



CHAPTER 2.

An Act to authorise the feuing of parts of the Lands of Tayfield, Northfield, and others, in the parish of Forgan or Saint Phyllans and county of Fife. [3d July 1879.]

A.D. 1879.

WHEREAS by an instrument of sasine registered in the New General Register of Sasines, &c. at Edinburgh, upon the sixteenth day of February one thousand eight hundred and fifty-three, John Berry, of Tayfield, was infeft as in fee simple in the lands and estate of Tayfield and others, being the lands specified in the First Schedule to this Act :

Instrument of sasine, in favour of John Berry, registered 16th February 1853.

And whereas by an ante-nuptial contract of marriage, dated the thirteenth day of November one thousand eight hundred and fifty-eight, entered into between the said John Berry on the one part and Miss Margaret Higgins Burn Murdoch, youngest daughter of John Burn Murdoch, of Neuck, advocate, with the special advice and consent of her said father, and the said John Burn Murdoch for himself on the other part, inter alia, the said John Berry, in contemplation of the said intended marriage, thereby disposed to himself and the sons to be born of the said intended marriage successively, in order according to their seniority, and the heirs whomsoever of their bodies respectively ; whom failing, to the sons to be born to the said John Berry in any subsequent marriage successively, in order according to their seniority, and the heirs whomsoever of their bodies respectively ; whom failing, to the daughters of the said intended marriage, successively in order, according to their seniorities, and the heirs whomsoever of their bodies respectively ; whom failing, to the daughters to be born to the said John Berry in any subsequent marriage, and the heirs whomsoever of their bodies respectively ; whom all failing, to the said John Berry, his heirs and assignees whomsoever, the eldest heir female throughout the whole course of the succession, excluding heirs portioners, and succeeding always without division ; but power, nevertheless, was thereby reserved to the said John Berry to

Ante-nuptial contract of marriage of John Berry and Margaret Higgins Burn Murdoch, dated 13th November 1858.

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prefer any younger son, or the heirs of the body of any younger son of the said intended marriage, to the eldest son, or the heirs of the body of the eldest son of the said marriage; and any younger daughter, or the heirs of the body of any younger daughter of that marriage, to the eldest daughter, or the heirs of the body of the eldest daughter of that marriage; but nowise to prefer any son, or the heirs of the body of any son, of any subsequent marriage, to a son, or the heirs of the body of a son, of that marriage; nor any daughter, nor the heirs of the body of any daughter, of any subsequent marriage, to a daughter, or the heirs of the body of a daughter, of that marriage, heritably and irredeemably. All and whole the lands and estate of Tayfield lying in the parish of Forgan or Saint Phyllans and county of Fife, as particularly described in the said instrument of sasine in favour of the said John Berry, recorded in the General Register of Sasines, &c. at Edinburgh, the sixteenth day of February one thousand eight hundred and fifty-three, being the lands specified in the First Schedule to this Act:

Disposition by the trustees of John Rogers, of Northfield, to John Berry, dated 12th, and registered in New General Register of Sasines 27th, November 1862.

And whereas by a disposition, dated the twelfth day of November one thousand eight hundred and sixty-two, and registered along with a warrant of registration indorsed thereon on behalf of the said John Berry, in the New General Register of Sasines, &c. at Edinburgh, on the twenty-seventh day of November one thousand eight hundred and sixty-two, granted by Robert Dykes, formerly calico printer, Glasgow, and then residing at Northfield, Fifeshire; James Rogers, residing at Newport, Fifeshire, son of the then deceased John Rogers, of Northfield, Fifeshire; and Elizabeth Rogers, otherwise Elizabeth Dykes Rogers, residing at Northfield, daughter of the said deceased John Rogers, only survivors of the accepting trustees nominated and appointed by the said deceased John Rogers, of Northfield, by his trust disposition and deed of settlement, dated the twenty-ninth day of September one thousand eight hundred and forty-three, and recorded in the Books of Council and Session the twelfth day of December one thousand eight hundred and forty-five, and by John Kermock, feuar, residing at Ceres, Fifeshire, trustee assumed by the said Robert Dykes, James Rogers, and Elizabeth Rogers, otherwise Elizabeth Dykes Rogers, as trustees foresaid, in virtue of the powers conferred upon them by the said trust disposition and deed of settlement by deed of assumption executed by them in favour of themselves and of the said John Kermock, dated the nineteenth day of April, and recorded in the Particular Register of Sasines for Fifeshire, the second day of May, and in the Books of Council and Session the tenth day of June one thousand eight hundred and sixty-two, to and in favour of the said John Berry, the said John Berry was infeft as in fee

simple in the lands of Northfield and others being the lands specified in the Second Schedule to this Act: A.D. 1879.

And whereas by a deed of nomination of tutors and curators dated the thirtieth day of August one thousand eight hundred and seventy-seven, and recorded in the Books of the Lords of Council and Session in Scotland the fourteenth day of January one thousand eight hundred and seventy-eight, the said John Berry, being desirous to nominate tutors and curators to his children while in pupillarity or minority, did thereby nominate, constitute, and appoint his wife, Mrs. Margaret Higgins Burn Murdoch or Berry, as also the following uncles of his said children; namely, Robert Berry, Professor of Law in the University of Glasgow; the Reverend Alexander Higgins Burn Murdoch, of Neuck, minister of the Scotch Congregation at Nice; the Reverend James McGibbon Burn Murdoch, of Greenyards, vicar of Riverhead in Kent; and Archibald Burn Murdoch, writer to the Signet in Edinburgh, and the acceptors or acceptor and survivors or survivor of them, to be tutors and curators to his said children, the majority of said tutors and curators being always a quorum; but declaring that during the life of his said spouse her consent to all resolutions that might be come to by said tutors and curators, and all deeds to be granted by said tutors and curators, should be sine quâ non:

Deed of nomination of tutors and curators to his children, by John Berry, of Tayfield, dated 30th August 1877, recorded in the Books of Council and Session 14th January 1878.

And whereas the said John Berry died on or about the seventeenth day of December one thousand eight hundred and seventy-seven, survived by certain children of his marriage with the said Margaret Higgins Burn Murdoch or Berry, of whom the eldest son is William Berry, now of Tayfield, who was born on or about the ninth day of May one thousand eight hundred and sixty-four, and is now a minor of the age of fourteen years:

And whereas the said John Berry died without having exercised the faculty which he reserved to himself in the said recited contract of marriage to prefer any younger son, or the heirs of the body of any younger son, of his said marriage, to the eldest son, or the heirs of the body of the eldest son, of his said marriage:

And whereas the said Margaret Higgins Burn Murdoch or Berry, Robert Berry, Reverend Alexander Higgins Burn Murdoch, and Reverend James McGibbon Burn Murdoch, accepted of the office of tutors and curators, but the said Archibald Burn Murdoch declined to accept of the office of tutor and curator under the said deed of nomination of tutors and curators:

And whereas the said Margaret Higgins Burn Murdoch or Berry, Robert Berry, Reverend Alexander Higgins Burn Murdoch, and Reverend James McGibbon Burn Murdoch, as curators of the said William Berry, have completed the title of the said William Berry to the heritable estates to which he succeeded upon the death of

A.D. 1879. the said John Berry, his father; and the said William Berry is now infest as in fee in the lands and estate of Tayfield and others, and in the lands of Northfield and others, being the lands specified in the First and Second Schedules to this Act:

And whereas the said lands specified in the First and Second Schedules to this Act now possessed by the said William Berry are contiguous, and are about one thousand and five acres in extent, and are situate on the south bank of the river Tay, immediately opposite the town of Dundee, with a frontage along the shore of the said river, extending to two thousand seven hundred yards or thereby, and include the greater part of the town of Newport, which covers an area of about one hundred and thirty-five acres, and which, to the extent of about eighty-one acres, is built upon the said lands, and the said lands, so far as they adjoin the said town of Newport, are well adapted for dwelling-houses and public buildings, and the demand for sites for such dwelling-houses and buildings is great, and is yearly increasing:

And whereas the said deceased John Berry and others, the predecessors of the said William Berry, promoted the extension of the said town of Newport, and were in the constant practice of granting feu rights to persons desirous to build there:

And whereas the annual return at present derived from the said lands, so far as they are situate in or adjoin the town of Newport, is altogether disproportionate to their real value, and the said William Berry, by reason of his minority, is unable to grant feu rights of building sites to persons desirous to build houses on the said lands which shall be indefeasible titles thereof by the law of Scotland:

And whereas it would be greatly to the prejudice of the said William Berry and the persons entitled to succeed to him in the possession of the said lands that the progress of building in and adjoining the said town of Newport should be interrupted for the period of the minority of the said William Berry, and it would be greatly to the advantage of the said William Berry and the persons entitled to succeed to him in the possession of the said lands and estate if he were authorised, with the consent of his curators aforesaid, from time to time to feu the said lands for payment of adequate feu duties, and to grant feu charters, or to enter into feu contracts or building leases for long periods relating thereto, which should not thereafter be subject to reduction, on the ground of the minority of the said William Berry, but the purpose above mentioned cannot be effected without the authority of Parliament:

Wherefore Your Majesty's most dutiful and loyal subjects, the said William Berry and the said Margaret Higgins Burn Murdoch or Berry, Robert Berry, Alexander Higgins Burn Murdoch, and

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James McGibbon Burn Murdoch, as curators of the said William Berry, do most humbly beseech 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. This Act may be cited for all purposes as the *Berry Estate Act, 1879.* Short title.

2. From and after the passing of this Act, it shall be lawful for the said William Berry, with the consent of the said Margaret Higgins Burn Murdoch or Berry, Robert Berry, Alexander Higgins Burn Murdoch, and James McGibbon Burn Murdoch, or of the survivors of them as the acceptors and survivors of the curators nominated to him by the said deceased John Berry, his father, the majority of the said curators being a quorum, but during the life of the said Margaret Higgins Burn Murdoch or Berry, her consent being always a sine qua non, to feu the said lands specified in the First and Second Schedules to this Act, or any part thereof, except the mansion house policies, and gardens connected therewith, from time to time in such lots or portions, and for payment of such annual feu duties or ground rents as he and they and she may think fit, and with consents foresaid to grant feu charters, and to enter into and execute feu contracts or building leases for long periods, of or relating to the said lands or any parts thereof, except as aforesaid, with any person, company, or corporation, containing provisions for securing the payment of the said feu duties or ground rents, and all other proper and necessary provisions and conditions according to the law of Scotland, and the said feu charters and feu contracts and building leases shall not thereafter be reducible on any ground arising from the minority of the said William Berry: Provided that it shall not be lawful for the said William Berry to accept or take any money or consideration whatsoever by way of fine, premium, or grassum, for or in respect to the granting of any feu charter, or entering into any feu contract or building lease of the said lands or any part thereof.

Power to feu lands, and execute feu charters and feu contracts and building leases.

3. Every feu charter granted or feu contract or building lease entered into under the authority and in conformity with the provisions of this Act, shall be as valid and effectual to all intents and purposes as if the said William Berry was of the full age of twenty-one years at the date of his execution thereof; and the feu duties and ground rents becoming due from time to time under the feu charters or feu contracts or building leases of the said lands or any part thereof shall be payable to the said William Berry; whom

As to validity of feu charters and feu contracts and building leases, and payment of feu duties and ground rents.

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General
saving.

4. Saving 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, and their respective heirs, successors, executors, and administrators (other than the said William Berry), all such right, title, interest, claim and demand in, to, or out of the said lands, or any part thereof, as they or any of them had before the passing of this Act, or could or might have had or enjoyed if this Act had not been passed.

Expenses of
Act.

5. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, or of and incident to the carrying the same into effect, shall be paid by the said William Berry.

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

6. 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.

SCHEDULES to which the foregoing Act refers.

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THE FIRST SCHEDULE.

ALL and whole the tenandry of Tayfield, therein comprehending all and sundry the lands, mills, teinds, port fishings and others after specified, viz^t., all and whole the lands of Inverdovat and plewlands thereof, with the manor place, houses, buildings, yards, orchards, dovecots, tofts, crofts, annexis, connexis, tenants, tenendries and services of free tenants, parts, pendicles, and pertinents thereof, as also the fishings of the same with the privileges thereto belonging, lying within the parish of Forgan and sheriffdom of Fife, as also all and whole the town and lands of Inverdovat, sometime belonging to David Balfour, of Balledmonth, and possessed by Agness Rhind and Andrew Kirkaldy, lying within the Barony of Naughton and sheriffdom of Fife, as also all and whole the lands of Inverdovat, otherwise called Leightons lands, formerly possessed by David Heggie, proprietor or superior thereof, and afterwards by John Ramsay, in Friarton, and others, tenants of the same, with houses, biggings, yards, fishings privileges thereof, and other pertinents whatever thereto belonging lying within the sheriffdom aforesaid, as also all and whole the milns of Sea Milns, with multures and profits and easements of the same, and lands formerly feued out by Doctor James Walker, sometime proprietor of the said lands of Inverdovat, to Robert Russell, and afterwards acquired and consolidated with the superiority thereof in the person of the deceased John Berry, Esquire, of Tayfield, father of the also deceased William Berry, lying within the sheriffdom aforesaid: As also all and whole the lands called Bank of Inverdovat, with houses, biggings, yards, and whole parts, pendicles, and pertinents thereof, sometime part of the barony of Inverdovat, lying within the parish of Forgan and shire of Fife, together with the teind sheaves and parsonage teinds of the foresaid lands: As also the town and lands of Newport, being parts and portions of the foresaid tenandry acquired by the Guildry of Dundee from Gavin Hamilton, of Inverdovat, and conveyed by the said guildry to John Lyon, of Inverdovat, and by him to the said deceased John Berry, and now re-united with the other parcels of the said tenandry, viz^t., all and whole three acres and a half, or thereby, of arable land of the lands of Inverdovat, bounded in manner following, viz., two acres and a half thereof which is part of the said lands of old called Leighton's lands, lying betwixt the stripe of water of old called Kilburns on the west, and the half acre of land, formerly part of the estate of St. Fort, on the east: As also another acre of land or thereby, part of the said lands of Inverdovat, acquired by the said deceased Gavin Hamilton from James Hamilton, of Inverdovat, his father-in-law, bounded betwixt the lands which belonged to the deceased Alexander Nairne, of St. Fort, on the west and east parts, and all the said three acres and a half, bounded by the King's highway on the north, and by pit stones or march stones, dividing the same from the lands of Inverdovat, before described, on the south, together with the houses, biggings, yards, and pertinents of the same lying as said is as also the barren ground

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Gavin Hamilton in life rent, and Alexander Hamilton, afterwards Inglis, his son, in fee, of date the seventh day of May in the year one thousand seven hundred and twelve, erected into a free tenendry to be called the tenendry of Inverdovat, but now called the tenendry of Tayfield, conform to charter under the Great Seal in favour of the said William Berry, dated the third day of February in the year one thousand eight hundred and nineteen, but excepting always out of the said tenendry of Tayfield these parts and portions of the said lands of Inverdovat and bank thereof, lying on the east and north sides of the line of marches first described in a contract of division and excambion after mentioned, with the houses, parts, and privileges thereto belonging, and that part and portion of the great common belonging to the said lands lying on the south side of the line of marches last described in the said contract of division and excambion, and which lands and others so excepted were disposed by the said Alexander Hamilton, there designed Inglis of Murdiston, to William Dalgleish of Scotsraig, in exchange or excambion for the lands and others next herein-after mentioned (belonging to the said deceased William Berry, and in the said disposition and settlement and herein-after described), conform to contract of division and excambion between them of date the twenty-ninth day of May in the year one thousand seven hundred and forty-seven, and recorded in the Books of Session the first day of June thereafter. As also all and whole these parts and portions of the lands commonly called Causewayhead, of whatever name and designation they may be, lying on the west and south sides of the line of marches first described in said contract of excambion, comprehending and including the lands called Pluck the Crow (the property or dominium utile whereof was acquired by the said deceased John Berry from Agnes Rea, and was thereafter consolidated with the superiority thereof in his person), with houses, biggings, yards, pertinents, and privileges thereto belonging; and likewise that part and portion of the foresaid great common lying on the north side of the line of marches last described in said contract of excambion, and which parts and portions of the lands of Causewayhead, and others last mentioned, formerly belonged to Mr. William Dalgleish, and were disposed by him to the said Alexander Inglis, otherways Hamilton, by the contract of division and excambion before mentioned, and were by various transmissions subsequently vested in the person of the said William Berry. And all which lands and others also lye within the parish of Forgan and shire of Fife aforesaid. And all and hail these several parts and portions of the lands and barony of Inverdovat, formerly belonging to Mr. Alexander Walker, of St. Foord, and which in his and his authors' charters and rights of the same are called and go under the name and designation of Laverocklaw, otherwise a carrucate of land in Fluirs and Croft of Inverdovat, three acres of land in the Fluirs and Croft, in the village of Inverdovat, the ten merk land of Inverdovat called Triulies lands, and six acres of land in the town of Inverdovat, all with the other lands of Inverdovat, formerly lying within the barony of Inverdovat, and commonly designed as follows; viz^t, the town and lands of Causewayhead and Laverocklaw, sometime possessed by John Duncan tenant there, the town and lands of Den of St. Foord, sometime possessed by Charles Robertson tenant there, the lands of Craighead, sometime possessed by William Gilchrist tenant there, that field and piece of land lying on the south side of the river Tay called Fish House land fenced and enclosed by a dike and ditch, as sometime possessed by

A.D. 1879. John Morrison, vintner in Newport, Dundee, six rigs of land, lying on the east side of Newport, above the boatmen's houses and yards, and the house, lands, and garden, sometime possessed by David Webster, horse-hirer, in said Newport, lying on the east side of the water of Dundee, the lands of Waterston Crook, sometime possessed by William Chipers, elder and younger, that land with crofts and yards, as inclosed, and sometime possessed by John Paton, thereafter by Alexander Paterson, lying upon the water called Dundee Waterside, these houses and gardens lying immediately to the east of said Newport, sometime possessed by William Fethers and George Scott, boatmen, that acre and a half acre of land, or thereby, called the Holls, being part of the lands of Causewayhead, as possessed by David Just, feuar there, and that piece of land with the pertinents called Pluck-the-Craw, sometime possessed by David Harlon Wright, in right of Christian Kirkaldy, feuar there, with the houses, biggings, dovecots, yards, mosses, muirs, meadows, parts, pendicles, privileges, and whole pertinents of the haill lands and others foresaid, and common pasturage upon the north and south sides, or parts of the commonty of Inverdovat and Slatemuir: As also the salmon fishings belonging to the said lands, called Greenside, and all other salmon fishings situated on the west of the march dike betwixt the lands of Scotsraig, and that portion of the lands of Inverdovat held in feu by John Rogers from the said William Berry, and belonging to the estate of Robert Dalgleish, sometime proprietor of Scotsraig, and of the said lands of Causewayhead, Laverocklaw, and others before described, with all right which the said William Berry had to the salmon fishings in virtue of the disposition by the trustee of the said Robert Dalgleish in his favour, or in any other manner of way, together with the multures and sequels of the said lands and immunity and freedom from all astriction and thirlage to the mill of St. Foord, called Kay's Miln, and other milns whatsoever which belonged to the said Mr. Alexander Walker, all lying within the parish of Forgan alias St. Phyllans and sheriffdom of Fife, together with all and sundry the teind sheaves and parsonage teinds of all and sundry the haill lands and others foresaid, as also all and whole an annual rent of sixty pounds Scots, or such an annual rent as shall correspond to the sum of one thousand pounds of said money payable yearly furth of the said lands of Inverdovat under reversion in manner mentioned in an heritable bond granted by Mr. Alexander Nairne, of St. Fort, to David Bonthron, in Fawfield, dated the twenty-second day of May one thousand six hundred and ninety-three years, and in the instrument of sasine following thereon in so far allenary as the same does affect the lands and others foresaid, and further, all and haill these parts and portions of the foresaid lands of Inverdovat, and bank thereof, of whatever name and denomination, which parts formerly belonged to the said Alexander Inglis, alias Hamilton, of Murdeston, and lie upon the east and north sides of a line of marches mentioned in the foresaid contract of division and excambion, betwixt the said Alexander Inglis and the said deceased Mr. William Dalgleish, dated the said twenty-ninth day of May one thousand seven hundred and forty-seven years, with the houses, biggings, and yards upon the said lands, and privileges and pertinents thereto belonging: also all and haill that part and portion of the foresaid great common lying upon the south side of another line of marches mentioned in the said contract which divides the said great common as the said lands and common do now lye united together, and separated and divided from the other lands of

Inverdovat and common thereof by the said line of marches as particularly delineated in said contract of division and excambion betwixt the said Alexander Inglis Hamilton, of Murdeston, and the late Reverend Mr. William Dalgleish, of Scotsraig, of the date aforesaid, now recorded in the Books of Council and Session (R.C.), the sixteenth day of July one thousand seven hundred and eighty-one years, all lying within the parish and sheriffdom aforesaid, with the teinds of the said lands, great and small, parsonage, and vicarage.

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THE SECOND SCHEDULE.

ALL and whole that field of land, of old called Northcommon, now called Northfield, part of the lands of Inverdovat lying within the parish of Forgan and shire of Fife, bounded the said field of land by the lands lately of Mr. Dalgleish, of Scotsraig, on the east and west parts, by the river Tay on the north, and by a fir park belonging formerly to John Lyon, Esquire, of Kinnaird, thereafter to William Berry, Esquire, of Tayfield, and now to William Berry, so far as it goes, on the south parts, the South March, so far as the said fir park goes, having been in terms of a contract of feu of the said lands entered into between the said John Lyon, of Kinnaird, and John Rogers, shoemaker in Dundee, dated the seventh day of May, and registered in the Sheriff Court Books of Fife the fourth day of August, one thousand seven hundred and eighty-eight, fixed by a stone dyke built at the mutual expense of the now deceased John Berry, Esquire, of Tayfield, and the deceased John Rogers, the former proprietor of the said lands, and others, together with the dwelling-house and other buildings erected on the said lands, and the whole parts, privileges, and pertinents now belonging to the said lands, and particularly with the privilege of the entry or loaning to the said field as it presently runs from Newport.

