

David Octavius Hill, painter and photographer, 1802-1870
SC70/4/129 pp 45-87

David Octavius Hill, Edinburgh Sheriff Court Wills (SC70/4/129 pp.45-87)

[In margin] David Octavius Hill Vide Record of Inventories Vol 150 p 429 8th
Nov[ember] 1870

We David Octavius Hill, Royal Scottish Academician Edinburgh and Amelia Robertson Paton (named in the Contract of marriage aforementioned Amelia Paton) spouses Considering that by Antenuptial Contract of Marriage entered into between us of date eighteenth November eighteen hundred and sixty two in Contemplation of Marriage to be entered into between us and for the causes therein expressed I the said David Octavius Hill assigned transferred And made over to and in favor of Joseph Noel Paton, Walter Hugh Paton Esquire then associate now Royal Scottish Academician Daniel Mackenzie Wallace Student of Law Walter Scott Dalgleish Esquire Master of Arts residing at number seven Lauder Road Grange near Edinburgh now at Dreghorn and William Menzies Esquire Merchant then residing in Scotland Street Edinburgh, now in Melville Street there as Trustees for the purposes therein mentioned and to the acceptors and acceptor survivors and survivor of them and to such other person or persons as they might afterwards assume into the Trust the majority alive And accepting And resident in Great Britain at the time being always a quorum But in trust always for the ends uses and purposes And with the powers and under the conditions and declarations therein afterwritten a certain Policy of Insurance No 1932 (P) granted by the North British 1932

now the North British And Mercantile Insurance Company in favour

[in margin] Sic me the said David Octavius Hill my heirs executors And administrators or assignees on my own life for the sum of one thousand pounds dated the, twenty sixth April Eighteen hundred and forty four together with the whole sums of money Contained in And that Might become payable under or in respect of said Policy And the whole Bonuses And additions which might thereafter accrue thereon and I Bound and obliged myself regularly to pay the premium with power to the said Trustees to sue for uplift receive and discharge the whole sums due in respect of said Policy And upon payment to grant all necessary discharged And acquittances therefore And farther I the said David Octavius Hill then Disposed, Assigned Conveyed and made over to and in favor of the said Trustees and their foresaids All and sundry Lands and Heritages debts sums of money goods and gear and whole other means and Estate as well heritable and moveable (except therein after specified) which should pertain and belong to me at the time of my death with all the writs and evidents of the said Heritable subjects And all Bonds Bills and other documents and instructions of said moveable Estate: But in trust always for the uses ends and purposes and in the events therein expressed Videlicet. First. In the event of me the said David Octavius Hill predeceasing the said Amelia Robertson Paton and leaving children of the said intended marriage the Trustees are directed to pay over to her during the lifetime of the said children or their issue the whole Annual produce or interest of the said Trust Funds during her life for her own absolute use second Upon the death of the said Amelia Robertson Paton predeceased as aforesaid, the Capital of the Trust Funds is directed to be paid to the children of the said intended marriage in the event of there being Any, And to Mrs Charlotte Hill or Dalgleish now deceased spouse of the said

Walter Scott Dalgleish, Daughter of the said David Octavus Hill by a previous marriage equally among them share and share alike as therein particularly mentioned; Third. In the event of the said Amelia Robertson Paton predeceasing the said David Octavus Hill then the said Trustees are directed upon his death to make payment of the Capital to the children of the said intended marriage if any such there be, And the said Mrs Charlotte Hill or Dalgleish in the manner And upon the conditions therein above specified as in the event of his predeceasing the said Amelia Robertson Paton:- Fourth. In the event of the predecease of me the said David Octavus Hill without leaving children of said intended marriage or issue of the same or the other events therein expressed the said Trustees are directed in the first place to pay to the said Amelia Robertson Paton the annual produce or income of said Estate to the extent therein mentioned and divide the remainder of said annual produce or income equally between her and the said Mrs Charlotte Hill or Dalgleish or her issue; And it is farther thereby provided that on the death of the said Amelia Robertson Paton the said Mrs Charlotte Hill or Dalgleish should be entitled to the whole of the fund coming through her father the said David Octavus Hill and Lastly in the event of the said Amelia Robertson Paton predeceasing me the said David Octavus Hill and of there being no child of the said intended marriage the said Trust shall come to an end and the Trustees shall be bound to divest themselves of the said Trust and re-convey the same to the said David Octavus Hill and Further I the said David Octavus Hill thereby conveyed assigned and mad[e] over to and in favor of the said Amelia Robertson Paton as her own absolute property in the event of her survivance the whole Household Furniture and all other Articles of a moveable nature (with the exception of the Pictures) which might be in My Dwelling House at the time of my death, And I the said David Octavus Hill thereby made further provisions in regard to the aliment from the period of my own death to the first term of Martinmas or Whitsunday thereafter and for mournings to the said Amelia Robertson Paton in the event of her surviving me; For which Causes and on the other part I the said Amelia Robertson Paton thereby assigned Conveyed And made over to And in favor of the said Trustees All and sundry Lands and Heritages goods gear debts and sums of money And generally the whole property heritable and moveable then belonging or resting owing to me or that should pertain and be owing to me during the subsistence of the said intended marriage (with the exception therein.-after specified) But intrust always for the uses ends and purposes therein expressed videlicet. First That the subsistence of the said Marriage should pay over the whole annual interest or produce of the said Estate to the said David Octavus Hill in the event of his surviving me the whole of said interest or produce is directed to be paid to him while there are children of the marriage or their issue surviving And further in the event of me the said Amelia Robertson Paton surviving him and of there being a child or children of said intended marriage the whole of the said interest or produce of the said Trust Estate while said child or children or their issue survive is thereby directed to be paid to Me during all the days of my life; Second. Upon the death of the longest liver of us leaving a child or children of said Marriage the Capital of the said Trust funds coming through me the said Amelia Robertson Paton are directed to be paid to the child or children of the marriage and to the said Charlotte Hill or Dalgleish equally among them share and share alike but with power to the said spouses jointly of the survivor to apportion the shares of the children. Third. In the event of the predecease of the said Amelia Robertson Paton without leaving children the said Trustees are directed in the first place to pay to the said David Octavus Hill the annual produce or income of the said Trust Estate to the

extent of one hundred and fifty pounds sterling, and divide the remainder of the said annual produce or income equally between the said David Octavus Hill and the heirs or assignees of the said Amelia Robertson Paton, And it is thereby declared that on the death of the said David Octavus Hill the said Trust Estate coming through the said Amelia Robertson Paton shall revert to her heirs or assignees. Fourth. It is further thereby provided that in the event of the predecease of the said David Octavus Hill and there being no child of the said intended marriage then the Trust thereby Constituted shall thereupon come to an end and the Trustees shall be bound to divest themselves of the said Trust Estate and recovery the same to the said Amelia Robertson Paton And it is thereby declared that the Professional earnings of the said Amelia Robertson Paton as a Sculptor during the said marriage are exempted from the foresaid conveyance by her in favour of the said Trustees And it is thereby declared that the same shall belong to her exclusive of the jus mariti and right of administration of her said husband who thereby expressly renounced his right jure mariti and right of administration to the same accordingly as the said Contract of Marriage Containing sundry other clauses in itself more fully bears :- Further Considering that there is no issue of the said marriage And that we are desirous to make the following provisions for the disposal of our respective means and estate: Therefore I the said David Octavus Hill with the consent of my said spouse hereby in the event of my predeceasing my spouse without issue of our marriage Dispose, Assign, Convey and make over to my said spouse the whole means estate and effects heritable and moveable of every description now belonging or that may at my death belong to me as her own absolute property together with the whole writs and Evidents thereof; And I the said Amelia Robertson Paton in the event of my predeceasing my said spouse without issue of our marriage hereby dispose assign Convey and make over to the said David Octavus Hill in liferent for his liferent use allentary the whole means estate and effects heritable and moveable of every description now belonging or that at the time of my predecease may belong to me declaring this to be a strictly alimentary provision in his favour and I direct my Executors to dispose of the fee of my moveable Estate in such way and manner as may be appointed by any writing under my hand although not legally probative, and in the event of the dissolution of our said marriage without issue we hereby as at And after that event revoke the trust Constituted by the said marriage Contract and the whole clauses and provisions in favor of the child or issue of the said David Octavus Hill by his said former marriage (his only child by the said marriage being now dead) but excepting from this revocation all rights thereby Constituted in favour of the survivor of us so far as in accordance with or tending to support the provisions hereby made in favour of the said survivor of us and declaring also that this revocation shall not impair or affect the right of the Trustees under the said Marriage Contract to draw and receive the contents of the Policy of Insurance for one thousand pounds on the life of the said David Octavus Hill therein mentioned they applying the same when received in Terms of these presents; but reserving to each of us our liferent of all rights severally belonging to us as presently Constituted and power to revoke or alter these presents in whole or in part without the consent of the other each for and to the extent of his or her own right and we appoint the survivors of us along with William Menzies Merchant residing in Melville Street Edinburgh, John Macdonald Wine Merchant in Perth George Geddes Mining Engineer Edinburgh and William Mc Farlane Lithographer in Edinburgh to be Executors of the predeceaser of us with power to do whatever may be necessary by Constituting a trust or otherwise to give legal effect to the alimentary condition of the foresaid

provision by the said Amelia Robertson Paton in favour of the said David Octavus Hill And we consent to registration hereof with Books of Council and Session or others Competent thereto to remain for preservation In Witness Whereof these presents written on this and the three preceding pages of stamped paper by John Cunningham Millar clerk to Mann And Duncan Solicitors Leith are subscribed by us at Edinburgh the fourteenth day of April Eighteen hundred and sixty eight years before these Witnesses Alexander Mann Solicitor in Leith and Peter Mann Carver residing in Herriot Terrace Canonmills Edinburgh (Signed) Dav[id] oct[avus] Hill Amelia R. Hill Alex[ander] Mann Witnesses Peter Mann Witness.-
Edin[burgh] 8th November 1870.

This is the Deed of Recall &c. referred to in my Deposition of this date.-

(Signed) Amelia R. Hill

(") W[illia]m Cowan J.P.

[Marriage Contract]

It is Contracted agreed and matrimonially ended between the Parties following Videlicet David Octavus Hill Royal Scottish Academician Edinburgh on the one part and Amelia Paton residing in Edinburgh on the other part in manner following That is to say the said David Octavus Hill And Amelia Paton hereby accept of each other for lawful spouses and promise to solemnize their marriage with all convenient speed agreeably to the rules of the church In Contemplation of which Marriage the said David Octavus Hill does hereby assign Transfer and make over to and in favor of Joseph Noel Paton Esquire Royal Scottish Academician Walter Hugh Paton Esquire Associate of the Royal Scottish Academy David Mackenzie Wallace Student of Law Walter Scott Dalgleish Esquire Master of Arts residing at Number seven Lauder Road Grange near Edinburgh and William Menzies Esquire Merchant residing in Scotland Street Edinburgh as Trustees for the purposes after mentioned and to the acceptors and acceptor survivors and survivor of them and to such other person of persons as they may afterwards assume into the Trust the majority alive and accepting and resident in Great Britain at the time being always a quorum But in Trust always for the ends uses and purposes and under the conditions and declarations herein after written A Policy of Insurance Number P one thousand nine hundred and thirty two (P.

1932 granted by the North British now the North British and Mercantile Insurance Company in favor of the said David Octavus Hill and his heirs executors administrators or assignees on his own life for the sum of one thousand pounds Sterling dated the Twenty sixth day of April Eighteen hundred and forty four and on which there is an annual premium of Thirty four pounds nineteen and two pence payable on or before the Twenty sixth day of April in each year together with the whole sums of money Contained in And that may become payable under or in respect of said Policy and the whole Bonuses and additions which have accrued or which may hereafter accrue thereon and the said David Octavus Hill Binds and obliges himself to pay the said Premium of Insurance regularly as it falls due and thereafter to deposit the receipt for the same with the said Trustees for their satisfaction; with power to the said Trustees to assign and transfer the said Policy and Further to sue for uplift receive and discharge the whole sums to become due upon payment to grant all necessary discharges and acquittances therefore And further Dispones assigns Conveys and makes over to and in favor of the said Trustees and their forsaid all and sundry Lands and Heritages debts sums of

money goods and gear and whole other means And Estate as well heritable and moveable (except as herein –after specified) which shall pertain and belong to him at the time of his death with all the writs And evidents of the said heritable subjects and all Bonds Bills and other documents and instructions of the said moveable Estate But in Trust always for the uses ends and purposes following First In the event of the said David Octavus Hill predeceasing his said intended spouse and leaving children of the said intended marriage the said Trustees shall pay over to her during the life-time of the said children or their issue the whole Annual produce or interest of the said Trust funds and Estate hereby conveyed during her life for her own absolute use Second upon the death of the said Amelia Paton predeceased as aforesaid by the said David Octavus Hill the said Trustees shall make payment of the Capital of the said Trust funds to the children of the said intended marriage in the event of there being any and to Mrs Charlotte Hill or Dalgleish spouse of the said Walter Scott Dalgleish a Daughter of the said David Octavus Hill by a previous marriage equally among them share and share alike with power to the said David Octavus Hill to apportion the shares of the children of the said intended marriage as the said David Octavus Hill may direct by a writing under his hand and failing such writing then the shares of such Children shall be divided among them equally share and share alike the children of such as may predecease leaving issue and the children of the said Mrs Charlotte Hill or Dalgleish in the event of her predecease being entitled to the share which would have belonged to their deceased parent Declaring that the said shares shall not rest except on the majority in the case of sons and majority or marriage in the case of Daughters whichever may first happen and in case of the death of any of them before the period of resting of his or her share without leaving lawful issue then the same shall fall accresce and belong to the surviving child or children of the said intended marriage and the said Mrs Charlotte Hill or Dalgleish and the issue per stirpes of any of them who may have died leaving issue if any such there be. Third in the event of the said Amelia Paton predeceasing the said David Octavus Hill the said Trustees shall upon his death make payment of the Capital of the said intended marriage if any such there be and the said Mrs Charlotte Hill or Dalgleish in the manner and upon the conditions above specified as in the event of his predeceasing the said Amelia Paton Fourth In the event of the predecease of the said David Octavus Hill without leaving children of the said intended marriage or issue of the same or of their dying before the said provisions shall have rested in them as aforesaid the said Trustees shall in the first place pay over to the said Amelia Paton the annual produce or income of the said Trust Estate to the extent of one hundred and fifty pounds, and shall divide the remainder of the said annual produce or income equally between the said Amelia Paton and the said Mrs Charlotte Hill or Dalgleish or her issue and further on the death of the said Amelia Paton the said Mrs Charlotte Hill or Dalgleish shall be entitled to the whole of the funds coming through her father the said David Octavus Hill and Lastly in the event of the said Amelia Paton predeceasing the said David Octavus Hill and of there being no child of the said intended marriage or of the issue of the marriage dying before the said provisions shall have rested in them without leaving lawful issue the said Trust shall Come to an end & and the said Trustees shall be bound to direct themselves of the said Trust Estate and recovering the same to the said David Octavus Hill And further in Contemplation of the said intended marriage the said David Octavus Hill assigns Conveys and makes over to and in favor of the said Amelia Paton as her own absolute property in the event of her surviving him the whole Household furniture and all articles of a moveable nature (with the exception

of the Pictures) which may be in his Dwelling house at the time of his death Declaring that in the event of the said Amelia Paton predeceasing the said David Octavus Hill the said furniture and other articles shall be held to form part of the Trust Estate and Effects of the said David Octavus Hill herein before conveyed And further the said David Octavus Hill further Binds and obliges himself and his forsaid to make payment to the said Amelia Paton in the event of her surviving him of the sum of Eighty pounds Sterling in the name of aliment from the period of his death till the first term of Whitsunday or Martinmas thereafter when the first terms payment of her provisions under these presents shall become payable and also of the sum of Thirty Pounds sterling in the name of mournings – And it is hereby declared that the foresaid provisions are accepted by the said Amelia Paton in full of all claim of Terce jus relictae or other legal claims whatsoever which she could have against said David Octavus Hill or his Estate in the event of her surviving him For which causes and on the other part the said Amelia Paton hereby Assigns, Conveys and makes over to and in favor of the said Joseph Noel Paton Walter Hugh Paton Daniel Mackenzie Wallace Walter Scott Dalgleish and William Menzies as Trustees foresaid and their forsaid all and sundry Lands and Heritages goods gear debts and sums of money and generally the whole property heritable and moveable now belonging or resting owing to her during the subsistence of the said intended marriage (with the exception herein after specified) But in Trust always for the uses ends and purposes following First. The said Trustees shall during the subsistence of the said intended marriage pay over the whole Annual interest or produce of the said Estate to the said David Octavus Hill and in the event of his surviving the said Amelia Paton the whole of the said interest or produce shall be paid to him while there are children of the marriage or their issue surviving and further in the event of the said Amelia Paton surviving him and there being a child or children of the said intended marriage the whole of the said interest or produce of the said Trust Estate shall while said child or children or their issue survive be paid to her during all the days of her life. Second upon the death of the longest liver of the said David Octavus Hill and Amelia Paton leaving a child or children of the said intended marriage the said Trustees shall make payment of the Capital of the said Trust funds Coming through her to the child or children of the said marriage and to the said Mrs Charlotte Hill or Dalgleish equally among them share and share alike with power of the said David Octavus Hill and the said Amelia Paton jointly or the survivor to apportion the shares to the children of the said intended marriage as the said David Octavus Hill and the said Amelia Paton jointly or the survivor may direct by a writing under the hand and failing such writing then to the said children equally share and share alike it being provided that the issue of such of the said children as may predecease leaving issue and the issue of the said Mrs Charlotte Hill or Dalgleish in the event of her predecease shall be entitled to the share which would have belonged to their deceased parents respectively and declaring that the proportion or share of each child shall not rest in him or her except on majority or marriage as herein before provided with reference to the Estate Conveyed by the said David Octavus Hill and that in case of the death of any of the said children before the period of resting of his or her share without leaving lawful issue the same shall fall and belong as aforesaid to the surviving child or children and the issue per stirpes of each child who shall have died leaving issue if any such there be. Third. In the event of the said Amelia Paton without leaving children of the said intended marriage or issue of the same or of their dying before the said provision shall have vested in them as aforesaid the said Trustees shall in the first place pay over to the said David Octavus Hill the annual produce or income

of the said Trust Estate to the extent of one hundred and fifty pounds and shall divide the remainder of the said Annual produce or income equally between the said David Octavus Hill & the heirs or assignees of the said Amelia Paton And Further on the death of the said David Octavus Hill the said Trust Estate Coming through the said Amelia Paton shall revert to her heirs or assignees Fourth. In the event of the predecease of the said David Octavus Hill and of there being no child of the said intended marriage or of the issue of the marriage predeceasing the said Amelia Paton before the said provisions shall have rested in them without leaving lawful issue, then the Trust hereby constituted shall thereupon come to an end and the said Trustees shall be bound to direct themselves of the said Trust Estate and recovering the same to the said Amelia Paton Declaring always that the professional earnings of the said Amelia Paton as a Sculptor during the subsistence of the said intended marriage are exempted from the foresaid Conveyance by her in favor of the said Trustees: And it is hereby declared that the same shall belong to her exclusive of the jus mariti and right of administration of her said intended husband , and the said David Octavus Hill hereby expressly renounces his right jure mariti and right of administration to the same accordingly Declaring that the foresaid provisions conceived under these presents in favor of the child or children of the intended marriage shall be in full to them of their claims for legitim and all other claims competent to them by or through the death of their said parents or either of them And the said David Octavus Hill And Amelia Paton hereby reserve full power to themselves and the survivor of them in the event of the death incapacity or resignation of any of the said Marriage Trustees herein named to nominate and appoint such person or persons as they or the survivor of them shall think fit to act in the said Trust in his or their place and who shall have the same powers in all respects as if they had been originally herein named Trustee or Trustees And the said Trustees are hereby authorised to name one of their own number or any other person or persons to be Factors and Attornies under them for the management of the Trust property and for whom they shall be no further responsible than that such Factor or Attorney was habit and repute solvent at the time of his appointment with power to the said Trustees to sell and realize the whole Trust property hereby conveyed either by public roup or private bargain and to the lay out and invest the Trust funds and effects upon such landed securities in Scotland or first class Railway Debentures or other securities heritable or moveable as shall at the time appear to good and sufficient and to change such Investments at pleasure and for the sufficiency of which they shall not be responsible And it is hereby declared that those Transacting with the said Trustees and their foresaids shall have no concern with the application for the said funds And it is hereby Provided that execution may pass hereon at the instance of the Trustees before named or to be nominated as aforesaid or assumed into the said Trust or of any one of them for implement of the provisions hereby stipulated in favor of the said Amelia Paton and the child or children of the said intended marriage and the said Mrs Charlotte Hill or Dalgleish And the parties consent to the registration hereof in the Books of Council and Session or others Competent therein to remain for presentation and that execution pass upon a Decree to be interponed hereto in common form effairs and thereto constitute

their Procurators In witness whereof the these presents written on this and the five preceding pages by John Dalling Robb clerk to John Gillespie Writer to the signet are subscribed along with a Duplicate hereof written by William Kennedy clerk to the said David Octavus Hill and Amelia Robertson Paton (herein above named

Amelia Paton) (under the declaration that the words "among" on the sixteenth line from the top page second "her" on the Inventory ninth line from the top of page third and "among" on the nineteenth line from the top of page fourth hereof are written on Erasures) at Edinburgh the Eighteenth day of November Eighteen hundred and seventy two years before these witnesses the said John Gillespie And William Kennedy (Signed) Dav[id] oct[avus] Hill Amelia R. Paton John Gillespie witness W[illia]m Kennedy witness.-

Edin[burgh] 8th November 1870. This is the Contract of Marriage referred to in my Deposition of this date.-

(Signed) Amelia R. Hill

(") W[illia]m Cowan J.P.

Comp[are]d