from the said Archibald Borthwick, with consent of the commissioners in the sequestration of the estates of the said Murdoch Maclaine (secundus), dated the twenty-sixth and twenty-eighth days of May one thousand eight hundred and sixty-three, whereby the said lands and others were conveyed to him as heir male of tailzie and provision aforesaid :

Lands and  
estates pos-  
sessed by  
truster upon  
title made  
up by him  
thereto, and  
dealt with  
by him as  
belonging to  
him in fee  
simple.

And whereas the truster continued to possess the said lands and estate of Lochbuy under the said disposition thereto in his favour, and charter of adjudication and instrument of sasine following thereon, and the said lands of Fishnish and others, upon the title and investiture made up by him thereto as aforesaid, until his death, which took place upon the twelfth day of October one thousand eight hundred and sixty-three, and during his possession thereof dealt with and disposed of the said lands and estates in his said trust disposition and settlement upon the footing of their belonging to him as proprietor thereof in fee simple :



And whereas by an Act passed in the eleventh and twelfth years of Her present Majesty, chapter thirty-six, intituled "An Act for the Amendment of the Law of Entail in Scotland," it is inter alia enacted (section forty-third), "That where any tailzie shall not be valid and effectual in terms of the said recited Act of the Scottish Parliament, passed in the year one thousand six hundred and eighty-five, in regard to the prohibitions against alienation and contraction of debt, and alteration of the order of succession, in consequence of defects either of the original deed of entail, or of the investiture following thereon, but shall be invalid and ineffectual as regards any one of such prohibitions, then and in that case such tailzie shall be deemed and taken from and after the passing of this Act to be invalid and ineffectual as regards all the prohibitions, and the estate shall be subject to the deeds and debts of the heir then in possession, and of his successors as they shall thereafter in order take under such tailzie, and no action of forfeiture shall be competent at the instance of any heir substitute in such tailzie against the heir in possession under the same by reason of any contravention of all or any of the prohibitions:"

A.D. 1871.  
 —  
 Provision of Act of 11 & 12 Vict. c. 36. s. 43. that entail or investiture defective in one prohibition shall be invalid as to all.

And whereas the said lands and estates of Lochbuy and Fishnish, and others, in respect of the said judgment pronounced by the said Court of Session in the said action, and of the above-recited provision contained in the said Act of Parliament, belonged to and were held and possessed, and by the said trust disposition and settlement were disposed of by the truster as his own absolute property in fee simple:

Lands and estates held and possessed by truster in fee simple.

And whereas the truster was survived by the said Mrs. Emilie Guillaumine Vincent or Maclaine, his spouse, and by the said Murdoch Gillian Maclaine and Anthony Vincent Maclaine, his only sons, and by the said Emilie Guillaumine Maclaine, Rosa Elizabeth Maclaine, and Christian Sarah Maclaine, his only daughters, and that he was also survived by Mrs. Christian Maclaine his mother, and by his sisters Lillias, Jane, Elizabeth Henrietta, and Mary Anne Maclaine, and that all the said persons are alive:

Truster survived by wife, sons, daughters, mother, and sisters.

And whereas the said Murdoch Gillian Maclaine is now in the twenty-sixth year, and the said Anthony Vincent Maclaine is now in the twenty-fifth year of his age:

Ages of Murdoch Gillian Maclaine and Anthony Vincent Maclaine.

And whereas the said Emilie Guillaumine Maclaine is now the wife of Frederick Campbell, Esquire, presently residing at number sixteen, Devonshire Terrace, Hyde Park, London, and the said Rosa Elizabeth Maclaine and Christian Sarah Maclaine are under the age of twenty-one, and are unmarried:

Emilie Guillaumine Maclaine, now Mrs. Campbell. Two younger daughters under age.

And whereas the Trustees named by the truster by his said trust disposition and deed of settlement for carrying out of the

Trustees accepted of trust, but



A.D. 1871.

two have  
since re-  
signed.

Trustees  
unable, from  
want of  
funds and  
otherwise, to  
give effect  
to all the  
purposes of  
the trust  
disposition  
and settle-  
ment of the  
truster.

purposes thereof accepted of the trust thereby conferred upon them, but the said Angus Maclaine and the said Angus Gregorson have since resigned :

And whereas the said Trustees have in part executed the purposes of the said trust, but they are unable to execute the whole, and particularly they are unable to execute the said disposition and deed of entail, in respect that while by the trust disposition and settlement of the truster they are required to execute in favour of his eldest son a disposition and deed of entail of the said lands and estates of Lochbuy and Fishnish, and others, and before doing so are directed to discharge by payment the debts affecting the same, and the provisions other than the annuity provided to the truster's widow affecting the whole of his estate, the estate at their disposal in terms of the said trust disposition and settlement is inadequate for payment of the said debts and provisions, and the annual revenue of the truster's estate is insufficient to enable them to pay any part of the sums payable annually to his children in terms of his said trust disposition and settlement, and the result is, that the directions of the said trust disposition and settlement with regard to the entailing of the said lands and estates of Lochbuy and Fishnish, and others, are found to be impracticable, while from the fact that the income of the trust estate is insufficient to meet the annual charges thereon, the intentions of the truster are each year becoming less possible of accomplishment, and the trust estates annually becoming more involved :

Other real  
estate left  
by truster.

And whereas besides the said lands and estates of Lochbuy and Fishnish, and others, the truster left certain other real estate consisting of (1) a portion of the land of Carvolg, otherwise called Carvalg, lying in the parish of Kilfinichen and Island of Mull, being the portion described in a disposition of the same granted by Alexander Maclean, Esquire, of Pennycross and Carsaig in favour of the truster, dated twenty-fifth February, and with warrant of registration thereon recorded in the General Register of Sasines, twenty-first April one thousand eight hundred and sixty; (2) the superiority or dominium directum of the lands of Ardmeanich and others in the Island of Mull and county of Argyll, being the lands described in a disposition of the same granted by the Right Honourable Duncan McNeill, Lord Justice General and Lord President of the Court of Session, in favour of the truster, dated thirty-first May, and with warrant of registration thereon recorded in the General Register of Sasines tenth June one thousand eight hundred and fifty-nine; (3) the lands and estate of Kinloch, situated in the said Island of Mull, which by the said codicil he directed his said Trustees to convey to his son, the said Anthony Vincent Maclaine, on his attaining



the age of twenty-five; (4) certain house property situated in the town of Oban in Scotland; (5) certain leasehold property, namely, a coffee plantation in the island of Java: A.D. 1871.

And whereas the truster also left certain personal property of the value of twenty-four thousand nine hundred and thirty-two pounds two shillings and fourpence, or thereby, consisting of furniture, plate, rents of lands and other heritage, policies of insurance, and sums due on personal securities, which personal estate, with the exception of the furniture and plate liferented by the widow of the truster, and certain other portions of inconsiderable value, has been realised by the Trustees and applied by them in payment of debts due by the truster, including a debt of seven thousand pounds charged on the said lands of Kinloch, duties payable to Government, the price of a commission in the Army for the eldest son of the truster, and advances to his younger son for establishing him in business, all in terms of the truster's said trust disposition and deed of settlement, and conform to accounts submitted by the Trustees to the accountant of the Court of Session in Scotland, and audited by him: Personal estate left by truster.

And whereas the debts specially charged on the said lands and estates, or on some of them, are, firstly, a sum of twenty thousand pounds due under a bond and disposition in security granted by the truster in favour of the Pelican Life Assurance Company, London, now held by assignees of that company; secondly, an annuity of sixty-eight pounds eighteen shillings and fivepence, payable under a bond granted by the truster in favour of Mrs. Christian Maclaine, his mother; thirdly, a sum of nine hundred and fifty-five pounds, being the balance due under a bond and disposition in security granted by the truster in favour of his sisters, Lillias Maclaine, Jane Maclaine, Elizabeth Henrietta Maclaine, now Mackenzie, Mary Anne Maclaine, and Margaret Maxwell Maclaine afterwards Pryce; fourthly, an annuity of sixteen pounds payable to the said Lillias Maclaine under a bond granted by the truster in her favour; fifthly, an annuity of one hundred and fifty-eight pounds one shilling and sevenpence, payable to the said Mrs. Christian Maclaine under a bond of annuity granted in her favour by the said Murdoch Maclaine (secundus), her husband, and charged on the said lands of Fishnish and others, and on other lands, the proportion effeiring to the said lands of Fishnish and others being sixty-two pounds twelve shillings and threepence; sixthly, sums amounting in all to four thousand nine hundred pounds borrowed and applied for the purposes of the said trust by the said Trustees, but of which sum three thousand pounds is primarily chargeable, and is charged on the said Debts charged on lands and estates.



A.D. 1871. — estate of Kinloch; and the provisions other than the annuity provided to the widow of the truster affecting his whole estate other than the lands of Kinloch, are, firstly, the sum of five hundred and forty-three pounds nine shillings and one penny, or thereby, payable to the truster's son, Murdoch Gillian Maclaine, for the year ending at Martinmas one thousand eight hundred and seventy, and the sum of eight hundred pounds payable to him annually thereafter, one moiety at Whitsunday, and another at Martinmas, until the execution of the disposition and deed of entail by the truster's disposition and deed of settlement directed to be executed in his favour, but subject to deduction of the free rents of the entailed lands of Scallastle and Garmony, in the Island of Mull; the sum of one hundred and seventy-nine pounds four shillings and twopence, payable at Martinmas one thousand eight hundred and seventy, to the said Anthony Vincent Maclaine in respect of the rents of Kinloch; and the sum of eighty-two pounds fifteen shillings and fourpence, or thereby, payable at Martinmas one thousand eight hundred and seventy, to each of the said Rosa Elizabeth Maclaine and Christian Sarah Maclaine, for the years ending at eleventh November one thousand eight hundred and seventy, and the sum of one hundred pounds, payable annually to each of them thereafter, one moiety at Whitsunday, and another at Martinmas, until she attain majority or be married, under deduction from each moiety of the sum of eight pounds twelve shillings and fourpence, payable from the said lands of Scallastle and Garmony, under a bond of provision granted by the truster in favour of his younger children, and interest on the said several sums, payable as aforesaid from the terms of payment till paid; and, secondly, the sum of five thousand pounds, now payable to the said Emilie Guillaumine Maclaine, or Campbell, with interest thereon, from eleventh November one thousand eight hundred and seventy, subject to deduction of the sum of three hundred and forty-four pounds twelve shillings and twopence and seven twelfths, if paid from the said lands of Scallastle and Garmony, in terms of the said bond of provision, and the like sum of five thousand pounds, payable under the like deduction to each of her two sisters aforesaid, on their attaining majority or being married:

Trustees  
prohibited  
from selling  
lands of  
Lochbuy and  
Fishnish and  
others.

And whereas the said Trustees are by the said trust disposition and settlement prohibited from selling any part of the said lands and estates of Lochbuy and Fishnish, and others, the said portion of Carvolg and the superiority of the said lands of Ardmeanich and others, and the only other property of the truster held by them consists of the said estate of Kinloch, which by the said deed they



are directed to convey to the said Anthony Vincent Maclaine, and certain house property in Oban, in Scotland, and the lease of a coffee plantation in Java :

A.D. 1871.

And whereas the said Trustees have been unable to sell the said property in Oban and in Java, and the value thereof is uncertain, and on the highest estimate the same is sufficient for payment of a comparatively small portion of the said debts :

Trustees unable to sell property in Oban and Java.

And whereas it is expedient and necessary that provision be made for payment of the said debts and provisions, or at least a considerable portion thereof, and that the said Trustees be enabled to bring the said trust to a close, and for these ends it is necessary that the said Trustees shall, as after provided, be authorised to sell such portion or portions of the said lands and estates of Lochbuy and Fishnish, and others, including the said portion of Carvolg and the superiority of the said lands of Ardmeanich and others, as will produce a sum sufficient to pay the whole of the said debts and provisions, or such part thereof as the said Trustees may deem fit, and that upon their selling as much of the said lands and estates as will yield a sum sufficient to pay the whole or such part of the said debts and provisions, or of either of them, they be authorised to execute a disposition and deed of entail in the terms directed by the said disposition and deed of settlement, conveying the portion of the said lands and estates and others that shall remain unsold to the institute and heirs of entail under burden of such part (if any) of the said debts and provisions, or of any of them, as shall remain unpaid, and previously to charge the same upon such remaining portion, in so far as the same are not effectually charged thereon, and to grant such deeds as may be necessary for that purpose ; and it would be for the advantage of the creditors in the said debts, and of the children of the truster entitled to the said provisions, and of the parties in whose favour the said disposition and deed of entail is directed to be executed, if such powers of selling and charging as aforesaid were granted to the Trustees ; but these objects cannot be effected without the authority of Parliament :

Expedient and necessary that Trustees be authorised to sell portions of lands and estates of Lochbuy, Fishnish, and others, to pay off debts and provisions, or part thereof, and to charge remainder.

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 :

1. It shall be lawful for the said Mrs. Emilie Guillaumine Vincent or Maclaine, Murdoch Gillian Maclaine, Anthony Vincent Maclaine, Donald Maclachlan, Donald Crawford, and Thomas Bonhote, or the survivors or survivor of them (herein-after called the Trustees), to apply to the Court of Session in Scotland by summary petition for

Power of Trustees to apply to Court of Session for authority to sell parts



A.D. 1871.  
 of lands and  
 estates di-  
 rected to be  
 entailed.

authority to sell such part or parts of the said lands and estates of Lochbuy and Fishnish, and others, including the said portion of Carvolg and the superiority of the said lands of Ardmeanich and others, directed to be entailed as aforesaid, other than and except the mansion house and offices and home farm of Lochbuy and Castle of Moy, as in addition to the sum which the Trustees may be able to realise by sale of the said leasehold property which belonged to the truster in the Island of Java, and the said house property which belonged to him in the town of Oban, may be required to realise a sum sufficient to pay, firstly, the debts owing by the truster at the time of his death specified in Schedule A. to this Act annexed; secondly, the debts incurred by the Trustees in the management of the trust specified in Schedule B. to this Act annexed; thirdly, the sums directed by the truster to be paid annually to his sons, and to his daughters Rosa Elizabeth Maclaine and Christian Sarah Maclaine, in so far as they may hereafter be payable, specified in Schedule C. to this Act annexed; and fourthly, the provisions made by the truster in favour of his daughters specified in Schedule D. to this Act annexed, and any other debts which may be shown to the satisfaction of the Court of Session to be due by the trust estate of the said Donald Maclaine, and the interest due, or to become due, upon the said debts and provisions, and the costs and charges of applying for and obtaining this Act, and incidental thereto, and of carrying the same into effect; and upon such application being presented, the said court may make such orders and take such proceedings as they may think fit, and may grant authority to the Trustees to sell by public auction, or by private sale, and on such terms and conditions as may be directed or approved by the said court, such part or parts of the said lands and estates, except as aforesaid, as may be sold and disposed of to the greatest advantage, and with the least injury to the remainder of the said lands and estates, or to the interests of the institute and heirs directed by the truster to be called to the succession thereof, and to grant dispositions, conveyances, and all other deeds necessary for effecting such sales and conveying the lands sold to the purchasers thereof; and it shall not be necessary to have the consent to such application and such sale of the institute or any of the heirs called or directed to be called to the said succession, or entitled to succeed to the said lands and estates, or to make any intimation or advertisement of such application.

Power to  
 Trustees to  
 apply to  
 Court for  
 authority to

2. In the event of the said Trustees being unable to sell the said leasehold property situated in Java, and the said house property situated in the town of Oban, it shall nevertheless be competent for them to make application to the said Court of Session under the



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sell part or parts of said lands and estates, notwithstanding their inability to sell other properties.

powers contained in the immediately preceding section hereof; and if in the course of such application the said court shall be satisfied that the said Trustees have been unable to sell the said properties at an adequate price, the said court may direct a valuation of the said properties to be made by a competent person or persons, to be named by the court for that purpose; and on obtaining from him or them such valuation, the said court may authorise the Trustees to sell such part or parts of the said lands and estates of Lochbuy and Fishnish, and others, including the said portion of Carvolg and the superiority of the said lands of Ardmeanich and others, as, together with the sum at which the said leasehold and house properties may be valued as aforesaid, will produce a sum sufficient to pay off the said debts and provisions, and the costs and charges above mentioned, and the Trustees shall, with the sum to be realised by such sale, pay off the said costs and charges, and such of the said debts and provisions as may be directed or approved by the said court; and such Trustees shall, as soon as may be, sell the said leasehold and house properties, and shall apply the price to be obtained therefor, under deduction of the necessary costs and charges of or in connexion with such sale, in paying off the remainder of such debts and provisions, and of any interest which may be due thereon.

3. If it shall appear to the Trustees to be expedient to discharge by payment a part only of the said debts and provisions, or either of them, and to charge the remainder on such parts of the said lands and estates as shall not be sold under the authority of this Act, and to settle such parts of the said lands and estates in entail as directed by the said trust disposition and settlement, it shall be lawful for them, with the authority of the Court of Session, to sell so much only of the said lands and estates as shall be necessary to yield a price sufficient to pay such part of the said debts or provisions, or either of them, as it shall appear to the Trustees expedient to pay, and as shall be necessary to pay the costs and charges above mentioned; and, with the consent of the creditors for the remainder of the said debts and provisions which are not to be discharged by payment as aforesaid, to charge the same, in so far as they are not already effectually charged thereon, on such parts of the said lands and estates as shall not be sold, by granting a bond and disposition or bonds and dispositions in security over the said parts of the said lands and estates that shall remain unsold, or over such part or parts thereof as to them may seem proper and as may be authorised by the said court, for such portions of the said debts and provisions as shall remain unpaid, with the interest thereof, at any rate not exceeding five pounds per centum per annum, from the date at which such bond and disposition or bonds and dispositions in

Power to Trustees to charge lands directed to be entailed with part of debts and provisions.



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security may be granted until the sums contained therein and due thereby are respectively paid off, and with corresponding penalties in case of nonpayment; and every such bond and disposition in security may be in ordinary form, binding the institute or heir of entail in possession, and the heirs of entail entitled to succeed to the said lands and estates, in their order successively, to repay the principal sum or sums therein contained, with interest and penalties, and may contain a power of sale and other clauses usual in bonds and dispositions in security granted over estates in Scotland in fee simple.

In the event of Trustees selling, remainder of lands to be entailed, in terms of trust disposition and settlement.

4. In the event of the said Trustees deeming it expedient to raise the whole sums of money hereby authorised to be raised by the sale of a part or parts of the said lands and estates, as authorised by section first of this Act, they shall, immediately after receiving payment of the price or prices realised by such sale, execute in favour of the said Murdoch Gillian Maclaine, and the heirs of entail in their order mentioned in the said trust disposition and settlement of the truster, a disposition and deed of entail of the whole remaining lands and heritages situated in the Island of Mull which belonged to the truster, in terms of and as directed by his said trust disposition and deed of settlement, but excepting from the said lands and heritages the lands and estate of Kinloch, which in terms of the codicil to the said deed the said Trustees shall convey to the truster's second son, Anthony Vincent Maclaine, on his attaining the age of twenty-five years, which disposition and deed of entail shall be approved of and executed at the sight of the Court of Session.

Trustees to execute deed of entail subject to balance of debts and provisions, and heirs of entail to pay interest on money borrowed.

5. In the event of the said Trustees obtaining the authority of the Court of Session to raise part only of the said money hereby authorised to be raised by a sale of part or parts of the said lands and estates, and to discharge by payment a part only of the said debts and provisions, and to charge the remainder on the parts of the said lands and estates that shall not be sold under the provisions of this Act as aforesaid, they shall immediately after receiving payment of the price of such part or parts of the said lands and estates as they shall sell, and after making payment of the portion of the debts and provisions which they shall have determined to pay, and of the costs and charges aforesaid, execute a disposition and deed of entail of such parts of the said lands and estates as may not have been sold, as directed in the immediately preceding section of this Act, but with and under the charge and real lien and burden of such part of the said debts and provisions as shall remain unpaid; and the said Murdoch Gillian Maclaine, and the heir of entail in possession of the said lands and estates for the time, shall be bound each during his own possession of the said lands and estates to pay



A.D. 1871.

at the stipulated terms in each year, and to keep down the interest accruing during their possession respectively of the said lands and estates, on the sums charged or to be charged as aforesaid on the said lands and estates, or any part or parts thereof, as debts or provisions and real liens and burdens by any bond and disposition in security already existing, or which may hereafter be granted over the same by the Trustees, or subject to which the said disposition and deed of entail shall be granted as aforesaid under the provisions of this Act; and the remedy competent to the creditors in such debts, provisions, real liens, and burdens for payment thereof against the fee and rents of the said lands and estates, after the said disposition and deed of entail shall be granted, shall be limited to the principal sums of such debts, provisions, real liens, and burdens, with two years interest thereon, and corresponding penalties, without prejudice to the remedy of the creditors for any further arrears of interest and penalties against the institute or heir in possession, bound to pay and keep down the same, and against his representatives or his separate estate, including the rents of the said lands and estates during his possession of the same, which disposition and deed of entail shall be approved of and executed at the sight of the Court of Session.

6. The part or parts of the said lands and estates which may be sold under the authority of this Act and of the Court of Session, as herein-before provided, shall be freed and discharged of all the debts and provisions contained in the schedules to this Act annexed, and all interest due or to become due thereon, and of all other debts, claims, and obligations due or owing by the truster, and of the whole burdens, conditions, provisions, restrictions, and clauses, irritant and resolute, to be inserted in the said deed of entail, and contained in the said trust disposition and deed of settlement herein-before recited; and the dispositions and conveyances to the purchaser or purchasers thereof which shall be granted and executed by the Trustees shall confer on such purchaser or purchasers a valid title in fee simple to the lands so purchased by and conveyed to him or them respectively, freed and discharged of all the said debts, claims, obligations, and provisions, and of the said burdens and conditions, provisions, restrictions, and clauses, irritant and resolute.

Parts of lands and estates sold, to be freed from debts and fetters of entail.

7. The money which may be raised by the Trustees by the sale of part or parts of the said lands and estates shall be applied in and towards payment of the said debts and provisions in the schedules to this Act annexed, and any other debts which may be shown to the satisfaction of the Court of Session to be due by the trust estate of the said Donald Maclaine, or such part of the said debts and

Money raised to be applied to no other purposes than payment of debts and provisions.



A.D. 1871. provisions as the said Trustees shall determine to pay off as aforesaid, and of all interest due thereon to the date of payment thereof, and of the said costs and charges of applying for and obtaining this Act, and incident thereto, and of carrying the same into effect, and to no other purpose whatsoever.

Purchasers not concerned with application of money.

**8.** The purchaser or purchasers of any part or parts of the lands and estates sold under the authority of this Act shall not be in any way concerned with or bound to see to the application of the price or prices paid by him or them.

Application of surplus of price of lands sold.

**9.** If in the case of the sale of any part or parts of the said lands and estates and others (including the said leasehold and house properties) under the provisions of this Act any surplus of the price or prices to be obtained therefor shall remain after payment of the said debts and provisions, or of the part thereof which the Trustees may determine to pay off as aforesaid, and interest, and costs and charges as before specified, such surplus shall be applied under the direction of the Court of Session in the same manner and to the same purposes as any surplus of the price of lands sold may be applied under the provisions of the said Act, eleventh and twelfth Victoria, chapter thirty-six.

Court of Session may discharge trustees.

**10.** On the said debts and provisions being paid or charged upon the parts of the said lands and estates as herein-before provided, the Trustees may apply to the Court of Session by summary petition for a discharge of their actings and intromissions under this Act; and on such application being presented the said court may make such orders and take such proceedings as they think fit, and may discharge the Trustees of their whole actings and intromissions under this Act.

Procedure in applications to the Court of Session.

**11.** All applications to the Court of Session under the provisions of this Act shall in the first instance be brought before the Junior Lord Ordinary officiating in the Outer House, and may be dealt with and disposed of by him in the same manner and with the same powers as applications to the said court may be dealt with and disposed of under the provisions of the Act twentieth and twenty-first Victoria, chapter fifty-six, intituled "An Act to regulate the distribution of business in the Court of Session in Scotland," and the Court of Session, in either of its divisions, shall have the same jurisdiction and powers in regard to all applications under this Act as it has in regard to applications regulated by the Act last above mentioned.

Trusts, purposes, and directions of truster not

**12.** Nothing in this Act contained shall be held or construed to alter, innovate, or defeat the trusts, purposes, and directions of the trust disposition and deed of settlement executed by the truster,



or the order of succession to the said lands and estates thereby established, and provided for, excepting in so far as may be necessary to carry into effect the purposes of this Act; and the institute or heir of entail in possession of the said lands and estates for the time shall not incur any irritancy or forfeiture by reason of the Trustees executing any disposition, conveyance, bond, and disposition in security, or other deed which may be executed under the authority of this Act, and for the purpose of carrying the same into effect.

A.D. 1871.  
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to be affected  
except in so  
far as neces-  
sary to give  
effect to this  
Act.

**13.** Saving and reserving always to the Queen's most Excellent Majesty, her heirs and successors, and to the creditors in the said debts, provisions, real liens, and burdens until their demands are satisfied under this Act, and to all other persons or bodies politic or corporate, their heirs and successors, executors, administrators, and assigns (save and except the said Murdoch Gillian Maclaime and the heirs of entail entitled to succeed to the said lands and estates), all such right, title, interest, claim, and demand whatsoever in, to, and out of the said lands and estates as they or any of them had before the passing of this Act, or might claim or demand if this Act had not been passed, and declaring, as it is hereby provided and declared, that nothing in this Act contained shall prejudice or in any way affect any right or interest in or to the said lands and estate of Kinloch, or the rents thereof, competent to the Scottish Union Insurance Company, incorporated by Royal Charter.

General  
saving.

**14.** The costs and charges of applying for and obtaining this Act, and incidental thereto, shall be paid by the Trustees out of the money to be raised by them under the provisions of this Act, or out of any other money in their hands belonging to the said trust estate.

Expenses of  
Act.

**15.** This Act shall not be a Public Act, but shall be printed by the several printers to the Queen's most Excellent Majesty, duly authorised 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.

Act as  
printed by  
Queen's  
printers to  
be evidence.



A.D. 1871.

## SCHEDULES.

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### SCHEDULE (A.) referred to in this Act.

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DEBTS due by the deceased Donald Maclaine of Lochbuy, and presently charged upon the Lands and Estate of Lochbuy and Lands of Fishnish and others, and payable by his Trustees with interest thereon.

	£	s.	d.
1. Sum in bond and disposition in security granted by the said Donald Maclaine in favour of the Pelican Life Assurance Company, dated 14th, and recorded in the General Register of Sasines, at Edinburgh, 18th January 1856, assigned by the said Company to Captain Leveson Granville, Alexander Campbell of Fairfield, and Hew Crichton, S.S.C., Edinburgh, trustees of William Gunning Campbell of Fairfield, and George Gunning Campbell, conform to assignation in their favour by the said Company, dated 28th and 31st August and 1st September 1866, and recorded in the General Register of Sasines, at Edinburgh, the 18th day of September aforesaid	20,000	0	0
Interest thereon from 1st August 1870 to 1st August 1871, at 4½ per cent.	900	0	0
	20,900	0	0
2. Annuity payable to Mrs. Christian Maclaine under bond of annuity granted in her favour by the said Donald Maclaine, dated 14th, and recorded in the General Register of Sasines, at Edinburgh, 21st January 1856, 68 <i>l.</i> 18 <i>s.</i> 5 <i>d.</i> , the value whereof is	392	14	10
Half-yearly payment of said annuity, due at Whitsunday 1871	34	9	2½
3. Sum due to Misses Lillias Maclaine, Jane Maclaine, Elizabeth Henrietta Maclaine, now Mackenzie, and Mary Anne Maclaine, under bond and disposition in security for 4,793 <i>l.</i> 14 <i>s.</i> 2 <i>d.</i> , dated 14th, and recorded in the General Register of Sasines, at Edinburgh, 21st January 1856, granted by the said Donald Maclaine in favour of them and of Margaret Maxwell Maclaine, afterwards Pryce	955	0	0
Interest thereon, payable at Whitsunday 1871	38	4	0



	£	s.	d.	A.D. 1871.
4. Annuity of 16 <i>l.</i> , payable to Miss Lillias Maclaine, under a bond of annuity, dated 17th, and recorded in the General Register of Sasines, at Edinburgh, 24th March 1856, granted in her favour by the said Donald Maclaine, the value whereof is - - - - -	189	13	4	—
Half-yearly payment of said annuity, due at Whitsunday 1871 - - - - -	8	0	0	
Note.—The debts above specified, Nos. 1, 2, 3, and 4, are charged on the lands and estate of Lochbuy, but not on the lands of Fishnish and others.				
5. Annuity of 158 <i>l.</i> 1 <i>s.</i> 7 <i>d.</i> , payable to the said Mrs. Christian Maclaine, under a bond of annuity, dated 29th February, and recorded in the books of Council and Session, 16th November 1844, granted in her favour by the deceased Murdoch Maclaine (secundus), her husband, on which infertment followed, conform to instrument of sasine recorded in the General Register of Sasines, at Edinburgh, 16th November 1847.				
Note.—This annuity is not charged on the lands and estate of Lochbuy, but is charged on the lands of Scallastle and Garmony, as well as on the lands of Fishnish and others, and the proportion thereof effeiring to the latter is 62 <i>l.</i> 12 <i>s.</i> 3 <i>d.</i> the value whereof is - - - - -				
	348	5	5	
Half-yearly payment of said annuity, due at Whitsunday 1871 - - - - -	31	6	1½	

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SCHEDULE (B.) referred to in this Act.

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DEBTS charged on the Lands and Estate of Lochbuy, and on the Lands of Fishnish and others, borrowed or otherwise due by the Trustees of the said Donald Maclaine, and payable by them with Interest thereon to 15th May 1871.

Sums borrowed by the said Trustees from the trustee of the late Donald McLean, Esq., W.S. - - - - -	4,900	0	0
Interest thereon from 11th November 1870 to 15th May 1871	98	0	0
Note.—This sum is charged also on the estate of Kinloch, and 3,000 <i>l.</i> of the amount, representing advances to Mr. Anthony Vincent Maclaine, is primarily chargeable on that estate.			
Sum, being a balance due to Messrs. McNeill and Company, of Java, in respect of leasehold property of Banaran - - -	237	0	0
Interest thereon from 31st December 1868 to 15th May 1871 -	28	1	7



A.D. 1871.

## SCHEDULE (C.) referred to in this Act.

ANNUAL ALLOWANCES payable to Children of the said Donald Maclaine in terms of his Trust Disposition and Deed of Settlement.

	£	s.	d.
Balance of allowance to Mr. Murdoch Gillian Maclaine at the rate of 500 <i>l.</i> per annum, payable at 15th May 1870 - - -	£143	9	1
Moiety payable at 11th November 1870 of allowance at the rate of 800 <i>l.</i> per annum, subject to deduction of the free rents of the lands of Scallastle and Garmony - - -	400	0	0
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	543	9	1
Interest of 143 <i>l.</i> 9 <i>s.</i> 1 <i>d.</i> thereof from 15th May 1870, and of 400 <i>l.</i> thereof from 11th November 1870 till paid.			
Moiety payable at Whitsunday 1871, and at each term of Martinmas and Whitsunday thereafter till the execution in favour of Mr. Murdoch Gillian Maclaine of the disposition and deed of entail by the said disposition and deed of settlement directed to be executed, but subject to deduction of the free rents of Scallastle and Garmony - - -	400	0	0
Balance due to Mr. Anthony Vincent Maclaine of the rents of the estate of Kinloch for year ending at Martinmas 1870 -	179	4	2
Interest of 79 <i>l.</i> 4 <i>s.</i> 2 <i>d.</i> thereof from 15th May 1870, and of 100 <i>l.</i> thereof from 11th November 1870 till paid.			
Balance due to Miss Rosa Elizabeth Maclaine of allowance of 100 <i>l.</i> for year ending at Martinmas 1870 - - -	82	15	4
Interest of 50 <i>l.</i> thereof from Whitsunday 1870, and of 32 <i>l.</i> from Martinmas 1870 till paid.			
Moiety of said allowance of 100 <i>l.</i> payable to her at Whitsunday 1871, and at each of Martinmas and Whitsunday thereafter till she attain majority or be married - - -	£50	0	0
Less payable from Scallastle and Garmony -	8	12	4
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	41	7	8
Balance due to Miss Christian Sarah Maclaine of allowance of 100 <i>l.</i> for year ending Martinmas 1870 - - -	82	15	4
Interest of 50 <i>l.</i> thereof from Whitsunday 1870, and of 32 <i>l.</i> from Martinmas 1870 till paid.			
Moiety of said allowance of 100 <i>l.</i> payable to her at Whitsunday 1871, and at each term of Martinmas and Whitsunday thereafter till she attain majority or be married - - -	£50	0	0
Less payable from Scallastle and Garmony	8	12	4
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	41	7	8

## SCHEDULE (D.) referred to in this Act.

A.D. 1871.

PROVISION due and payable to Daughter, and Provisions contingently due and payable to Daughters of the said Donald Maclaine under his Trust Disposition and Deed of Settlement, and Interest thereon to 15th May 1871.

Sum due and payable to Emilie Guillaumine Maclaine, now Mrs.	£	s.	d.
Emilie Guillaumine Maclaine or Campbell - - -	5,000	0	0
Interest thereon from 11th November 1870 to 15th May 1871	125	0	0
Sum payable to Miss Rosa Elizabeth Maclaine on her majority or marriage - - - - -	5,000	0	0
Sum payable to Miss Christian Sarah Maclaine on her majority or marriage - - - - -	5,000	0	0

Note.—Each of these provisions is subject to deduction of the sum of 344*l.* 13*s.* 2 $\frac{7}{12}$ *d.*, and interest corresponding thereto, if paid from the lands of Scallastle and Garmony under the bond of provision granted by the said Donald Maclaine in favour of his younger children.



