

APPENDIX VI

PROPERTY AND FINANCE

1. MODEL CLAUSE, TO BE INSERTED IN EVERY FEU CHARTER OR TITLE DEED

It is further provided and declared that the foresaid subjects and the buildings and others erected or to be erected thereon shall in all time coming be held in trust by the said Trustees for the sole use and behoof of the congregation of the Free Presbyterian Church of Scotland in and the whole standards of the Free Church of Scotland as set forth and enumerated in the Deed of Separation by Ministers and Elders from the Free Church of Scotland executed by the Reverend Donald MacFarlane, Minister of Raasay, and Reverend Donald MacDonald Minister of Shieldaig, and Alexander MacFarlane, Teacher of the Public School at Raasay, Elder, dated the fourteenth, and registered in the Books of Council and Session at Edinburgh, the twenty-eighth, both days of August, eighteen hundred and ninety-three and to the Protest contained in the said Deed of Separation, which Deed of Separation dated and recorded as aforesaid is held and to be held as incorporated herewith. And in case any disruption or secession shall take place in said congregation the said subjects and others shall be held in trust for the sole use and behoof of, and shall belong to the section of the said congregation, whether they be the majority or the minority of the same, who adhere to the said Constitution and the whole Standards and the said Protest last mentioned in all particulars, and in case said congregation shall become extinct or in case the whole members and adherents forming said congregation at any time shall fail to adhere to said Constitution, Standards, and Deed of Separation, or any of them, or any part thereof, then, and in either of these events, the said subjects and others shall be sold in manner aftermentioned or held in trust for the general body of Christians known as the Free Presbyterian Church of Scotland, and continuing to adhere to the said Constitution, Standards, and Deed of Separation, and it is further specially provided and declared that the said Trustees shall not be empowered or entitled to sell, burden, assign or dispoise the said subjects or any part thereof except with the consent and concurrence of the Presbytery of the said Free Presbyterian Church of Scotland within whose territory of the said Free Presbyterian Church of Scotland within whose territory shall for the time being be situated, and

consent and concurrence shall be evidenced in writing under the hand of the Clerk of said Presbytery or Synod for the time being; which whole provisions foresaid are hereby declared to be real burdens upon the said subjects and others, and shall be inserted in every deed by way of transmission or otherwise in any way affecting the said subjects or any part of the same, otherwise the same shall be void and null; and it is hereby expressly provided and declared that by their acceptance thereof and by causing these presents to be registered in the Register of Sasines the said Trustees shall be held to have bound and obliged themselves to hold the said subjects and others under trust, and for the trust purposes foresaid, and to have bound and obliged themselves to implement the said trust in all respects and to take their successors whether in the said trust or as disponees in the said subjects bound equally to implement and fulfil the same.

2. RULES AND REGULATIONS FOR APPOINTMENT AND ASSUMPTION OF TRUSTEES IN TRUSTS RELATING TO PROPERTY BELONGING TO OR HELD FOR CONGREGATIONS IN THE FREE PRESBYTERIAN CHURCH OF SCOTLAND

THAT the property of each place of worship be vested in Trustees chosen by the Congregation, in communion with the Free Presbyterian Church of Scotland, as attested to be so by the Moderator and Clerk of the Supreme Court of the Church; that Church to be identified, as in the Deed of Separation.

That Members in full communion (Ministers excepted) and Adherents of good report of the Congregation, designated asof the foresaid Free Presbyterian Church are eligible for election as Trustees. The Synod approve only of such Title Deeds as require the Trustees to leave the management in the hands of the Deacon's Court. It is competent and not unusual for the members of the Deacon's Court to be named as the Trustees.

That at a congregational meeting, called on ten days' notice, given from the pulpit, immediately after Divine service in the forenoon, always specifying the object for which the meeting is called, Trustees be appointed to act for the property specified belonging to the Congregation.

That at a meeting called as aforesaid additional Trustees to act along with the Trustees who at the date of such appointment are surviving and acting, and each and every additional Trustee, so appointed, shall by virtue of such appointment be, *ipso facto*, instantly invested with the same right of property, and with, all, and every the same rights, powers and privileges as any individual Trustee who is actually named and designed in the Disposition of the property, and infest, such additional Trustee being, at the same time, always subject and liable, in the same way as the original Trustees, to the whole conditions, provisions, and declarations under which the subjects were held by the original Trustees; and the said Trustees, or Trustee acting for the time, shall on every occasion of such appointment of Additional Trustees be bound and obliged to execute a formal Deed of Assumption of such Additional Trustees

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containing a formal, in all respects, complete conveyance of subjects therein disposed, in favour of such Additional Trustees and of themselves, and otherwise in terms of these presents: but such Additional Trustees shall, even before the execution of such conveyance and immediately on their appointment, as said is, have the full right, power, and privilege of acting in the Trust in the same way as any individual Trustee actually named and designed in the original Title Deed, and infest, or who may be infest under the same. *N.B.*—It is to be noted that if the names of additional Trustees are recorded in Kirk-Session Records, it is not necessary to have the said formal Deed of Assumption drawn up.

That it shall, at all times, be in the power of any Trustees or Trustee, whether hereby named, or that may be appointed in virtue of the powers and provisions hereinafter contained, who may have acted in the said Trust, to resign the Trusteeship, and that, in the event of any Trustees, or Trustee, whether named or to be appointed, as said is, ceasing to be members of the said body, or united body of Christians, then, and in that case, such Trustees or Trustee, shall *ipso facto*, cease to have any right to act under these presents, and the Trust shall be henceforward conducted by the other Trustees, as if such Trustees or Trustee, ceasing as said is, were actually dead.

3. SCHEME OF FINANCIAL ADMINISTRATION

1. INTERPRETATION CLAUSE

1. In this Scheme the following expressions shall, unless the context otherwise requires, have the meanings hereby assigned to them, (that is to say):—

“The Church” means the general body of Christians known as the Free Presbyterian Church of Scotland, that is to say that body which adheres to the Constitution and the whole standards of the Free Church of Scotland as set forth and enumerated in the Deed of Separation by Ministers and Elders from the Free Church of Scotland executed by the Reverend Donald MacFarlane, Minister of Raasay, and Reverend Donald MacDonald, Minister of Shiel-daig, and Alexander MacFarlane, Teacher of the Public School at Raasay, Elder, dated the 14th and registered in the Books of Council and Session the 28th both days of August 1893, and to the Protest contained in the said Deed of Separation; and in case any disruption or secession shall take place in the Church as herein defined, the expression “the Church” shall mean the section of the said general body of Christians, whether they be the majority or the minority of the same, who adhere to the said Constitution and the whole standards and the said Protest last mentioned in all particulars;

“The Synod” means the Synod of the Church;
“Assets” includes all forms of property heritable and moveable, real and personal, and wheresoever situated;
“Special Funds” means assets which on and after the appointed

day are held on behalf of the Church subject to the provisions of a trust as defined in paragraph (a) of the second section of the Trusts (Scotland) Act 1921 other than a resolution of the Synod and so long as the relative trust requires them to be so held, but shall not include any assets which are held on behalf of any individual congregation of the Church or which are held for general purposes of the Church;

“General Funds” means all assets other than Special Funds which on and after the appointed day are held on behalf of and for the purposes of the Church, and shall include special donations and collections as hereinafter defined but shall not include any assets which are held on behalf of and for the purposes of any of the individual congregations of the Church;

“Special donations and collections” means and includes assets donated for special purposes, but so as not to fall within the category of Special Funds as defined herein above;

“The Appointed Day” means the day appointed by the Synod, or by any Committee duly authorised by the Synod so to appoint, as the day upon and from which this Scheme shall have effect; and

“The Jewish and Foreign Missions Committee” means the Committee of that name appointed annually by the Synod.

II. GENERAL TRUSTEES

2. (1) From and after the appointed day the Moderator of Synod for the time being, the Clerk of Synod for the time being, the General Treasurer of the Church for the time being, and the Convener for the time being of the Finance Committee of the Synod, each acting *ex officio*, shall each during the continuance of their respective terms of office be General Trustees of the Church.

(2) From and after the appointed day the Resolutions of Synod of 25th May 1933, 24th May 1934 and 18th May 1960, anent the appointment of General Trustees, shall cease to have effect.

(3) From and after the appointed day the following provisions shall have effect:—

(1) The General Funds shall be transferred to and vested in the General Trustees in trust for the general purposes of the Church or, in the case of special donations and collections, for the purposes for which such special donations and collections have been given.

(2) The Special Funds shall be transferred to and vested in the General Trustees in trust for the purposes for which such Funds are held by the Church, as defined in the respective Trust Deeds governing the bequest or donation, as the case may be, to the Church of the said Special Funds.

(3) The several persons in whose names the titles to the assets comprising the General and Special Funds are registered as at the appointed day shall execute and deliver all such deeds or other writings as may be necessary for the completion of title to the said assets by the General Trustees.

(4) All receipts and discharges for legacies and donations to the General and the Special Funds shall be revised by the Church's law agent and shall be signed by the General Treasurer of the Church and the Convener of the Finance Committee for and on behalf of the

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General Trustees, and any receipt or discharge so signed shall be a full and sufficient discharge for such legacy or donation. The General Treasurer shall intimate the receipt of any such legacy or donation to the General Trustees and to the Finance Committee at their next meeting after the date thereof.

(5) The titles to the various assets comprising the General and Special Funds shall be registered in the manner specified in the Schedule to this Scheme.

4. (1) Subject to the further provisions of this Clause, the General Trustees shall, unless it is otherwise specially provided by a Resolution of Synod or by the terms of a Trust Deed governing a legacy or donation, enjoy the powers, privileges and immunities granted to gratuitous Trustees in Scotland at common law or by Statute.

(2) It shall not be competent to any one of the persons herein appointed as General Trustees to resign office as such Trustee during the period of his tenure of the office by virtue of which he holds office as such Trustee.

(3) It shall not be competent for the General Trustees, unless duly authorised by a Resolution of the Synod, to add to their number by the assumption of any persons other than those specified in Clause 2 (1) of this Scheme, but nothing herein contained shall be construed as requiring a formal Deed of Resignation and Assumption to be executed whenever a change occurs in the persons holding the offices named in the foresaid Clause 2 (1).

(4) No person shall be debarred, by reason of holding office as a General Trustee, from receiving such remuneration as the Synod or any Committee duly authorised on its behalf may from time to time authorise to be paid to such person in respect of the office by virtue of which he is a General Trustee.

(5) (a) The General Trustees shall invest the General Funds in such manner as they may from time to time be instructed to do by the Synod or by the Finance Committee on its behalf in accordance with the provisions of Clause 7(3) of this Scheme.

(b) The General Trustees shall realise the capital of the General Funds under their charge and apply the same as and when they may be instructed to do so by the Synod or by the Finance Committee on its behalf.

(6) (a) The General Trustees shall invest the Special Funds under their charge as they may be instructed to do by the Synod or by the Finance Committee on its behalf in accordance with the provisions of Clause 7 (4) of this Scheme.

(b) The General Trustees shall have no power to realise the capital of the Special Funds under their charge except in so far as they may be permitted to do so by the terms of the relative Trust Deed, or, in default of any such permission, in any manner in which Trustees may from time to time be permitted by the law of Scotland to realise the capital of trust funds.

(7) Nothing contained in Sections (5) and (6) of this Clause shall be construed as obliging the General Trustees to act on the instructions of the Finance Committee if to do so would constitute a breach of trust.

5. (1) The General Treasurer of the Church shall act as Clerk to

the General Trustees, and shall keep proper Minutes of their Meetings and enter the same in a Sederunt Book.

(2) The General Trustees shall meet at such times and at such places as the General Treasurer may determine, having regard to the nature and amount of business to be transacted and the convenience of the majority, but in any event shall meet at least once in every calendar year. The General Treasurer shall be bound to convene a meeting of the General Trustees on receiving a requisition to that effect signed by at least two of the General Trustees specifying the nature of the business which it is proposed should be transacted thereat, and in doing so he shall inform each of the Trustees, other than the requisitioners, of the nature of such business. Any meeting convened on such requisition shall take place not more than twenty-one days from the date of receipt by the General Treasurer of such requisition. In the event of the General Treasurer failing to convene a meeting in accordance with the provisions of this section, the requisitioners, after the expiry of the said period of twenty-one days, may proceed forthwith to hold a meeting at which, if duly constituted in accordance with the provisions of Section (3) of this clause, any decision duly arrived at in accordance with the provisions of that section shall be as effective as if taken at a meeting duly convened by the General Treasurer in terms of this section.

(3) At any meeting of the General Trustees the majority thereof if present shall constitute a quorum. The Moderator of Synod shall be the Chairman. If the Moderator be not present then those members present shall appoint a Chairman from among their number. Voting shall be by majority, and in the event of equality the Chairman shall have a casting vote as well as a deliberative vote.

(4) If any business fails to be considered by the General Trustees which may be suitable for transaction without the necessity for convening a meeting as aforesaid, such transaction, if recorded in a Minute subscribed by each of the Trustees and entered by the General Treasurer in the Sederunt Book, shall be as effective as if done at a Meeting of the Trustees duly convened and constituted in accordance with the provisions of Sections (2) and (3) of this Clause.

III. FINANCE COMMITTEE

6. From and after the appointed day the following provisions shall have effect:—

(1) A Finance Committee shall be appointed annually by the Synod, and shall consist of at least four members of the Synod, of whom at least one shall be from each Presbytery.

(2) The Synod shall appoint one of the members of the Finance Committee to act as Convener.

7. (1) The Finance Committee shall be responsible for and shall, subject always to any Resolution of the Synod, have complete discretion in allocating as between the several named Funds any assets forming part of the General Funds other than assets representing special donations or collections, which shall not be allocated to any of the several named Funds other than those Funds for the

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Duties and Powers of Finance Committee and of Jewish and Foreign Missions Committee.

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purposes of which such special donations or collections have been given.

(2) The Jewish and Foreign Missions Committee shall be responsible to the Synod for deciding the manner in which any assets allocated under the provisions of Section (1) of this Clause to the Foreign Missions Fund and the Mission to the Jews Fund shall be applied; provided always that where any such assets are to be invested, the manner in which such assets shall be invested shall be decided by the Finance Committee in accordance with the provisions of Section (3) of this Clause.

(3) The Finance Committee shall, subject to the Provisions of Clause 3 (1) of this Scheme, decide and instruct the General Trustees as to the manner in which the General Funds shall be invested, and in which such Funds (other than assets which have been allocated to the Foreign Missions Fund and the Mission to the Jews Fund under the provisions of Sections (1) and (2) of this Clause) shall be applied, but provided always that the said Funds shall be invested in such manner as may from time to time be authorised for the investment of trust funds in Scotland, or in the purchase of debentures or debenture stock or preference, ordinary or deferred stocks or shares (but excluding any such debentures, stocks or shares which confer no voting rights or upon which there is an uncalled liability) of any public or chartered company or corporation registered in the United Kingdom, in the Republic of Eire, in any British Colony or Dependency, in any other country within the British Commonwealth, or in the United States of America, or of units of any unit trust quoted on any Stock Exchange in the United Kingdom or the managers of which are members of The Association of Unit Trust Managers, or in loans on the security of any of the debentures, stocks, shares or units aforesaid, or in loans without security to individual congregations of the Church, or in the purchase of heritable property.

(4) The Finance Committee shall, subject to the provisions of Clause 3 (2) of this Scheme, decide and instruct the General Trustees as to the manner in which the Special Funds shall be invested and applied, but provided always that the said Funds shall be invested in accordance with the terms of the respective Trust Deeds governing the bequest or donation, as the case may be, to the Church of the several named Funds comprising the Special Funds, and, in default of any such directions, and in any event, in any manner which may from time to time be authorised for the investment of Trust Funds in Scotland.

(5) The Finance Committee shall in each year prepare a Report on its actings during its year in office and submit such Report to the next annual Meeting of the Synod after its appointment.

(6) The Finance Committee shall be entitled to obtain such professional advice as it may require in order to enable it to carry out its duties, and to make payment therefor.

8. (1) The General Treasurer of the Church shall act as Clerk to the Finance Committee and shall convene meetings of the Committee as instructed by the Convener of the Committee, and shall keep proper Minutes of Meetings of the Committee and enter the same in a Sederunt Book, and shall prepare the Report to be

submitted annually by the Committee to the Synod in accordance with the provisions of Clause 7 (5) of this Scheme.

(2) The Finance Committee shall meet at such times and at such places as the Convener may determine, having reasonable regard to the nature and amount of business to be transacted and the convenience of the majority. The Convener shall be bound to cause a meeting of the Finance Committee to be convened on receiving a requisition to that effect signed by at least two of the members of the Finance Committee specifying the nature of the business which it is proposed should be transacted thereat, and in doing so he shall inform each of the members of the Finance Committee, other than the requisitioners, of the nature of such business. Any meeting convened on such requisition shall take place not more than twenty-one days from the receipt of such requisition. In the event of the Convener failing to cause a meeting to be convened in accordance with the provisions of this section, the requisitioners, after the expiry of the said period of twenty-one days, may proceed forthwith to hold a meeting at which, if duly constituted in accordance with the provisions of Section (3) of this clause, any decision duly arrived at in accordance with the provisions of that section shall be as effective as if taken at a meeting duly convened on the instructions of the Convener, in terms of this section.

(3) At any meeting of the Finance Committee three members present shall constitute a quorum. The Convener shall be the Chairman. If the Convener be not present then those members present shall appoint a Chairman from among their number. Voting shall be by majority, and in the event of equality the Chairman shall have a casting as well as a deliberative vote.

(4) If any business falls to be considered by the Finance Committee which may be suitable for transaction without the necessity for convening a meeting as aforesaid, such transaction shall, if recorded in a Minute subscribed by each of the members of the Committee, and entered by the General Treasurer in the Sederunt Book, be as effective as if done at a Meeting of the Committee duly convened and constituted in accordance with the provisions of Sections (2) and (3) of this Clause.

IV. TREASURERS

9. From and after the appointed day the following provisions shall have effect:—

(1) The Synod shall appoint a General Treasurer of the Church, who shall hold office for such period, and subject to such conditions, including conditions as to remuneration, as the Synod may determine.

(2) In addition to performing the duties specified in Clauses 3 (1), 5 (1) and 8 (1) of this Scheme the General Treasurer shall be responsible to the Synod for the completion of title to and safe custody of the documents of title to assets under the charge of the General Trustees.

(3) The General Treasurer shall keep proper Accounts of the General and Special Funds of the Church, and shall in each year

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make up Balance Sheets of such Funds as at 31st December, together with Income and Expenditure Accounts for the year preceding, and shall cause such Accounts to be audited by a duly qualified Chartered Accountant or firm of Chartered Accountants appointed by the Synod, or if so authorised by the Synod, by the Finance Committee, and shall render such Accounts along with the auditor's Report on the same to the next Meeting of the Synod occurring after the date of such balance.

10. In addition to the General Treasurer, the Synod may from time to time appoint one or more other Treasurers who shall act in accordance with such instructions as he or they may from time to time receive from the Synod or from any duly authorised Committee thereof in relation to such named Funds as the Synod may determine.

V. GENERAL.

11. The Synod reserves power to itself by Resolution at any time to alter, vary, modify or enlarge the provisions of this Scheme in any manner which it may think fit, but provided always that no such alteration, variation, modification or enlargement shall be inconsistent with the provisions of the law of Scotland relative to the holding or application of Trust Funds or with the purposes of the Church.

12. This Scheme shall become effective upon the appointed day. The Members of the Finance Committee of the Church as then constituted and the General Treasurer and the Publications Treasurer then in office shall each remain in their respective offices until the next meeting of the Synod occurring after the appointed day, and the provisions of this Scheme shall be effective and binding upon them during such period.

SCHEDULE

1. Where possible, investment should be in the name of "The Moderator of Synod, the Clerk of Synod, the Convener of the Finance Committee and the General Treasurer, all of the Free Presbyterian Church of Scotland as General Trustees *ex officio*s of said Church for behoof of the [fund of] said Church".

2. Where the style contained in 1. above is not possible investment should be in the name of "The Reverend A B, Clerk of Synod, the Reverend" (or otherwise as the case may be) "C D, Convener of the Finance Committee, and E F Esq.," (or otherwise as the case may be) "General Treasurer, all of the Free Presbyterian Church of Scotland and their successors in office" adding (where investment in the names of Trustees is permitted) "as General Trustees of the said Church, for behoof of the [Fund of] said Church".

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VII.FOREIGN MISSIONS AND OVERSEAS
STATIONS

1. Foreign Missions Committee.

A copy of the Constitution of this Committee is held by the Clerk.

2. Resolution of Synod dated 25th May, 1961 relating to Colonial Stations

That the Southern Presbytery be given jurisdiction over the Colonial Stations of the Church, and that these Stations be considered as lying within the bounds of the Southern Presbytery.

3. Dominion and Overseas Committee.

A copy of the Resolution of Synod setting out the functions of this Committee is held by the Clerk of Synod.