



ANNO QUINTO & SEXTO

# GULIELMI IV. REGIS.

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## Cap. 15.

An Act to empower the Judges of the Court of Session in *Scotland* to sell the Lands of *Bravelleichs* in the County of *Argyll*, and, after discharging the Debts affecting the same, to invest the Surplus in the Purchase of other Lands, to be entailed. [21st July 1835.]

**W**HEREAS *John M'Dougall*, then of *Lunga*, by his Deed of Entail, bearing Date the Fifth Day of *November* in the Year of our Lord One thousand eight hundred and three, and registered in the Particular Register of Tailzies the Fourth Day of *July* in the Year of our Lord One thousand eight hundred and five, and in the Books of Council and Session in *Scotland* the Seventeenth Day of *February* in the Year of our Lord One thousand eight hundred and six, for the Causes therein specified, gave, granted, and disposed to and in favour of himself; whom failing, to *John M'Dougall* his Second Son, and the Heirs Male of his Body; whom failing, to *Duncan M'Dougall* his Third Son, and the Heirs Male of his Body; whom failing, to any other Son or Sons to be thereafter procreated of his the Entailer's Body, and the Heirs Male of his or their Bodies, the elder of such Sons, and his Heirs Male, always excluding the younger; whom all failing, to *Colin M'Dougall* his eldest Son, and the Heirs Male of his Body; whom failing, to *Bell M'Dougall* his Daughter, and the Heirs Male of her Body; whom failing, to any other Daughter or Daughters to be thereafter procreated of his Body, and the Heirs Male of their Bodies, the elder of such Daughters and

Entail by John M'Dougall of Lunga, 5th Nov. 1803.

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her Heirs Male always excluding the younger; whom failing, to *Colin M'Dougall* his Nephew, Son of the then deceased *Hugh M'Dougall* his Brother, and the Heirs Male of his the said *Colin's* Body; whom failing, to *Hugh M'Dougall*, also Son of the said deceased *Hugh M'Dougall* (Brother of the Entailer), and the Heirs Male of his Body; whom failing, to *Hugh M'Dougall*, Son of *Angus M'Dougall* in *Jura*, and of him the said *John M'Dougall* the Entailer's deceased Daughter *Mary M'Dougall*, and the Heirs Male of his the said *Hugh M'Dougall's* Body; whom failing, to *John M'Dougall*, Son to *Alexander M'Dougall*, then in the Royal Navy, and of his the Entailer's Sister *Ann M'Dougall*, and the Heirs Male of the Body of the said *John M'Dougall*; whom failing, to *Allan M'Dougall* his Grand Uncle, and Son to *Allan M'Dougall*, Tacksman of *Kilchattan* in the Island of *Luing*, and the Heirs Male of his Body; whom failing, to any Person or Persons named and appointed, or to be named and appointed, in any Nomination of Heirs or other Writing already made or to be made by him at any Time of his Life, which Nomination or other Writing should to all Intents and Purposes be held as a Part of the said Deed of Entail, and failing such Nomination and Appointment, or the Heirs thereby or to be thereby named and appointed, then to his nearest Heirs Male whomsoever; whom all failing, to his nearest Heirs and Assignees whomsoever, heritably and irredeemably, all and whole the Lands of the Two *Bravelleichs*, Under and Upper, extending to a Five Mark Land of old Extent, with the Parts, Pendicles, and Pertinents thereof whatsoever, lying in the Barony of *Lockow* within the Sheriffdom of *Argyll*, together with Sixty good and sufficient great Cows, whereof Thirty are Milk or new-calved Kine, and the other Thirty yield Kine, which by the Contract entered into betwixt *Archibald* Marquis of *Argyll* and *Niel* Bishop of *Argyll* and his Spouse, concerning the said Lands of *Bravelleichs* and the foresaid Cows, and also by the former Charters of the said Lands, had been put upon the said Lands of *Bravelleichs*, and continued by the then deceased *John* Duke of *Argyll* and *Greenwich*, at *Beltan*, in the Year of our Lord One thousand seven hundred and thirty-four, and received by the then deceased *Dugald Campbell* of *Ederline*, and to be retained by the then deceased *Colin Campbell*, his Son and Heir, and his Successors in all Time coming, as the Steelbow of the said Duke, and his Heirs Male and Successors for ever, together with the Privilege of purchasing the free Parsonage and Vicarage Teinds thereof, with all Right, Title, and Interest whatsoever, petitory or possessory, which he the said *John M'Dougall* the Entailer or his Authors had, or his Heirs or Successors might anywise have, claim, or pretend to the Lands and others thereby disposed, or any Part thereof, in Time coming; but always with and under the Conditions, Provisions, Limitations, Prohibitions, Restrictions, Clauses irritant and resolute, Exceptions, Declarations, Powers, Faculties, and Reservations mentioned in the said Deed of Entail, and no otherwise, being such as are usual in Settlements of strict Entail by the Law and Practice of *Scotland*: And whereas upon the Death of the said *John M'Dougall* the Entailer he was succeeded in the said entailed Estate by the said *John M'Dougall* his Second Son, the Heir of Entail now in Possession thereof, who made up Titles to the said Estate by serving himself Heir of Tailzie and Provision

Provision to the Entailer, conform to Retour of his General Service expedé before the Bailies of *Canongate* of *Edinburgh* upon the Twenty-third Day of *September* in the Year of our Lord One thousand eight hundred and eleven, and thereafter he obtained from the Duke of *Argyll*, the Superior of the said Lands, a Charter of Confirmation of the Entailer's Deed of Tailzie and Sasine thereon, and a Precept of Clare constat in his Favour, dated the Twentieth Day of *December* in the Year of our Lord One thousand eight hundred and thirteen, in virtue of which he was infest in the same, conform to Instrument of Sasine in his Favour, dated the Tenth Day of *October*, and recorded in the General Register of Sasines the Sixth Day of *December*, in the Year of our Lord One thousand eight hundred and fourteen: And whereas the said Lands and Estate (whereof the yearly Value, after deducting Public Burdens, amounts to the Sum of One hundred and fifty-nine Pounds Four Shillings and Four-pence Sterling, or thereabout,) are of small Extent, and inconveniently situated, being nearly surrounded by other entailed Estates, so that the same can never be enlarged or augmented: And whereas the said Lands and Estate are burdened with Debts created by the said *John M'Dougall* the Entailer, amounting to the Sum of One thousand four hundred Pounds Sterling, which is still unpaid: And whereas it is expedient, and may be of Advantage to the said *John M'Dougall*, as well as the other Heirs of Entail entitled to succeed to him, if Power were given to sell the said Lands and Estate, for the Purpose of paying off the Debts and Incumbrances which now charge and affect the same, and to invest the Surplus which may remain after paying off the said Debts and Incumbrances in the Purchase of other Lands more conveniently situated, to be settled and secured to the said *John M'Dougall* and the other Heirs of Entail entitled to succeed to him in virtue of the foresaid Deed of Entail, in the same Order and Course of Succession, and under the same Conditions, Provisions, Limitations, Prohibitions, Restrictions, Clauses irritant and resolute, Exceptions, Declarations, Powers, Faculties, and Reservations as are therein mentioned and contained: But as these Purposes cannot be effected without the Aid and Authority of Parliament, May it therefore please Your Majesty, upon the humble Petition of the said *John M'Dougall*, that it may be enacted; and be it enacted by the King'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, That immediately after the passing of this Act it shall and may be lawful and competent to and for the Judges of the Court of Session in *Scotland* for the Time being, in either Division thereof, and they are hereby authorized and required, upon a Petition to be presented to the said Court, in either Division thereof, by or on behalf of the said *John M'Dougall*, or the Heir of Entail for the Time being entitled to the said entailed Estates, or the Tutors or Curators of any such Heir being under the Age of Twenty-one Years, and after due Notice of such Petition being given to all concerned in the Matter in the Way and Manner that Intimations are usually made in the Court of Session, and also by Advertisement once in the *Edinburgh Gazette*, and hearing all Parties that may appear for their Interest, to inquire into and take an Account of the foresaid Debts and Incumbrances

Court of Session, upon Petition of the Heir of Entail, may order the Sale of the Lands.

Upon Payment of the Purchase Money into Bank a valid Disposition to be granted to the Purchaser.

branches created by the said *John M'Dougall* the Entailer, amounting to the Sum of One thousand four hundred Pounds Sterling, with the Interest due thereupon, (as specified in the Schedule B. hereunto annexed,) and after having fixed and ascertained the Extent and Amount of such Debts and Incumbrances, with the Interest due thereupon, by Interlocutors or Judgments of the said Court, to order and direct the said entailed Lands and Estates herein-before particularly set forth, contained and comprised in the Deed of Entail before recited (as specified in the Schedule A. hereunto annexed), to be sold at such Price or Prices as the said Judges may think proper, and shall thereupon authorize the said *John M'Dougall*, or the Heir of Entail in Possession for the Time being, or the Tutors or Curators of such Heir, if under Age; to make sale and absolutely dispose of the said entailed Lands and Estates by public Auction and Sale, or Adjournments thereof, or by private Bargain; and if by public Auction, then upon previous Advertisements in the *Edinburgh Gazette* and Two other Newspapers published in *Edinburgh*, once every Week for Four Weeks; and if by private Bargain, with the Approbation of the Court of Session, in either of the Divisions thereof, which they are hereby required to obtain; and the said *John M'Dougall*, or other Heir in possession, shall be bound to grant a formal and valid Disposition to the Purchaser or Purchasers, upon his or their making Payment of the full Price or Prices at or for which he, she, or they shall or may have purchased the same, to the Bank of *Scotland*, Royal Bank of *Scotland*, Bank of the *British* Linen Company of *Scotland*, Commercial Bank of *Scotland*, or National Bank of *Scotland*, or any of them, without Fee or Reward, to be placed to an Account to be raised in the Books of one or other of the said Banks, in the Name of the said Estate; and which Monies shall, when so paid in, produce the highest Rate of Interest that can be obtained for the same, which Interest shall be annually accumulated and added to the Principal Sum itself, to carry Interest together until applied for the Purposes of this Act; and in general to pronounce such Interlocutor or Interlocutors, and to hold such Proceedings in the Matters aforesaid, as the Judges of the said Court of Session shall, in the Circumstances of the Case, consider to be proper and necessary.

Receipts of the Bank to be sufficient Discharge to Purchasers.

II. And be it further enacted, That the Receipt or Receipts of the Treasurer, Cashier, Secretary, Manager, or other proper Officer of one or other of the said Banks, under their respective Hands, of and for the Payment into the said Banks respectively of the Sum or Sums of Money herein-before directed to be so paid, shall be a good and sufficient Discharge, or good and sufficient Discharges, to such Purchaser or Purchasers of the Lands and Estate hereby directed to be sold as aforesaid, and to his, her, or their respective Heirs, Executors, Administrators, and Assignees, for so much of the said Purchase Money for which the said Receipt or Receipts shall be given; and thenceforth such Purchaser or Purchasers, and his, her, or their Heirs, Executors, Administrators, and Assignees, shall be and is and are hereby absolutely acquitted, released, and discharged of and from the same, and shall not be obliged to see to the Application thereof or any Part thereof, or be answerable or accountable for any Loss, Misapplication, or Nonapplication thereof, or any Part thereof.

III. And

III. And be it further enacted, That the Purchaser or Purchasers under the Authority of this Act, his, her, or their Heirs and Assignees, shall, upon receiving the said Disposition, and making full Payment of the Price or Prices for which he, she, or they shall purchase in manner before mentioned, have good and undoubted Right to the Lands and Estate so to be purchased in Fee Simple, freed and discharged for ever from all the Debts, Deeds, and Obligations of the said *John M'Dougall* the Entailer, and freed from the Fetters and Conditions of the Deed of Entail herein-before recited, and the whole Clauses and Provisions therein contained, the said Debts, Deeds, and Incumbrances being always to be paid and discharged in manner herein expressly provided, and from every other Incumbrance, Defect of Title, or Ground of Eviction whatever, in as full and ample a Manner, Sort, and Form as any Purchaser of Lands may, can, or ought to have by the Law and Practice of *Scotland*, and freed and secured against all Challenge or Ground of Eviction whatever at the Instance of the Heirs of Entail of the said Estate who might succeed thereto under the said Deed of Entail; and it shall and may be lawful to and for the said *John M'Dougall*, now of *Bravelleichs*, and to any other Heir in possession of and vested in the said entailed Lands and Estate for the Time being, and he or the said Heir, or the Tutors or Curators of such Heir if such Heir shall be under Twenty-one Years of Age, is and are hereby required to execute and deliver, under the Authority of the Judges of the Court of Session, in manner before mentioned, a good and effectual Disposition and Conveyance, containing Procuratory of Resignation, Precept of Sasine, and all other usual and necessary Clauses, of the said entailed Estate so to be sold in favour of the Purchaser or Purchasers thereof, their Heirs or Assignees, without incurring any Irritancy or Forfeiture, any thing in the said Deed of Entail to the contrary notwithstanding.

Purchasers  
to have a  
good Title  
in Fee  
Simple.

IV. And be it further enacted by the Authority aforesaid, That after the Sale aforesaid shall have been accomplished, and the Purchase Money for the same shall have been paid as aforesaid, the said Court of Session, in either Division thereof, shall and may, upon the summary Application of the said *John M'Dougall*, or of the Heir of Entail entitled to succeed to him for the Time being, or the Tutors, Curators, or Guardians of such Heir if under Age, order and direct the said Debts and Obligations contracted by the said *John M'Dougall* the Entailer, and the Interest thereof, to be fixed and ascertained, and thereafter to order the same to be paid out of the Money lodged in such Bank as aforesaid; and all and every Person or Persons, upon receiving Payment of such Debts and Obligations, shall be obliged to execute a complete Discharge or Renunciation of his or her Debt or Claim to the Extent of the Sum or Sums so to be paid; and the Discharge and Renunciation to be granted shall be registered in the Books of the said Court of Session for Preservation, and also in the General or Particular Register of Sasines, Reversions, and other Writings; and the said Creditors and others, upon so receiving Payment of their respective Debts or Claims, and granting Discharges thereof as herein provided, shall not be subject or liable to any Claim of Repetition on account

Court to  
give Order  
for the Pay-  
ment of all  
Debts and  
Obligations.

[Private.]

thereof, at the Instance of the Heirs of Entail of the said Estate, on any Grounds whatever.

Court may direct the Payment of Costs and Proceedings.

V. And be it further enacted, That the said Court of Session, in either Division thereof, shall and may, upon the summary Application of the said *John M'Dougall*, or the Heir of Entail entitled to succeed to him for the Time being, or the Tutors or Curators of such Heir if under Age, order and direct the said Treasurer, Cashier, Secretary, Manager, or other proper Officer of the said Banks respectively, as the Case may be, to pay, in the next place, out of the Sum or Sums of Money which shall or may have been paid into any of the said Banks in manner before directed, all and every the Costs and Expences of applying for, procuring, and passing this Act, and of all Proceedings relative thereto, and also the Costs and Expences of transacting and completing the Sale or Sales hereby authorized to be made, and incident thereto, and of transacting, making, and completing the Purchase or Purchases by this Act authorized, and of the Conveyances, Deeds of Entail, or other Deeds and Discharges, and Applications required to be made in and about completing all and every the Purposes of this Act.

Money arising from Sales, after Payment of Debts, &c., to be re-invested in Lands, to be entailed; and Residue in Bank to be paid to Heir of Entail.

VI. Provided always, and be it further enacted, That the Surplus which shall remain of the Price of the Lands and Estate so to be sold under the Authority of this Act, after Payment of the aforesaid Debts and Obligations of the said *John M'Dougall* the Entailer, and after defraying the Expences of passing this Act, and all the necessary Expences which may be incurred in carrying the same into execution, shall, upon the summary Application of the said *John M'Dougall*, or the Heir of Entail entitled to succeed to him for the Time being, or the Tutors or Curators of such Heir if under Age, by Order of the Judges of the said Court of Session in either Division thereof, be laid out and employed in the Purchase of other Lands, which shall be limited and settled to the same Series of Heirs, for the same Uses and Purposes, and under the like prohibitory, irritant, and resolute Clauses as the said Estate by the Deed of Entail herein-before recited now stands limited and settled; and the Deed of Entail which shall be executed for that Purpose shall be so framed as to bind the Institute, as well as all and every Persons succeeding as Heir of Entail; and such Deed of Entail, when executed, shall be registered in the Register of Tailzies, to all which the said Court shall interpone its Authority; and the Residue of the Money which shall remain in the said Bank, after satisfying and discharging the several Purposes of this Act in the Way and Manner herein-before authorized and directed, shall be paid to the Person or Persons who would have been entitled for the Time to the Rents and Profits of the said entailed Lands and Estate directed to be sold, or to the Representatives of such Person or Persons.

Until Lands are sold, the Rents to be paid to the Heir of Entail.

VII. Provided also, and be it further enacted by the Authority aforesaid, That until the Sale of the said entailed Lands and Estate herein-before authorized to be sold shall be accomplished, and the Purchase Money shall be paid as aforesaid, the Receipt of the Rents shall

shall subsist and continue with the said *John M'Dougall*, or the Heir who would have been for the Time entitled to the Possession of the said entailed Estate, as if this Act had not been made, he being bound to pay the Interest of the said Debts and Incumbrances out of such Rents until any Sale shall be effected under the Authority of this Act.

VIII. And be it further enacted, That nothing herein contained shall be held or construed to alter, innovate, change, or defeat the hereinbefore recited Deed of Entail, or the Order of Succession thereby established, excepting in so far as may be necessary to carry the Purposes of this Act fully into effect; and the said *John M'Dougall*, or the Heir of Entail in possession of the said entailed Estate for the Time, shall not incur any Irritancy or Forfeiture for or by reason of his or their executing any Disposition, Bond of Corroboration, or other Deed whatever, directed or necessary to be executed under the Authority of this Act.

Entail not to be innovated.

IX. And be it enacted, That the Costs and Charges of all Proceedings to be had in either Division of the Court of Session, in pursuance of the Powers given by this Act, shall be taxed and ascertained according to the Practice of the said Court.

Costs and Charges in the Court of Session to be taxed.

X. Saving and reserving unto the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Bodies Politic and Corporate, and to the Creditors upon the said Estate, (excepting the said *John M'Dougall* and the Heirs of Entail entitled by virtue of the before-recited Deed of Entail to succeed to and take the said Estate,) all such Right, Title, Interest, Claim, and Demand of, in, and to or out of all or any Part of the said Estate, or the Monies to accrue by the Sale thereof, as they, any or either of them, have or might have any Claim, Challenge, or Demand in, to, or out of the same, in case this Act had never been made.

General Saving.

XI. And be it further enacted, That this Act shall be printed by the several Printers to the King'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 to be printed by the King's Printers.

## SCHEDULE A. to which this Act refers ;

SHOWING the Yearly Rent and Annual Value of the Lands and Estate of Bravelleichs in the County of Argyll.

Tenant's Name.	Farm.	Lease.	Yearly Rent.	
John M'Intyre	Bravelleichs	{ For Four Years from Whitsunday 1831 to Whitsunday 1835, per Missive of Lease of Date 11th of May 1830 - - - - - }	£ s. d. 200 0 0	
			Yearly Rent £ 200 0 0	
		Deduct Feu Duty and Public and Pa- rochial Annual Burdens, as under ; viz., —		
		Feu Duty - - £25 0 0 County Rates - - - 9 5 4 Minister's Stipend - - 5 6 9 School Salary - - - 1 9 0	41 1 1	
		Annual Value £	158 18 11	

James Adam.

## SCHEDULE B. to which this Act refers ;

SHOWING the Provision Debts and Incumbrances affecting the Entailed Estate of Bravelleichs in the County of Argyll.

Creditors Names.	Documents of Debt.	Sums.
		£ s. d.
1. The before designed Miss Bell, or Isabella M'Dougall, the Entailer's Daughter -	{ Deed of Settlement executed by her Father, the said John M'Dougall the Entailer, of Date 21st Feb- ruary 1806, and recorded in the Books of Session 26th September 1809 - - - - - } { Heritable Bond by the said John M'Dougall the Entailer in favour of the Executors of the late John M'Laren of the Pleasance, Edin- burgh, for £1,000 Sterling, assign- ed by them to the said Reverend Andrew Robertson - - - - - }	400 0 0
2. The Reverend Andrew Robertson, Minister of the Gospel at Inverkeithing - -		1,000 0 0
	Amount £	1,400 0 0

James Adam.