



ANNO DECIMO QUARTO & DECIMO QUINTO

VICTORIÆ REGINÆ.

Cap. 9.

An Act for regulating and securing the Debt due by the Burgh of *Musselburgh* in the County of *Edinburgh*, and for other Purposes in relation thereto. [1st August 1851.]

WHEREAS an Act was passed in the Parliament of *Scotland* in the Year One thousand six hundred and forty-one, intituled *Ratificatioun in favouris of the Burgh of Mussilburgh, et cet.*, and another Act was passed in the Parliament of *Scotland* in the Year One thousand six hundred and sixty-one, intituled *Ratification in favours of the Town of Mussilburgh*, by which Acts various Privileges and Immunities were confirmed to the said Burgh of *Musselburgh*, and particularly to form Ports or Harbours, and to levy Dues and Rates at the same: And whereas an Act was passed in the Third Year of the Reign of Her present Majesty, intituled *An Act for improving, enlarging, and maintaining the Harbour of Fisherrow in the County of Edinburgh*: And whereas the Provost, Magistrates, and Council of the Burgh of *Musselburgh*, and their Predecessors in Office, have from Time to Time borrowed and taken up at Interest and on Annuity various Sums of Money, and contracted certain other Debts, for which they have interposed the Credit of the Burgh: And whereas by the said recited Act of the Third Year of Her present

Acts of Parliament of Scotland, 1641.

1661.

3 & 4 Vict. c. 73.

[Private.]

Majesty

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Majesty the Harbour of *Fisherrow*, and the Piers, Quays, Breasts, and other Works made, built, and erected at the Time of the passing of the said Act, or thereafter to be made, built, and erected in and about the said Harbour, were vested in the said Provost, Magistrates, and Council as Commissioners, to and for the Ends, Uses, and Purposes of the said Act: And whereas by the said last-recited Act the said Commissioners were authorized and empowered to levy Rates and Duties for the Use of the said Harbour, and to apply the same, after defraying the Expenses of obtaining the Act, in improving and keeping in repair the said Harbour and Works connected therewith, and in paying the Interest and repaying the Principal of such Sums of Money as were then due and owing in respect of the said Harbour, or which should thereafter be borrowed by the said Commissioners under the said Act: And whereas by the said last-recited Act the said Commissioners were authorized and empowered from Time to Time to borrow and take up at Interest for the Purposes of the said Act any Sums of Money not exceeding in the whole at any One Time the Sum of Fifteen thousand Pounds, and to assign, for securing the Payment of the same, with the Interest thereof respectively, the several Rates and Duties granted by the said Act, to any Person who should be willing to advance and lend Money thereon, upon Assignments to be executed by the said Commissioners in the Form prescribed by the said Act: And whereas the said Provost, Magistrates, and Council, previous to the passing of the said last-recited Act, had expended the Sum of Five thousand Pounds in improving the said Harbour and in obtaining the said Act, and have also, as Commissioners under the said Act, borrowed and taken up at Interest the farther Sum of One thousand five hundred Pounds, and applied the same in farther Improvements on the said Harbour, and for which the Credit of the Burgh was also interposed, and which Sums of Money, amounting in whole to the Sum of Six thousand five hundred Pounds, are now due and owing in respect of the said Harbour, but no Securities for the same by way of Assignments have been executed in Terms of the said last-recited Act: And whereas legal Diligence by Inhibition and otherwise has been resorted to by various Creditors of the said Burgh, whereby the said Provost, Magistrates, and Council are prevented from realizing any Part of the Property of the Burgh for Payment of the Debts thereof, and it is moreover doubtful how far the said Provost, Magistrates, and Council can validly sell and dispoise or grant Securities over the Lands and certain valuable Feu Duties and Casualties of Superiority belonging to them, by reason of the peculiar Feudal Tenure and Jurisdiction under which the same are held: And whereas it is desirable that Measures should be taken for a speedy Settlement of the Debts of the said Burgh, in so far as there are or may be Funds legally available for that Purpose, and for the Security of the Creditors, and in the meantime

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time to prevent undue Preferences among the Creditors, and to save the Expense which Creditors might incur by competing among themselves, or by doing legal Diligence for the Recovery of their Debts, and to remove all Doubts as to the Burgh's Title Deeds, or the Power of the said Provost, Magistrates, and Council, and their Successors in Office, to sell and dispoise to Purchasers the said Lands, Feu Duties, and Casualties: But as these Purposes cannot be effected without the Authority of Parliament, may it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

I. That the whole Property, Estates, and Effects, heritable and moveable, real and personal, wherever situate, and of whatever Denomination, belonging and addebted and owing to the Burgh of *Musselburgh*, shall (except as herein otherwise provided) from and after the passing of this Act form and constitute a Trust Estate for the Security and Payment of the Creditors of the said Burgh having on the Date of the passing of this Act legal Claims of Debt against the said Burgh, exclusive of and in preference to all future Creditors and Claims; and all Right, Title, and Interest in the said Property, Estate, and Effects vested before the passing of this Act in the Provost, Magistrates, and Council of the said Burgh shall from the passing of this Act be transferred to and vested in a Board of Commissioners or Trustees for the Creditors of the said Burgh, herein-after named and appointed, and the said Trust Estate shall be under the Control and Management and at the Disposal of the said Board of Trustees, and their Successors in Office, in order that the same may be realized and recovered, and, so far as practicable and necessary, sold and converted into Money, and distributed among the said Creditors, in the most advantageous, speedy, and economical Manner: Provided always, that there shall not be included in the said Trust Estate, or vested in the said Trustees, any of the Property, Estate, or Effects, or any of the Rights or Privileges, set forth in the Schedule marked (A.) to this Act annexed, all of which shall continue to belong to and remain vested in the said Magistrates and Council, and shall be applied and enjoyed and exercised by them as heretofore: Provided nevertheless, that if and as often as the clear annual Revenue arising from such reserved Property, Estate, and Effects shall exceed the Sum of One hundred and fifty Pounds Sterling, then such Surplus, after accumulating a Capital Sum of One hundred and fifty Pounds to be retained by the said Magistrates and Council for the Purposes of forming a Fund to meet Contingencies, shall be paid over by the said Magistrates and Council to the said Board of Trustees, and shall form Part of the Trust Funds under their Management and Control

in

Property of
the Burgh
vested in
Trustees for
its Creditors.

Exception
from Con-
veyance to
Trustees.

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in virtue of this Act; and provided further, that if any Difference of Opinion shall arise as to whether there is any Surplus which should be so paid over, such Dispute shall be determined in a summary Form by the Sheriff of the County of *Edinburgh*, whose Decision shall be final, and not subject to Review by Suspension or Advocation or any other Process of Appeal to any Superior Court.

Schoolmasters Salaries deemed Part of Municipal Expenses.

II. That the Salaries of the Three present Burgh Schoolmasters during their Incumbency shall be held as forming a Portion of the ordinary Municipal Expenses of the said Burgh.

Trustees not required to make up a Feudal Title.

III. That it shall not be necessary for the Trustees to make up any Feudal Title in their Persons, nor to record any Abbreviate in the Register of Abbreviates of Adjudications, but the whole Lands and other Heritable Estate belonging to the said Provost, Magistrates, and Council of the said Burgh, not herein specially excepted, shall by virtue of this Act be held fully vested in the said Trustees.

Saving Jurisdiction of Magistrates and Council.

IV. That nothing in this Act contained shall take away, impair, or in any way affect any Rights of Jurisdiction, civil or criminal, which are at present possessed or which are or might be exercised and enjoyed by the Provost and Magistrates or Bailies and Council of *Musselburgh*, or any of them, or of any Person acting under their Appointment or Authority, all such Rights being hereby reserved entire.

No Preference to be obtained by any Creditor;

V. That from and after the passing of this Act it shall not be competent to any of the said Creditors of the said Burgh to prosecute or follow forth any Diligence in his own Name for the Recovery or securing of the Debt owing to him, but all such Diligence, if any be necessary, shall be competent to the Trustees for the Creditors alone, for the Benefit of the whole of the said Creditors, and that no legal Proceeding or Claim of Compensation or Retention taken or acquired or Payment received subsequent to the First Day of *December* One thousand eight hundred and fifty shall have any Effect in giving any Preference to any Creditor of the said Burgh: Provided always, that any of the said Creditors who may previously have obtained any legal Preference over the other Creditors, or any special Security over any Lands, Property, Estate, or Effects of the said Burgh, shall continue entitled to such Preference or Security, such Preferences and Securities being hereby reserved to the Persons legally entitled to the same: Provided nevertheless, that it shall be lawful to the Board of Trustees to challenge and set aside, on any Ground competent in Law, any Security, Obligation, or Preference which any Creditor or other Party may have obtained at or prior to the First Day of *December* One thousand eight hundred and fifty.

unless Preference legally constituted previous to 1st December 1850.

VI. That

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VI. That the Board of Trustees for the Purposes of this Act shall consist of Three Members of the Town Council of the said Burgh, and of Six Persons on behalf of or to be chosen by the Creditors.

Appointment
of Trustees.

VII. That *William Campbell*, present Provost, *John Livingstone*, present Treasurer, and *James Bridges*, One of the present Councillors of the said Burgh, shall be the First Trustees on behalf of the said Town Council; and *George Goodsir*, Merchant, *Musselburgh*, *David Henderson*, Writer, *Edinburgh*, *Robert Ainslie*, Writer to the Signet, *Peter Millar*, Merchant, *Musselburgh*, *John Leitch junior*, Merchant, *Musselburgh*, and *Robert Wilson*, Surgeon, *Musselburgh*, shall be the First Trustees on behalf of the Creditors; and the Powers of the said Trustees herein named shall commence upon the passing of this Act, and they shall continue in Office till their Successors shall respectively be appointed or elected as herein-after provided.

Trustees
named.

VIII. That to provide for the Succession of Three Trustees from the said Town Council to those hereby appointed, the Provost, Magistrates, and Council shall, on the Day appointed for the annual Election of Magistrates, immediately after the Municipal Elections for the said Burgh in the present and every future Year while the said Board exists, appoint Three Members of the said Council to be Trustees under this Act; and the Three Members of the said Council hereby appointed, and the Three Members to be thereafter annually appointed by the said Magistrates and Council, shall retire from Office upon the Day appointed for the annual Election of Magistrates in the present and every future Year respectively.

Election of
Trustees
by Town
Council.

IX. That to provide for the future Election and Succession of Trustees from the said Creditors the Creditors shall meet within the Town Hall of the said Burgh on the Second *Tuesday* of the Month of *November* next, and on the Second *Tuesday* of the Month of *November* in each succeeding Year, while the said Board exists, at Twelve o'Clock at Noon, and at the said First Meeting they shall choose and elect Six Persons, and specify the Order of their Election, and at all subsequent Meetings they shall choose and elect Two Persons to be Members of the said Board of Trustees; and after the said First Election, upon future Appointments taking place, Two of the Trustees who have been longest in Office shall retire therefrom; provided, with regard to the Six Persons to be first elected Members of the said Board, they shall retire from Office in the Order in which their Names are set forth in the Minutes of their Election, beginning with the Two who are first mentioned, who shall be the first to retire; and at every such Meeting of the Creditors for the Election of Trustees as aforesaid, or for supplying occasional Vacancies among the Trustees as herein-after provided, the Creditors present

Election of
Trustees by
Creditors.

[*Private.*]

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shall choose One of their own Number to preside thereat, and to sign the Minutes thereof, and the Election of Trustees shall be decided by the Majority in Value of the Creditors present by themselves or by their Mandatories.

Persons in certified List of Creditors, or their Mandatories, only to be entitled to vote at Meetings of Creditors.

X. That the Persons entitled to attend and vote as Creditors under this Act at any Meetings of Creditors for the Election of Trustees or any other Purposes shall be only those Persons whose Names are contained in a List of Creditors to be made up by the said Trustees, and certified by their Clerk; but provided that the Mandatory of any Person entitled to vote as a Creditor may vote at all Meetings of the Creditors in the Absence of such Creditor, provided he exhibit a Mandate, and the Vote of such Mandatory shall be held as the Vote of the Creditor himself.

Trustees re-eligible for Election.

XI. That the Persons hereby named or hereafter to be elected Trustees shall at all Times be re-eligible for Election as Trustees by either of the said elective Bodies.

Trustee elected by Creditors becoming a Town Councillor to vacate Office.

XII. That in the event of any Trustee elected by the Creditors under this Act thereafter becoming a Member of the Town Council, he shall *ipso facto* vacate his Office of Trustee: Provided always, that the Person so vacating the Office may be re-elected thereto.

Vacancies how to be supplied.

XIII. That whenever any Vacancy shall occur in the Board after the First Election of Trustees, by reason of the Disqualification, Non-acceptance, or Resignation of Office, or the Death of any Trustee, such Vacancy may be filled up by the elective Body whose Nominee shall have become disqualified, or declined to accept or have resigned Office, or shall have died, which elective Body is in such Event authorized to nominate and elect another Person qualified as aforesaid, who shall continue in Office for the Remainder of the Period during which the Trustee in whose Stead he is appointed might have remained in Office but for such Disqualification, Declinature, Resignation, or Death; and whenever any such Vacancy shall occur among the Six Trustees to be elected by the Creditors, the Clerk to the Trust shall be authorized and bound, within Fourteen Days from the Date of such Vacancy becoming known to him, to call a Meeting of the Creditors for the Purpose of supplying such Vacancy, by Advertisement in some One Newspaper published in *Edinburgh* Eight Days at least previous to such Meeting.

Vacancies not to impede Execution of Act.

XIV. That, notwithstanding any Vacancy in the Board arising from the foregoing or any other Causes, and notwithstanding any Dispute as to the Validity of the Election or the Qualification of any Trustee, it shall be lawful for the other Members of the Board to carry this

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Act into full Effect, according to the Intent, Meaning, and Provisions thereof.

XV. That where any Dispute shall arise as to the Election of a Trustee under this Act, any Creditor or Competitor, giving Notice in Writing to the Clerk to the Trustees within Two Days after such Election of his Intention to appeal against the same, shall be entitled to appeal during Session to the Inner House of the Court of Session, or in Vacation to the Lord Ordinary on the Bills; provided that in the Case of Competition a Bond of Caution for the Competitor, signed by a Cautioner approved of at the said Meeting for the Election of Trustees, shall along with such Notice be lodged with the said Clerk, and a Certificate thereof by the said Clerk, with a Note of Appeal against such Election, be lodged with the Clerk of the Bill Chamber within Fourteen Days from the Date of such Election; and on a Copy of such Note, certified by One of the Bill Chamber Clerks, being intimated to the Clerk to the Trustees, he shall forthwith transmit to the Bill Chamber the Minutes of Election, together with such of the Proceeding as may be required, and the Inner House or the Lord Ordinary (as the Case may be) shall thereupon hear Parties *vivâ voce*, and pronounce Judgment, and may either confirm the Election complained of or prefer the Competitor, or order a new Election, and appoint a Time and Place for that Purpose; and no Part of the Expense of such Competition shall be paid out of the Trust Estate, but the Expenses shall be ordered to be paid by the unsuccessful Party to the successful Party.

Disputes as to Election of Trustee may be appealed to Court of Session.

XVI. That the said Trustees shall hold their First Meeting for carrying this Act into execution within the Town Hall of the Burgh of *Musselburgh* at Twelve o'Clock, Noon, of the Third *Tuesday* of the Month immediately succeeding the passing of this Act, or at some other convenient Time, of which Eight Days Notice shall be given by the Provost and Magistrates of the said Burgh by Advertisement in some Newspaper published in *Edinburgh*; and thereafter the Trustees shall hold One Meeting in each Year for carrying this Act into execution, to be called a Stated Meeting, within the Town Hall aforesaid, on the Third *Tuesday* of the Month of *April* in each Year, at Twelve o'Clock, Noon, at which Stated Meeting it shall be lawful for the Trustees to take into consideration and resolve upon any Matter or Question connected with the said Trust, and arising out of the Provisions of this Act or relative thereto.

First and subsequent Meetings of Trustees.

XVII. That it shall be lawful for any Three or more of the said Trustees to call a Special Meeting of the said Trustees, to be held at any Place within the Burgh of *Musselburgh*, by written or printed Notices delivered to the Trustees or left at their respective usual Places

Special Meetings of Trustees.

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Places of Abode or Places of Business, Twenty-four Hours at least before such Meeting, in which Notice there shall be stated the Time and Place of such Meeting, and the special Business for which it is called; provided that at such Special Meetings it shall be lawful to the Trustees to take into consideration and resolve upon such Business only as such Meeting shall have been called to consider, and as shall have been stated in the Notices calling the same.

Quorum of Trustees and Proceedings at Meetings.

XVIII. That at every Meeting of Trustees, whether stated or special, Three Trustees shall form a Quorum, of whom Two at least shall be Trustees hereby appointed on behalf of or to be hereafter elected by the Creditors, and the Trustees present shall choose One of themselves to preside as Preses at the Meeting, and to subscribe the Minutes thereof; and every Question brought before such Meeting shall be decided by the Majority of Votes of the Trustees present at the Time, the Preses having, in case of an Equality of Votes, a Casting Vote, in addition to his deliberative Vote.

Meetings of Trustees may be adjourned.

XIX. That the Trustees or Trustee present at or for the Purpose of holding any Stated Meeting duly constituted, or any Adjournment thereof, may adjourn such Meeting from Time to Time, Intimation of such adjourned Meetings being always made to the Trustees by printed or written Notices, delivered to them personally, or left at their respective usual Places of Abode or Places of Business, Twelve Hours at least before such adjourned Meeting.

Trustees to defray their own Expenses.

XX. That at all Meetings of Trustees every Trustee present shall defray his own Expenses.

How Trustees may sue and be sued.

XXI. That for all and any of the Purposes of this Act the said Trustees may sue and be sued in the Name of their Clerk; and no Action or Suit wherein the said Trustees shall be concerned as Pursuers or Defenders shall cease or abate by the Death, Removal, or Disqualification of such Clerk, but the Trustees for the Time being shall be deemed to be Pursuers or Defenders, as the Case may be, in every such Action or Suit, till a new Clerk be appointed.

Clerk, Treasurer, and Officers to be appointed.

XXII. That it shall be lawful for the said Trustees to appoint a Clerk, Treasurer, Factor, and all such other Officers to assist in the Execution of this Act as they shall think necessary and proper, and from Time to Time remove any of such Officers, and appoint others in the Room of such as shall be so removed, or as may die, resign, or discontinue their Offices, and may pay such Salaries and Allowances to the said Officers respectively as the Trustees shall think reasonable.

XXIII. That

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XXIII. That the same Person shall not hold the Offices both of Clerk and Treasurer to the said Trustees; and if any Person, being the Clerk or the Partner of such Clerk, or in the Service of such Clerk or of his Partner, accept the Office of Treasurer under this Act, or if any Person, being the Treasurer or the Partner of such Treasurer, or in the Service of such Treasurer or of his Partner, accept the Office of Clerk, he shall for every such Offence forfeit the Sum of One hundred Pounds; and any Person may sue for such Penalty by Action of Debt or on the Case in any Court competent in *Scotland*, and shall on Recovery thereof be entitled to full Costs of Suit.

Offices of Clerk and Treasurer not to be held by One Person.

XXIV. That every Officer employed by the Trustees who shall exact or accept, on account of anything done by virtue of his Office, or in relation to the Matters to be done in virtue of this Act, any Fee or Reward whatsoever other than the Salary or Allowance allowed by the Trustees, or who shall be in anywise concerned or interested in any Bargain or Contract made by the Trustees, shall be incapable of being afterwards employed by the Trustees, and shall forfeit the Sum of Fifty Pounds; and any Person may sue for such Penalty by Action of Debt or on the Case in any competent Court, and shall on Recovery thereof be entitled to full Costs of Suit.

Penalty on Officers taking Fees other than his Allowance.

XXV. That before any Person, whether Clerk, Treasurer, or other Officer, shall enter upon any Office under the Trustees in virtue of this Act, the Trustees shall take sufficient Caution and Security from him for the faithful Execution thereof.

Officers to find Security.

XXVI. That the Treasurer shall lodge all Monies which he may receive in such Bank as the said Trustees may appoint, and failing such Appointment in One of the chartered Banks of *Scotland*; and such Treasurer shall not retain more than Fifty Pounds in his Hands of the Money of the said Trustees for more than Six Days; and in case he shall do so he shall pay the Trustees, for behoof of the Creditors, a Sum at the Rate of Twenty *per Centum per Annum* on the Excess of the said Sum of Fifty Pounds so retained by him, during such Retention.

Treasurer to lodge Monies in Bank.

XXVII. That every Officer or Person employed by the Trustees shall from Time to Time, when required by the Trustees, make out and deliver to them, or to any Person appointed by them for that Purpose, a true and perfect Account in Writing under his Hand of all Monies received by him on behalf of the Trustees; and such Account shall state how, and to whom, and for what Purpose such Monies have been disposed of; and, together with such Account, such Officer

Officers to account.

[*Private.*]

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shall deliver the Vouchers and Receipts for his Payments; and every such Officer shall pay to the Trustees, or to any Person appointed by them to receive the same, all Monies which shall appear to be owing by him upon the Balance of such Accounts.

Summary
Recovery
against
Officers
failing to
account.

XXVIII. That if any such Officer fail to render such Accounts, or to produce and deliver up all the Vouchers and Receipts relating to the same in his Possession or Power, or to pay the Balance thereof, when thereunto required, or if for Five Days after being thereunto required he fail to deliver up to the Trustees, or to any Person appointed by them to receive the same, all Books, Papers, and Writings, Property, Effects, Matters, and Things, in his Possession or Power, relating to the Execution of this Act, or belonging to the Trustees, then, on Complaint thereof being made to the Sheriff of the County of *Edinburgh*, such Sheriff shall summon such Officer to appear before him at a Time and Place to be set forth in such Summons, to answer such Charge; and upon the Appearance of such Officer, or in his Absence upon Proof that such Summons was personally served on such Officer, or left at his last known Residence or Place of Abode, the Sheriff may hear and determine the Matter in a summary Way, and may adjust and declare the Balance owing by such Officer; and if it shall appear, either by Confession of such Officer, or by Evidence, or by Inspection of the Account, that any Monies of the Trustees are in the Hands of such Officer, or owing by him to the Trustees, the Sheriff may order such Officer to pay the same, and if he fail to pay the Amount it shall be lawful for the Sheriff to grant a Warrant to levy the same by Pounding and Sale, or in default thereof to commit the Offender to Gaol, there to remain without Bail for a Period not exceeding Three Months.

Officers re-
fusing to
account to
be committed
to Gaol.

XXIX. That if any such Officer summoned as aforesaid refuse to make out such Account in Writing, or to produce and deliver to the Sheriff the several Vouchers and Receipts relating to such Account, or to deliver up any Books, Papers, or Writings, Property, Effects, Matters, or Things, in his Possession or Power, belonging to the Trustees, the Sheriff may commit such Offender to Gaol, there to remain until he shall have made out and delivered such Accounts, and have delivered up the Vouchers and Receipts in his Possession or Power relating to such Accounts, and all the Books, Papers, Writings, Property, Effects, Matters, and Things belonging to the Trustees in his Possession or Power.

Where
Officer about
to abscond,
Warrant may
issue.

XXX. That if any Trustee, or other Party acting on behalf of the Trustees, shall make Oath that he has good Reason to believe, upon Grounds to be stated in his Deposition, and that he does believe, that it is the Intention of any such Officer as aforesaid to abscond,

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abscond, the Sheriff may, instead of issuing his Summons, issue his Warrant for bringing such Officer before him; but no Person executing such Warrant shall keep such Officer in Custody longer than Twenty-four Hours without bringing him before the Sheriff; and the Sheriff may either discharge such Officer, if he think there is no sufficient Ground for his Detention, or order such Officer to be detained in Custody, unless such Officer give Bail, to the Satisfaction of the Sheriff, for his Appearance before him to answer the Complaint of the Trustees.

XXXI. That no such Proceeding against or Dealing with any such Officer as aforesaid shall deprive the Trustees of any Remedy otherwise competent to them against any Surety or Cautioner of such Officer.

Sureties not to be thereby discharged.

XXXII. That the Trustees shall cause Books to be provided, and true and regular Accounts to be entered therein by all Persons employed by or under them, and of all Matters or Things for or on account of which Sums of Money shall have been received or paid by virtue of this Act; and the Trustees shall cause Books to be kept by their Treasurer, in which shall be entered true and regular Accounts of Money received and paid out, and shall also cause Minute Books to be kept by their Clerk, in which shall be recorded all the Resolutions and Proceedings of the said Trustees under this Act, which Accounts and Minute Books shall at all seasonable Times be open to the Inspection of the Magistrates and Town Councillors of *Musselburgh*, and of every Creditor of the said Burgh.

Accounts to be kept, and open to Inspection of Town Council and Creditors.

XXXIII. That the said Trustees shall cause their Accounts to be balanced in each Year to a Period not less than One Month before the Stated Meeting appointed to be held in the Month of *April*, at which Meeting the said Accounts shall be produced; and Fourteen Days at least before such Meeting the said Trustees shall cause a full and true Statement and Account to be drawn up of all the Monies received and expended by them by virtue of this Act, and during the preceding Year, and also of all Debts then owing by them, or by the said Burgh; and the said Trustees shall cause the said Statement and Account to be printed, and shall allow the same to remain for Inspection at the Office of their Clerk; and every Creditor, or any Person acting on his Behalf, may at all reasonable Times inspect such Statement and Account, and compare the same with the Books and Documents relating thereto in the Possession of the Trustees; and the said Clerk shall, on Demand, furnish a printed Copy of such Statement and Account to every Creditor, without Fee.

Accounts to be made up annually.

XXXIV. That all Books, Records, Minutes, Accounts, and Papers of every Description belonging to the Burgh previously to the passing

Books, &c. of the Burgh to be open to of

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Inspection
of the Trus-
tees.

of this Act shall at all Times be open to the Inspection and Examination of the said Trustees or any of them, who may make Copies or Extracts therefrom; and upon the Requisition of the said Trustees every Officer or Person in whose Custody any such Books, Records, Minutes, Accounts, and Papers may be shall be bound to furnish to the said Trustees, at their Expense, such Copies or Extracts from the same as they shall require.

Ranking of
Creditors.

XXXV. That the said Trustees shall, so soon as conveniently may be after the passing of this Act, insert a Notice in the *Edinburgh Gazette*, and in Two or more Newspapers published in *Edinburgh*, calling upon all the Creditors to lodge their Claims, accumulating Principal and Interest as to the First Day of *December* One thousand eight hundred and fifty, with the Grounds of Debt, in the Hands of the Clerk to the said Trustees, within such reasonable Time as shall be named in the Notice; and at the End of such Time the said Trustees shall cause a State of the Ranking of the whole Creditors as at the said Date to be made out and deposited in the Hands of their Clerk for the Inspection of the Creditors; and the said Trustees shall give Notice of such Deposition by Advertisement in the *Edinburgh Gazette*, and in the Newspapers, Two or more, published in *Edinburgh*: Provided always, that nothing herein contained shall prevent the said Trustees from including any Claim in the said Ranking which they are satisfied is just, although the Party entitled thereto should omit to lodge his Claim as aforesaid; nor shall the said Trustees be bound to admit any Claim which they consider to be unjust, notwithstanding of such Claim being lodged: Provided farther, that where the Trustees reject any Claim, Notice thereof and of the Grounds of Rejection shall be intimated to the Claimant by a Letter put into the Post Office, which Intimation shall be sufficiently instructed by the Certificate of the Clerk to the said Trustees.

Council or
Creditors
may object
to Rankings.

XXXVI. That it shall be competent to the Provost, Bailies, and Councillors of the said Burgh, or any Creditor ranked, to object, if they see Cause, to any Debt that may be ranked on the said Estate by the Trustees, or to any Preference given by the said Trustees to any such Debt, and such Objections shall be lodged with the Clerk to the said Trustees within Twenty Days after Advertisement of the Deposition as aforesaid of the Statement of Rankings; and if the Objections are refused, Notice shall be given to the Objectors by Letter put into the Post Office, which Notification shall be sufficiently instructed by the Certificate of the Clerk to the Trustees, and a Right of Appeal competent in manner after provided.

Form of Ap-
peal to the
Lord Ordi-

XXXVII. That if any Claimant or Objector shall be dissatisfied with the Decision of the Trustees, he may appeal against the same, either

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either to the Lord Ordinary on the Bills or to the Sheriff, provided a Note of Appeal shall be lodged with and marked by One of the Clerks of the Bill Chamber within Fourteen Days after the Date of the Decision of the Trustees, or (as the Case may be) in the Hands of and marked by the Sheriff Clerk within the like Period; and the Lord Ordinary or Sheriff (as the Case may be) shall appoint a Copy of such Note of Appeal, and his Deliverance thereon, to be served on the Clerk to the Trustees, and appoint him, or his Counsel or Agent, to appear at a specified Diet within such Period as may be reasonable; and the Lord Ordinary or Sheriff (as the Case may be) shall at such Diet hear Parties *vivâ voce*, and the Lord Ordinary shall proceed to dispose of the Case, with or without a Record, as he shall consider best, and the Sheriff without a Record may decide, provided he shall specify the Facts and assign the Grounds of his Judgment; but if he shall see Cause, he may order Minutes to be lodged by the Parties containing their Averments in Fact and Pleas in Law without Argument, and may hold the same as a closed Record, and proceed in a summary Way, and in pronouncing his Judgment he shall assign his Reasons.

nary or
Sheriff.

XXXVIII. That it shall be lawful for the said Trustees, or any Three of them, upon the Requisition of any Creditor ranked upon the said Trust Estate, and whose Ranking is not under Challenge, to issue under their Hands, and to deliver to such Creditor, a Certificate of the Amount for which such Creditor is so ranked, in the Terms set forth in Schedule B. to this Act annexed, or in Terms to the like Effect; and such Certificates shall be conclusive and probative of the Amount of the Debt due to such Creditor: Provided always, that the Existence and Production of such Certificate shall not be necessary to prove such Debt, which may be established in any other Manner competent according to the Law of *Scotland*.

Certificates
of Debt may
be issued to
Creditors,
and shall be
assignable.

XXXIX. That it shall be lawful for the said Trustees to sue for and recover all Debts owing to the said Burgh, forming Part of the Trust Estate hereby created, and to grant Receipts and Discharges therefor, and to uplift, receive, and discharge or assign the Interest, Rents, Feu Duties, Casualties of Superiority, and other Sums and Revenues falling due and arising from any Part of the said Trust Estate, and Arrears thereof, and to grant Receipts for the same.

Trustees to
manage and
realize the
Trust Estate.

XL. That the said Provost, Magistrates, and Council, as Commissioners under the said Act relating to the said Harbour of *Fisherrow*, shall be bound and obliged, when required by the said Trustees, to execute and deliver to the said Trustees an Assignment or Assignments in their Favour, in the Terms and as prescribed by the said last-mentioned Act, for any Sum or Sums of Money not exceeding in the whole the Sum of Six thousand five hundred Pounds (being the

Commission-
ers of Fisher-
row Harbour
to grant As-
signments to
Trustees for
6,500*l*.

[*Private.*]

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Amount

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Amount of the Sums expended on or in relation to the said Harbour prior and subsequent to the passing of said Act, and now due and owing in respect of the same, as herein-before mentioned), and to grant, assign, and set over, for securing the Payment of the same, with the Interest thereof, to the said Trustees and their Successors or Assignees, the several Rates and Duties given and granted by the said last-mentioned Act.

Trustees to hold the Harbour Debt as Part of the Trust Estate.

XLII. That the Trustees shall hold the Assignment or Assignments so to be granted by the said Harbour Commissioners, and the Sums of Money thereby secured, as Part of the Trust Estate, and shall dispose of the same in such Manner as shall be most beneficial for the Creditors of the said Burgh; but provided always, that if any Creditor or Person shall have any legal Right of Preference over the said Harbour and the Revenues thereof, such Right is hereby preserved entire.

Trustees may sell and grant Conveyances.

XLIII. That it shall be lawful for the said Trustees to sell and dispose by Public Auction of the whole, or of such Part as they shall think fit, of the said Trust Estate vested in them by this Act, and to grant Dispositions, Assignations, or other Conveyances thereof to the Purchasers of the same: Provided always, that the Purchasers of such Property shall be no ways concerned with the Application of the Monies received from them or with the Provisions of this Act.

Form of Conveyances.

XLIV. That upon any Sale being made in virtue of this Act of any of the Heritable Property of the said Burgh hereby vested in the said Trustees, such Property may be conveyed to the Purchaser of the same by a Deed duly stamped according to Law, in the Terms set forth in Schedule (C.) to this Act annexed, or in Terms to the like Effect, which Deed, being executed by any Three or more of the said Trustees, and being recorded in the Particular Register of Sasines kept at *Edinburgh* (which the Keeper of such Register is hereby authorized and required to do), shall have all the Effect in favour of the Purchaser of a formal Disposition by the Magistrates and Council of *Musselburgh*, or by the said Trustees, followed by Sasine duly recorded.

To be recorded in Register of Sasines.

Trustees may sell Feu Duties and Casualties.

XLV. That it shall be lawful for the said Trustees to sell and dispose of the Feu Duties and Casualties of Superiority at present belonging to the Burgh, so far as vested in them, or hereafter to become payable to the said Trustees in virtue hereof, or any Part thereof, either to the Vassal in the Feu or to any other Person; but provided that, notwithstanding Sales of such Feu Duties and Casualties, the said Magistrates and Council shall continue to be the Superiors of the Lands and other Property out of which the same are

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are payable or exigible; and that the Purchasers of the said Feu Duties or Casualties shall not be held or taken to be Superiors interjected between the said Magistrates and Council and their Vassals, any Law or Practice to the contrary notwithstanding, nor shall the Right of Jurisdiction of the said Magistrates and Council be anywise affected by such Sales.

XLV. That if any such Sale of any Feu Duties and Casualties shall be made to the Vassal in the Feu, it shall be lawful for the said Trustees to acknowledge the Receipt of the Purchase Money or other Consideration agreed to be given for the same, and also to grant an Obligation binding and obliging the said Magistrates and Council, on the next Renewal of Investiture in favour of the Vassal, or of his Heirs or Disponees, to insert a Blench Holding, with a Blench Taxed Entry, or, in the Option of such Vassal, a Burgage Holding, in the Charter or Deed renewing the Investiture, in lieu and place of the Feu Duty and Casualties in the original Feu Rights; and such Receipt and Obligation, which may be in the Terms, or Terms to the like Effect, as set forth in Schedule (D.) hereunto annexed, and being delivered to the Vassal so purchasing, on Payment of the Purchase Money, shall be a sufficient Voucher to him in the meantime until the Renewal of such Investiture.

Procedure
in case of
Sales of Feu
Duties to the
Vassals.

XLVI. That if such Sale of any Feu Duties or Casualties shall be made to any other Persons than the Vassals in the Feus, it shall be lawful for the said Trustees to make the Title thereto by Assignation, in the Terms, or in Terms to the like Effect, as are set forth in Schedule (E.) to this Act annexed; and which Assignation, having been duly intimated to the Persons liable in Payment of the said Feu Duties or Casualties, under the Hand of a Notary Public, either personally, or by leaving a Copy thereof at the Houses, if any, respectively, out of which the Feu Duties or Casualties sold are payable, and being recorded, with such Intimation, in the Particular Register of Sasines kept at *Edinburgh* (which the Keeper of such Register is hereby authorized and required to do), shall effectually vest the said Feu Duties and Casualties in the said Purchasers, and create the same Real Burdens over the several Properties out of which they are payable; and it shall be lawful for such Purchasers, and their Heirs and Assignees, to assign and convey the same in all Time coming in like Manner.

Or to any
other Per-
sons.

XLVII. That the said Trustees shall be and they are hereby authorized and empowered, if they shall deem it expedient so to do, to purchase the whole or any Part of the Feu Duties, Annuities, and Casualties of Superiority payable by the said Burgh to any Superiors or other Persons, and to apply such Part of the Funds under their

Power to
buy up Feu
Duties pay-
able by the
Burgh.

Control

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Control in virtue of this Act as may be necessary for Payment thereof.

Trustees may grant Feus to be held of the Magistrates and Council.

XLVIII. That it shall be lawful for the Trustees to feu out the whole or any Part of the Lands hereby vested in them on such Terms and Conditions as they may see fit, to be held of the Magistrates and Council, and to require the Magistrates and Council to grant, execute, and deliver all such Charters, Feu Rights, and other Deeds as may be necessary: Provided always, that all such Feus shall be set up to public Roup, after being duly advertised, and at a fair Rate of annual Feu Duty; but where any such Lands have been twice put up to such public Roup, and remain undisposed of, the same may thereafter be feued by private Bargain, on the best Terms that can be obtained, but not under the Rate at which the same had been previously exposed to public Roup; and provided further, that such Feu Duties and Casualties shall belong to the Trustees, and may be sold by them according to the Forms and in the Manner hereinbefore provided, notwithstanding that the Superiority of such feued Lands shall be vested in the Magistrates and Council.

Power to convert Feu and Blench Holdings into Burgage.

XLIX. That it shall be lawful for the said Trustees during the Subsistence of the Trust, and thereafter for the said Magistrates and Council, on Requisition made to them in Writing by or on behalf of any Owner of Lands within the Burgh of *Musselburgh* which are now or may hereafter be held Feu or Blench, to agree with such Owner for the Conversion of the Tenure of such Lands into the Burgage Tenure used and wont in the said Burgh, and if such Lands be held in feu to substitute a Ground Annual in place of the Feu Duty, and an immediate Payment, renewable every Twenty-five Years, as a Composition in lieu of the Casualties of Superiority, such Ground Annual and Composition being equivalent to the said Feu Duties and Casualties; and the said Magistrates and Council shall execute and deliver to such Owner so agreeing with the Trustees or them for the Conversion of the Tenure of his Lands into Burgage, at his Expense, all Burgage Charters and other Deeds necessary, and the Title to such Lands shall thereafter be made up in the Burgage Form at present in use in the said Burgh: Provided always, that any Ground Annual or Composition in lieu of Casualties shall during the Subsistence of the Trust belong to the said Trustees, and may be sold or disposed of by them in manner herein provided with respect to the Sale of Feu Duties and Casualties.

Sasines, &c. to be recorded in Particular Register of

L. That all Instruments of Sasine, Resignation and Sasine, and Cognition and Sasine, in Lands held of the said Burgh, and all Deeds of Mortgage over the same, shall be, as heretofore, recorded in the Particular Register of Sasines at *Edinburgh*, which shall be held to be

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be a sufficient Registration of all such Instruments and Deeds in all Time coming. Sasines at Edinburgh.

LII. That it shall be lawful for the Trustees to let on Lease any Part of the Lands hereby vested in them, on such Terms as they may see fit, and to grant and deliver all Leases or other Deeds necessary: Provided always, that where such Leases shall be for a longer Term than Five Years the same shall be let by public Roup in manner herein-before provided with respect to Feus. Trustees may grant Leases.

LIII. That the Trustees shall have Power to pay off any Creditor whose total Claim does not exceed Twenty-five Pounds. Creditors of or under 25 \pounds may be paid off.

LIII. That it shall be lawful for the Trustees to execute and issue Bonds to such of the Creditors of the said Burgh as may require such Bonds, or in exchange for any Securities now held by them, for the Payment of any Sums of Money, in Sums of not less than Twenty-five Pounds and Interest, and which Bonds shall be printed or written, in whole or in part, and shall be conceived in the Words, or in Words to the like Effect, as are set forth in the Schedule (F.) to this Act annexed. Transferable Bonds may be given to Creditors.

LIV. That all such Bonds, signed by the Trustees, shall be binding upon the said Trustees and their Successors in Office, as Trustees only; and the Bonds so to be issued shall be numbered, beginning with Number One, and so proceeding in arithmetical Progression; and a Memorial of every such Bond, containing the Name of the Person to whom granted, the Date, and the Amount, shall be entered in a Book to be kept for that Purpose by the Clerk to the said Trustees, which Book shall at all seasonable Times be open to the Inspection of all Persons desiring to inspect the same, on Payment of One Shilling for each such Inspection. Bonds to be numbered and registered.

LV. That every Person to whom any such Bond shall be made payable, or who shall be entitled to the Money thereby due, may from Time to Time assign or transfer his Right and Interest to the Principal Sums and Interest thereby secured, to any Person whomsoever, by Deed duly stamped, in which the Consideration shall be truly set forth, and which may be in the Terms, or in Terms to the like Effect, as set forth in Schedule (G.) hereunto annexed; and all such Transfers or Assignments shall, without any Intimation thereof, be effectual to all Intents and Purposes, and shall entitle such Assignee, his Executors, Successors, and Assignees, to the Benefit of the Sums contained in such Bond, and Payment thereof; and such Assignee may in like Manner assign or transfer the same, and so *toties quoties*; and it shall not be in the Power of any Person who shall have made any such Transfer to make void, release, or discharge Bonds to be transferable.

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the same, or any Monies thereby due, or any Part thereof; and all Receipts by the Holder of any such Bond, on Payment being made to him of the Principal Sum therein by the said Trustees, shall be by Delivery of the said Bond with the Words "Received Payment" written on the Back thereof, and signed by the Party holding the same; and all Interest paid upon such Bond shall be marked on the Back thereof, and signed by the Party holding the same, or by the Mandatory of such Party duly authorized.

Trustees may
make a Com-
position with
the Creditors.

LVI. That in case the said Provost, Magistrates, and Council, or their Successors in Office, shall at any Time propose a Settlement of the said Debts by Composition, either by way of perpetual Annuities, or by partial Payment, or Instalments, or otherwise, the said Trustees shall, within Fourteen Days after receiving such Proposal, call a Meeting of the said Creditors for the Purpose of considering such Offer, by Advertisement in some One Newspaper published in *Edinburgh* Eight Days at least prior to such Meeting; and if a Majority in Number and Four Fifths in Value of the Creditors present at such Meeting shall resolve that the Proposal of a Composition shall be entertained, the Trustees shall call another Meeting of the Creditors, to be held at a specified Hour on a specified Day, being not less than Twenty-one Days thereafter, within the Town Hall of *Musselburgh*, or at some specified Place; and the Trustees shall, Fourteen Days at least before such other Meeting, advertise a Notice of the same in the *Edinburgh Gazette*, and some One Newspaper published in *Edinburgh*, and send by Post Letters addressed to each Creditor or his known Agent, which Letters shall contain a Notice of such Resolution, and of the Hour, Day, and Place and Purpose of the Meeting, and specify the Offer for Composition proposed, and give an Abstract of the Affairs, and a Valuation of the Trust Estate, so far as can be done, to enable the Creditors to judge of the said Offer; and if at the Meeting so called a Majority in Number and Four Fifths in Value of the Creditors present at such Meeting or at any Adjournment thereof shall declare their Assent to such Offer of Composition, the same shall be held conclusive, and the said Trustees shall forthwith proceed to carry the same into effect; and at such Meeting the Votes of Proxies duly authorized shall be received.

If Composi-
tion in Form
of perpetual
Annuities,
Form of
Bonds of
Annuity.

LVII. That if at any Meeting of the said Creditors so called to consider of any Offer of Composition they shall by the foresaid Majority declare their Assent to an Offer of Composition on the said Debts by way of perpetual Annuities, the said Debts shall be compounded by the Trustees granting, free of all Charges and Deductions (Income Tax excepted), to all and every Person in right of such Debts, Bonds of Annuity duly stamped, in the Manner and Form set forth in the Schedule (H.) to this Act annexed, at such
Rate

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Rate *per Centum per Annum* as shall have been agreed to at the said Meeting of Creditors, and which Bonds of Annuity all and every Person in right of such Debts shall accept in full Payment thereof; and such Bonds may be written or printed, or partly written and partly printed, and each such Bond shall be subscribed by the Trustees or any Three of their Number, and shall be accompanied by a Series of Orders for the half-yearly Payments of the Annuity for which the same is granted as the same shall become due, and which Orders, when exhausted, shall be renewed from Time to Time while such Bond shall be unredeemed.

LVIII. That every Person to whom any such Bond of Annuity shall be granted may from Time to Time transfer the same, together with the Orders applicable thereto as aforesaid, without any Intimation, by Deed duly stamped, in which the Consideration shall be truly set forth, and which may be in the Terms, or in Terms to the like Effect, as set forth in the said Schedule (G.) hereunto annexed; and such Transfer shall be effectual to all Intents and Purposes, and shall entitle the Bearer thereof to the Sums contained in the said Bonds; and such Bearer may in like Manner transfer the same, and so *toties quoties*.

Bonds of Annuity to be transferable.

LIX. That all such Bonds of Annuity, before being delivered, shall be numbered in the Order in which they are granted, and an Entry or Memorial of every such Bond shall be made in a Book to be kept under the Direction of the said Trustees for that Purpose, to be termed the "Register of Bonds of Annuity," which Entry shall embrace the Date and Number of the Bond, the Name of the Person to whom granted, and the Amount of the Annuity thereby secured, and which Entry shall be certified on each Bond by the Clerk to the said Trustees, and by an Officer of the Bank at *Edinburgh* or *Musselburgh* where the Annuities shall be payable, at the Time of issuing such Bond; and each such Entry, subscribed by the Person to whom the relative Bond shall have been granted, or by the Mandatory of such Person, shall be held as Evidence of such Person having received such Bond respectively.

Bonds of Annuity to be numbered and registered.

LX. That all such Bonds to be granted as aforesaid, and the Annuities thereby secured, shall to all Intents and Purposes be and be held to be Moveable or Personal Rights.

Bonds to be moveable Property.

LXI. That the said Trustees shall, on a Demand to that Effect being made by any Holder of a Bond of Annuity, grant a Renewal or Subdivision thereof, at the Expense of the Party requiring the same, and cancel the original or other Bonds, together with any unpaid Orders applicable thereto for which such renewed or subdivided Bond may from Time to Time be substituted: Provided always,

Bonds of Annuity to be renewed, at Expense of Holders.

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always, that every such renewed or subdivided Bond shall be marked with the same Number as the original Bond, and with a Subdivision Number, and be entered in the Register in the same Manner as herein-before provided in regard to the original Bonds of Annuity; and no greater Sum shall be demanded by or payable to the said Trustees than Five Shillings for the Renewal of a Bond, or Two Shillings and Sixpence for each Subdivision of a Bond.

Monies to provide for Payment of Annuities to be lodged in Bank half-yearly.

LXII. That the said Trustees shall, at a Time to be fixed by them, and not exceeding Six Months after the Creditors shall have given their Assent to an Offer of Composition by way of perpetual Annuities in manner herein provided, and on or before the Thirtieth Day of *January* and Thirtieth Day of *July* in each Year following, or on the first lawful Day thereafter, in the event of either of these Days falling upon a Holiday, lodge in a Bank to be appointed by the Trustees such Sum as shall be sufficient to pay and discharge the whole of the half-yearly Annuities payable as on the First Day of the Month following.

Annuities payable at Candlemas and Lammas.

LXIII. That the said Annuities shall be payable half-yearly at such Bank at the Terms of *Candlemas* and *Lammas*, beginning the First Payment of such Annuities at the first of these Terms which shall happen after the Expiry of the Time fixed by the Trustees for the first lodging in Bank of the Money for the Payment of such Annuities, and shall be paid upon Production and Delivery of the Order annexed to each Bond, as before provided, applicable to the particular Payment then due and demanded, which Order shall form the sole Voucher of Receipt and Payment of the Annuity to which the same may apply.

As to Application of Overplus by the Bank.

LXIV. That the Bank shall not be required to account for Interest on the Monies in their Hands for the Period of Six Weeks after the Day on which the Amount of the half-yearly Annuities are directed to be lodged in the Bank as aforesaid, but after the Expiration of that Period the Monies remaining in their Hands shall bear the usual Interest allowed by the Bank for the Time, which Interest shall be carried periodically to a separate Account to be opened in the Names of the Trustees, and shall be applied by the Trustees in buying up such of the said Bonds of Annuity as may be for Sale, and can be obtained, for the Purpose of cancelling and extinguishing the same, and for no other Use or Purpose.

Property of the Burgh conveyed to Creditors in Security of their Bonds of Annuity.

LXV. That upon the said Creditors agreeing to accept of a Composition by way of Annuity in manner herein-before provided, the whole Property of the said Burgh, whether real or personal, heritable or moveable, and vested in the said Trustees by virtue of this Act, (excepting in so far as such Property has been previously sold, feued, or

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or disposed of by the said Trustees,) shall be and the same is hereby made over to the said Creditors in Security of the Annuities hereby required to be granted in manner above mentioned, and which Security shall be preferable to all other Securities and Obligations granted or to be granted by the said Trustees or by the said Magistrates and Council, and which whole Property, real and personal, heritable and moveable, of whatever Denomination and wheresoever situate, shall be and is hereby declared to be adjudgeable for the Annuities hereby authorized to be granted; and it is hereby specially provided and declared, that a Copy of this Act recorded in the said Particular Register of Sasines (which the Keeper of such Register is hereby authorized and required to do) shall to all Intents and Purposes be and shall be held to be equivalent to Infeftment in favour of the Creditors in all the Heritable Subjects belonging to the Trustees in virtue hereof, and hereby made over in Security to the Creditors requiring Infeftment, so as to constitute a Real Burden thereon, and shall also be held equivalent to intimated Assignation of the Debts and Rights, and to actual Delivery of the Moveable Property, so as to create a Lien over the same in favour of the Creditors.

LXVI. That if at any Meeting of the said Creditors called in manner provided by this Act, or at any Adjournment thereof, to consider any Offer of Composition, they shall by the Majority foresaid declare their Assent to an Offer of Payment or Composition of said Debts by a partial Payment, or by One or more Instalments, every Person in right of such Debts shall accept the Sum so offered by way of Payment or Composition thereof, at the Term or Terms specified in said Offer, as a Discharge in full of all such Debts, and all Interest due or to become due thereon.

If Composition by way of partial Payment or by Instalments, to be a Discharge in full.

LXVII. That immediately after the Assent declared by the said Creditors to a Proposal by the said Magistrates and Council of Payment or Composition of said Debts by One or more Instalments, it shall be lawful to the said Trustees and they are hereby authorized and empowered to borrow and take up at such Rate of Interest as they shall think proper, and to repay and borrow again, such Sum or Sums of Money as they shall consider necessary to enable them to implement the Terms agreed to with the said Creditors, and to assign and dispoise, for securing Payment of the same with the Interest thereof respectively, the whole Property of the said Burgh, whether real or personal, heritable or moveable, and vested in the said Trustees by virtue of this Act, (excepting in so far as such Property has been previously sold, feued, or disposed of by the said Trustees,) and that to and in favour of any Person who shall be willing to advance and lend Money thereon; and Bonds and Assignations in Security shall be made and granted to such Lenders under the Hands of the said Trustees or of any Three of them, by Deed duly stamped, in which

Trustees may borrow Money to pay the Composition accepted by Creditors, and grant Bonds and Assignations in Security.

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the Consideration shall be truly set forth, and shall be in the Form, or as nearly as may be in the Form, set forth in Schedule (I.) to this Act annexed; and all Persons to whom such Bonds and Assignations in Security shall be made, and their Heirs and Successors, shall have a preferable Security under the same, according to the Priority of the Entry of such Bonds and Assignations in Security in the Book to be kept for that Purpose as herein-after provided; and a Copy of every such Bond and Assignation in Security shall, within Twenty-one Days from the last Date thereof, be entered into a Book to be kept by the Clerk to the said Trustees, which may be perused at all reasonable Times by any Person having Interest therein, on Payment of a Fee of One Shilling to the said Clerk.

Trustees not to be personally liable, but Bonds shall give Powers of Sale.

LXVIII. That the said Trustees shall not be liable personally by reason of having signed such Bonds, but such Bonds and Assignations in Security shall confer on the Holders thereof for the Time the same Powers, Faculties, and Privileges of Sale and otherwise, over and concerning the whole Heritable Property belonging to the said Burgh, as are conferred upon Persons holding Bonds and Dispositions in Security duly registered granted by Proprietors of Land in Fee Simple in Terms of an Act passed in the Tenth and Eleventh Years of the Reign of Her present Majesty, Chapter Fifty.

Bonds to be transferable.

LXIX. That the Persons to whom such Bonds and Assignations in Security shall be made as aforesaid, or who shall be entitled to the Money due thereon, shall and may from Time to Time transfer the Right or Interest therein by an Instrument in Writing under their Hands duly stamped, in which the Consideration shall be truly set forth, which may be in the Terms, or in Terms to the like Effect, as set forth in Schedule (K.) to this Act annexed, and such Transfer may be endorsed upon the principal Bond or on a Paper apart; and the Person to whom such Transfer shall be made may make another such Transfer thereof, and so on as often as such Bond and Assignation in Security is meant to be transferred; and every such Transfer shall, within Thirty Days after the Date thereof, be produced to the said Clerk, who shall enter the same, in like Manner as the original Bond and Assignation in Security, in the Book to be kept by him for that Purpose; and every such Entry made of such Transfer shall from thenceforth entitle such Assignee, his Heirs, Executors, and Assignees, to the full Benefit of the original Bond and Assignation in Security; and it shall not from thenceforth be in the Power of any Person who shall have made any such Transfer to make void, release, or discharge the same, or any Money thereby due or any Part thereof.

Until Composition is agreed to the Trustees

LXX. That so long as no Assent by the said Creditors has been given in manner provided by this Act to any Proposal by the said Provost, Magistrates, and Council for a Composition of the said

Debts

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Debts by way of Annuities or otherwise, and so long as the said Trust Estate remains unsold, the said Trustees shall, at Two Terms in each Year, apply the free annual Revenue of the said Trust Estate, after Payment of current Expenses, in Payment of Interest on the said Debts not exceeding the Rate of Four and a Half *per Centum per Annum*.

to pay Interest on Debts.

LXXI. That the said Trustees shall apply the whole Monies coming into their Hands by virtue of this Act, in the first place in Payment of the Expenses of obtaining this Act and incidental thereto, secondly in Payment of the Expenses of carrying this Act into execution, and lastly in Payment of the Debts due to the Creditors of the said Burgh according to their several Rights and Preferences; and upon Fulfilment of these Purposes, and Payment or other Satisfaction of the said Creditors, they shall be obliged to account for and to pay and hand over to the Magistrates and Council of the said Burgh, for behoof of the Community thereof, any surplus Monies or other Property and Effects that shall remain in their Hands or Possession or under their Control: Provided always, that it shall not be incumbent on the said Trustees to apply any of the Monies arising out of the Sale of the whole or any Part of the said Estate in Payment of Interest or Deficiency of Interest until the final Winding-up of the said Estate; but that when and so often as any Part of the said Estate shall be sold off, the Proceeds thereof shall be carried to an Account to be kept distinct from the Accounts of the annual Revenue, for the Purpose of creating a Fund for the Liquidation of the Debts due to the Creditors, and such Fund shall, at such Times as may appear proper to the said Trustees, be divided among and paid to the Creditors in proportion to their respective Rankings and Preferences, and in Liquidation thereof; and in the event of any Question arising as to whether any Sum ought to be considered as annual Revenue, and divided as Interest, or otherwise applied in Terms of this Act, the Decision of the Trustees thereon shall be final and conclusive.

Application of the Trust Monies.

LXXII. That it shall be lawful for the said Trustees at any Time, and they are also hereby required, upon a Requisition addressed to them by any Three of the Creditors, and lodged with their Clerk, to call a Meeting of the Creditors to advise upon any Measure or Matter relating to the Management of the Trust, and the Trustees shall take the Directions of the Majority in Value of Creditors present personally or by Proxy at such Meeting.

Trustees to call Meetings of Creditors when required by Three Creditors.

LXXIII. That it shall be lawful for the said Trustees, and for the said Provost, Magistrates, and Council, and for all other Persons, to transact and settle, by Compromise, Arbitration, or Judicial Reference, all Questions between or among them that may arise under this Act in any manner of way not herein otherwise provided for.

Power to refer to Arbitration.

LXXIV. That

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How inca-
pacitated
Parties may
transact.

LXXIV. That it shall be lawful for any of the following Parties to compound and transact as aforesaid, or, being Creditors of the said Burgh, to attend Meetings thereof and vote thereat, and to compound and compromise and make Abatements from their Claims, and to discharge the same upon such Terms as they may consider expedient, or, being Vassals of the said Burgh, to purchase the Feu Duties and Casualties of Superiority payable by and exigible from them, or, being Superiors of Property belonging to the Burgh, to sell the Feu Duties and Casualties of Superiority payable to them by the Burgh, and to execute all necessary Agreements in Writing for those or any of those Purposes; (that is to say,) all Corporations, and Heirs of Entail, married Women, Guardians, Curators bonis, Factors loco tutoris, Curators or Factors for Lunatics or Idiots, Trustees for charitable or other Purposes, and Executors; and such Powers may be lawfully exercised by all such Parties, not only on behalf of themselves and their respective Heirs, Executors, and Successors, but also for and in behalf of every Person entitled in reversion or expectancy after them, if incapacitated, unborn, or not to be found, and as to such married Women as if they were unmarried, and as to such Guardians on behalf of their Wards, and as to such Curators and Factors on behalf of the Minors, Pupils, Lunatics, Idiots, or other Parties for whom they act respectively, and as to such Trustees and Executors on behalf of the Infants, Issue unborn, and other Persons, Societies, Charities, or Bodies interested, and that to the same Extent as such Heirs of Entail, married Women, Wards, Minors, Pupils, Lunatics, Idiots, and Infants, Societies, Charities, or other Parties or Bodies respectively could have exercised such Powers under the Authority of this Act if they had respectively been under no Disability or Incapacity.

Trustees not
to be per-
sonally liable.

LXXV. That no Trustee acting under the Authority of this Act shall be liable for anything done or omitted to be done by the Trustees in pursuance hereof, or for the Actings or Omissions of any Person employed by the Trustees, or shall incur any Responsibility whatever for anything done by him under the Authority of this Act, unless such Trustee shall have actually intromitted with the Property and Monies hereby vested in and put under the Management of the Trustees; and no Person shall be disqualified on account of his being a Trustee under this Act from giving Evidence in any Court of Law in any Matter arising out of the Provisions of this Act or relating thereto.

The Powers
of the Trus-
tees may be
transferred
to the Magis-
trates and
Council, with
Consent of

LXXVI. That it shall be in the Power of the Provost, Magistrates, and Council of the said Burgh, with Consent of Four Fifths in Value of the Creditors, to apply to the Sheriff of *Edinburgh*, to have the Functions of the Trustees appointed or elected by virtue of this Act declared at an end, which Application, after being published in the *Edinburgh Gazette* and in One or more of the *Edinburgh News-papers*

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papers for Twenty Days, shall be disposed of by the said Sheriff; and as soon as a final Sentence or Interlocutor declaring the Functions of the said Trustees at an end shall have been extracted, and such Extract shall be recorded in the Council Books of the said Burgh, and advertised once in the *Edinburgh Gazette*, the whole Powers and Authorities hereby conferred upon the said Trustees (excepting as herein-after provided) shall be vested in and exercised by the said Provost, Magistrates, and Council, who shall thereupon become and thereafter continue *ex officio* to be a Board of Trustees for the Purposes of this Act, and shall have the same Powers and Privileges and Exemption from Liability as are conferred on the said first-mentioned Trustees by this Act (excepting the Termination of the Powers of the said Trustees), and the Trust hereby created shall remain in full Force and Effect until the Debts of the Creditors of the Burgh, with Arrears of Interest as aforesaid, if any, shall be paid or otherwise satisfied: Provided always, that all Renewals of Bonds and other Deeds hereby prescribed or allowed to be executed by the Trustees shall thenceforward be signed by the Provost, Treasurer, and Town Clerk of the said Burgh, in place of the said Trustees.

Four Fifths
in Value of
the Cre-
ditors.

Renewals of
Bonds to be
signed by the
Provost, &c.

LXXVII. That from and after the Date of the recording of such Extract in the Books of the said Burgh, and of the Advertisement thereof in the *Edinburgh Gazette*, the Persons who at the Time of such recording and Advertisements shall be the Trustees under this Act (but whose Functions as Trustees have thereby come to an end) shall be and the said Persons are hereby nominated and appointed a Committee to attend to the Interests of the Creditors in all Matters regarding the Disposal of any Portion of the Property of the said Burgh.

On Transfer-
ence of the
Trust to the
Town Coun-
cil, the Trus-
tees then in
Office to be-
come a
Committee
of Creditors.

LXXVIII. That the Members of the said Committee shall remain in Office during their respective Lives, or till their Resignations, until the Trust created by this Act shall be fully wound up; and all Vacancies in the said Committee shall be filled up in the same Manner and by the same elective Bodies respectively, and subject to the same Rules, as are herein-before provided with regard to the Trustees to be appointed or elected by virtue of this Act.

Committee
to continue
till Trust
finally wound
up.

LXXIX. That it shall not be incumbent on the said Committee to hold any Stated Meetings, but it shall be lawful for any Three or more of their Number, and also for the said Provost, Magistrates, and Council, to call a Special Meeting of the said Committee to be held at any Place within the Burgh of *Musselburgh*, by written or printed Notices delivered to the Members of Committee, or left at their respective usual Places of Abode or Places of Business Twenty-four Hours at least before such Meeting, in which Notice there shall be stated the Time and Place of such Meeting, and the special Business for which it is called; provided that at such Special Meetings it shall

Committee
not required
to hold Stated
Meetings,
but may
have Special
Meetings
when neces-
sary.

[Private.]

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be lawful for the Committee to take into consideration and resolve upon such Business only as such Meeting shall have been called to consider, and as shall have been stated in the Notices calling the same.

Committee may appoint a Clerk, who shall be paid by the Town Council.

LXXX. That it shall be lawful for the said Committee, when they see fit, to appoint a Clerk; and the Allowance or Remuneration to such Clerk shall be paid by the said Magistrates and Council at such Rate as shall be fixed by the said Committee; and such Clerk shall be liable to all Provisions contained in this Act relative to the Appointment and Accountability of Officers, in so far as applicable to such Clerk.

Quorum of Committee.

LXXXI. That at every Meeting of such Committee Three Members thereof shall form a Quorum; and the Members present shall choose One of themselves to preside as Preses at the Meeting, and to subscribe the Minutes thereof, and every Question brought before such Meeting shall be decided by the Majority of Votes of the Members present at the Time, the Preses having, in case of an Equality of Votes, a Casting Vote in addition to his deliberative Vote.

Town Council may sell Lands mortgaged, with Consent of Committee.

LXXXII. That, notwithstanding the said Bonds of Annuity, or Bonds and Assignations in Security, allowed to be granted by this Act, and the Securities thereby created in favour of the Holders of such Bonds over the said Trust Estate, it shall be lawful for the said Provost, Magistrates, and Council acting as Trustees for the Purposes of this Act, to sell such Portion of the Trust Estate as they shall deem it expedient to sell, and that by public Roup or private Bargain: Provided always, that all such Sales shall be approved of by the said Committee.

Minute of Consent of Committee to be equivalent to a Deed of Restriction.

LXXXIII. That an Extract of the Minutes of any Meeting of the said Committee approving of such Sale or Sales shall, when certified by the Preses of such Meeting chosen as aforesaid, and recorded in the said Particular Register of Sasines (which the Keeper of such Register is hereby authorized and required to do), be equivalent, as regards the Property so sold, to a duly recorded Deed of Restriction and Renunciation by the whole of the Creditors of the said Burgh of the Security created in their Favour, and the Property so sold shall be held by the Purchasers thereof freed and disburdened of such Security and Debts thereby secured in all Time thereafter, and the Purchasers thereof shall be nowise concerned with the Application of the Prices paid by them.

When Debts paid, Property remaining to revert to Town Council.

LXXXIV. That whenever the whole Debts hereby secured shall have been paid off, and the Trust hereby created entirely wound up, the Portion of the Trust Estate then remaining undisposed of (if any) shall revert and belong to the said Magistrates and Council, and be held by them for behoof of the Community of the said Burgh, in the

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same Manner as if this Act had not passed, and the said Magistrates and Council may thereafter sell, alienate, or grant Feus and Leases of or Securities over the whole Property of the Burgh, and exercise every other Act of Ownership in regard thereto competent to the Magistrates of Royal Burghs; provided always, that all Sales are made, and Feus, Leases, and other Acts or Deeds are granted, made, and done, in conformity with the Rules and Regulations established by an Act of the Third Year of the Reign of His late Majesty King *George* the Fourth; Chapter Ninety-one.

LXXXV. That whereas the Burgesses and Inhabitants of *Musselburgh* and the Public claim the Privilege of Recreation and Exercise, as well as of playing the Game of Golf, and enjoying other Amusements, on the Links of *Musselburgh*: Nothing in this Act contained shall in any manner of way be held to limit or affect such Claim, which is hereby reserved entire.

Public Privileges on the Links not to be affected.

LXXXVI. That in citing this Act in other Acts of Parliament, and in legal and other Instruments and Proceedings, it shall be sufficient to use the Expression "*The Musselburgh Estate Act, 1851.*"

Short Title.

LXXXVII. That in this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

Interpretation.

The Terms "*Sheriff of Edinburgh*" and "*Sheriff*" shall mean the Sheriff of the County of *Edinburgh* or any of his Substitutes:

The Expression "*the Creditors of the Burgh of Musselburgh*" and "*the Creditors*" shall mean and include all Persons having, at the Date of the passing of this Act, any legal Claim of Debt against the said Burgh, and their respective Successors or Assignees, or the Holders of the Bonds of Annuity or Bonds and Assignations in Security hereby authorized to be granted:

The Expression "*the Trustees*" and "*the Board*" shall mean the Trustees for the Creditors of the said Burgh acting for the Time under Authority of this Act, and their Successors:

The Expressions "*Provost, Magistrates, and Council,*" and "*Magistrates and Council,*" shall mean the Provost, Bailies, Treasurer, and Councillors of the Burgh of *Musselburgh* for the Time being.

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

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

SCHEDULES referred to in the foregoing Act.

SCHEDULE A.

Statement of the Rights and Privileges, Property, Estate, and Revenues, belonging to the Burgh of Musselburgh, which are not included in the Trust Estate nor vested in Trustees.

1. The Appointment to Offices and Situations of Trust and Profit, or of any other Character, and the Rights competent to those holding the same.
2. The Fees payable on the Entry of Burgesses.
3. The Customs and Duties known as the Gentes Customs and Petty Customs.
4. The Customs leviabie at Fairs.
5. Mortcloth Dues.
6. The Burgh School Property.
7. The Steelyard.
8. The Town Hall and Public Offices of the Burgh, and Effects therein.
9. The Magistrates Seat or Pew in Inveresk Church.
10. The Superiority or Dominium directum of all Lands held in Feu of the Burgh, or hereafter to be feued out by the Trustees, but excepting all Feu Duties and Casualties of Superiority payable therefrom, which shall belong to the Trustees.
11. The Superiority or Dominium directum of all Lands held by Burgage Tenure.
12. The Fines imposed in the Burgh and Police Courts of Musselburgh.
13. All Records, Deeds, or other Writings connected with the Municipality of the said Burgh, or in any way connected with the Rights and others enumerated in this Schedule, except in so far as may be temporarily required to carry out the Purposes of this Act.
14. All Property and Funds at present distinguished from the Common Property and Funds of the Corporation, mortified to or vested in the Magistrates and Council for public or charitable Purposes.

SCHEDULE B.

Form of Certificate by the Trustees.

No.

We, the Subscribers, being Three of the Trustees for the Creditors of the Burgh of Musselburgh, acting under the Authority of an Act of

of

The Musselburgh Estate Act, 1851.

of Parliament intituled "The Musselburgh Estate Act, 1851," hereby certify that *A. B.* is a Creditor of the said Burgh, and is ranked in pursuance of the said Act upon the Trust Estate of the said Burgh for the Sum of _____ Sterling.

SCHEDULE C.

Form of Conveyance of Heritable Subjects.

We, the Subscribers, being Three of the Trustees for the Creditors of the Burgh of Musselburgh, acting under Authority of an Act intituled "The Musselburgh Estate Act, 1851," in consideration of the Sum of _____ paid to the said Trustees by *A. B.* as the Worth and agreed-on Price of the Lands and others after described, do hereby sell and dispoine to the said *A. B.* and his Heirs and Assignees, all and whole [*here describe the Subjects to be conveyed, the Manner of Holding, whether Blench or Burgage, and insert any Conditions of the Sale, with a Clause of Registration for Publication, and a Testing Clause, in the Form of the Law of Scotland*].

SCHEDULE D.

Form of Discharge of Feu Duties and Casualties.

We, the Subscribers, Three of the Trustees for the Creditors of the Burgh of Musselburgh, acting under Authority of an Act intituled "The Musselburgh Estate Act, 1851," considering that *A. B.*, Proprietor of the Subjects after described, has paid to us the Sum of _____ as the Price of the Feu Duties and Casualties of Superiority exigible from said Subjects, do hereby renounce and discharge, to and in favour of the said *A. B.*, his Heirs and Successors, all Feu Duties, Casualties of Superiority, Non-entry Duties, Reliefs, or other Claims or Duties chargeable or exigible by the said Burgh, from all and whole [*here describe the Subjects*]; and that it shall be in the Power of the said *A. B.* and his foresaids to sell or dispose of said Subjects, in whole or in Lots, free and disburdened of the said Feu Duties and Casualties of Superiority now and in all Time coming, the same being for ever extinguished: And, further, we bind and oblige the Provost, Magistrates, and Council of the said Burgh to grant to the said *A. B.* or his foresaids, at his or their Expense, such Charter or other Deed as may be necessary of the said Subjects, containing a Blench Holding, with a Blench Taxed Entry, or, in the Option of the said *A. B.* or his foresaids, a Burgage Holding, for Payment yearly of a Penny Scots Money, if asked, only, and the like Sum at the Entry of Heirs and singular Successors: And we consent to the Registration hereof in the Particular Register of Sasines kept at Edinburgh for Publication. In witness whereof [*here insert a Testing Clause, according to the Form of the Law of Scotland*].

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Creditors of the Burgh of Musselburgh, in consideration of the Sum of _____ instantly advanced to us by *A. B.*, do hereby bind ourselves as Trustees foresaid, and our Successors in Office, to repay the said Sum to the said *A. B.*, or his Heirs, Executors, and Assignees, at the Term of _____ with Interest at the Rate of [*here insert the Rate of Interest, Penalties in case of Failure, Terms of Payment of Interest, and any other Conditions of the Loan*]: And, further, we dispo-
 ne, assign, and transfer to the said *A. B.* and his foresaids the whole Property of the said Burgh, in so far as vested in us by the said Act, but excepting such Parts as have been already sold or disposed of by us [*here insert a Clause of Registration, and a Testing Clause, in the Form of the Law of Scotland*].

SCHEDULE K.

Form of Transfer of a Bond and Assignation in Security.

I *A. B.*, in consideration of the Sum of _____ paid to me by *C. D.*, do hereby assign and transfer to the said *C. D.*, and his Heirs, Executors, and Assignees, the Sum of _____ contained in a certain Bond and Assignation in Security, No. _____ of Date _____, granted in favour of _____ by the Trustees for the Creditors of the Burgh of Musselburgh, by virtue of an Act intituled "The Musselburgh Estate Act, 1851" [*here insert the Conditions of Assignation, if any, Clause of Registration, and a Testing Clause, in the Form of the Law of Scotland*].

LONDON:

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