1868); and 32 & 33 Vict. c. 100 (The Sanitary Loans Act, 1869) as applied to Ireland by 34 & 35 Vict. c. 109. and 35 & 36 Vict. c. 69.

"Nuisances Removal Acts" means 18 & 19 Vict. c. 121 (The Nuisances Removal Act for England, 1855); 23 & 24 Vict. c. 77 (An Act to amend the Acts for the removal of nuisances and the prevention of diseases); 26 & 27 Vict. c. 117 (The Nuisances Removal Act for England (Amendment) Act, 1863); 29 & 30 Vict. c. 41 (The Nuisances Removal Act (No. 1), 1866); 29 & 30 Vict. c. 90 (The Sanitary Act, 1866) as amended by 32 & 33 Vict. c. 108; and the Sanitary Act, 1868, asapplied to Ireland by 34 & 35 Vict. c. 109, and 35 & 36 Vict. c. 69:

"Sanitary Acts" means all the above-mentioned Acts and this Act, and includes any amendments of such Acts, and with respect to any urban sanitary district, includes any Act, local Act, or provisional order relating to the same subject matters as the above-mentioned Acts in force within such district:

"Sanitary purposes" means any objects or purposes of the Sanitary Acts:

"Sanitary authority" means either "urban or rural sanitary authority:"

"Lands Clauses Acts" means and includes the Lands Clauses Consolidation Act, 1845, as the same is amended by the Lands Clauses Consolidation Acts Amendment Act, 1860, the Railways Act (Ireland), 1851, the Railways Act (Ireland), 1860, the Railways Act (Ireland), 1864, and the Railway Traverse Act:

"Poor Law Acts" means 1 & 2 Vict. c. 56, and the Acts amending the same:

"Medical Charities Acts" means 14 & 15 Vict. c. 68, and the Acts amending the same.

CHAPTER 94.

An Act to amend the Law relating to Land Rights and Conveyancing, and to facilitate the Transfer of Land, in Scotland. [7th August 1874.]

WHEREAS it is expedient to amend the law relating to land rights and conveyancing, and to facilitate the transfer of land, in Scotland:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Conveyancing (Scotland) Act, 1874."

Commencement of Act.

2. This Act shall, except where otherwise provided, come into operation on the first day of October one thousand eight hundred and seventy-four, which date is herein-after referred to as the commencement of this Act.

Interpretation.

3. The following words and expressions in this Act shall have the several meanings hereby assigned to them; that is to say,

"Land" or "lands" shall include all subjects of heritable property which are or may be held of a superior according to feudal tenure, or which prior to the commencement of this Act have been or might have been held by burgage tenure, or by tenure of booking:

"Estate in land" shall mean any interest in land, whether in fee, liferent, or security, and whether beneficial or in trust, or any real burden on land, and shall include an estate of superiority:

"Superior" shall include the Crown, the Prince and Steward of Scotland, and all subject superiors, and shall also include mid-superiors; "superiority" shall include mid-superiority:

"Conveyance" and "deed" and "instrument" shall each have the meaning attached thereto by "The Titles to Land Consolidation (Scotland) Act, 1868," and "The Titles to Land Consolidation (Scotland) Amendment Act, 1869," and shall also, when used in this Act, include all the deeds, instruments, decrees, petitions, and

writings specified in this Act; and the words "heritable securities" and "securities" shall have the meaning attached thereto by the said recited Acts, and shall also, when used in this Act, include real burdens and securities by way of ground annual:

"Infeftment" shall include every title to an estate in land requiring and admitting of infeftment which is duly recorded in the appropriate register of sasines:

"Feu" shall include "blench," and "feu-duty" shall include "blench-duty:"

"Casualties" shall include the relief duty payable on the entry or succession of an heir, the composition or other duty payable on the entry of a singular successor, whether by law or under the conditions of the feu, and all payments exigible in lieu of such duties and compositions, and all periodical fixed sums or quantities which may be stipulated for under this Act:

"Sheriff" shall include steward, sheriff substitute, and steward substitute.

Renewal of investiture abolished.

4. When lands have been feued, whether before or after the commencement of this Act,—

(1.) It shall not, notwithstanding any provision, declaration, or condition to the contrary in any statute in force at the passing of this Act, or in any deed, instrument, or writing, whether dated before or after the passing of this Act, be necessary, in order to the completion of the title of any person having a right to the lands in whole or in part, whether such right shall have been acquired by succession, bequest, gift, or conveyance, that he shall obtain from the superior any charter, precept, or other writ by progress; and it shall not be competent for the superior in any case to grant any such charter, precept, or other writ by progress: Provided always, that nothing in this Act contained shall prevent the granting of charters of novodamus or precepts or writs from Chancery or of clare constat, or writs of acknowledgment:

Infeftment to imply entry with superior.

(2.) Every proprietor who is at the commencement of this Act or thereafter shall be duly infeft in the lands shall be deemed and held to be, as at the date of the registration of such infeftment in the appropriate register of sasines, duly entered with the nearest superior whose estate of superiority in such lands would according to the law existing prior to the commencement of this Act have been not defeasible at the will of the proprietor so infeft, to the same effect as if such superior had granted a writ of confirmation according to the existing law and practice, and that whether the superior's own title or that of any over superior has been completed or not, but such implied entry shall not be held to confer or confirm any rights more extensive than those contained in the original charter or feu right of the lands or in the last charter or other writ by which the vassal was entered therein: Provided always, that nothing herein contained shall be held to validate any subfeu in cases where subinfeudation has been effectually prohibited; and provided further, that notwithstanding such implied entry, the proprietor last entered in the lands, and his heirs and representatives, shall continue personally liable to the superior for payment of the whole feu-duties affecting the said lands, and for performance of the whole obligations of the feu, until notice of the change of ownership of the feu shall have been given to the superior; but without prejudice to the superior having all his remedies against the entered proprietor under the entry implied by this Act, and without prejudice also to the right of the proprietor last entered in the lands and his foresaids to recover from the entered proprietor of the lands all feu-duties which such proprietor last entered in the lands or his foresaids may have had to pay in consequence of any failure or omission to give such notice; and for this purpose all the remedies competent to the superior for recovery of feu-duties shall by virtue of this Act be held to be assigned to the proprietor last entered in the lands and his foresaids to the effect of enabling them to recover payment of any sums so paid by them as aforesaid, but that always under reservation of, and without prejudice to the superior's rights, remedies, and securities for making effectual and recovering all other feu-duties due and to become due to him; and

such notice may be in the form of Schedule A. hereto annexed, or as nearly in that form as the circumstances in each particular case will permit. In the event of the proprietor last entered in the lands or his foresaids desiring to preserve evidence of his or their having sent such notice, it shall be sufficient if a copy of such notice, certified by the sender thereof as having been delivered or put into the post office by him in presence of two witnesses, who shall also subscribe the certificate, is preserved, or that the notice is acknowledged by the superior or his agent to have been received, either on a duplicate thereof or by a separate acknowledgment, and the superior or his agent on receiving such intimation in duplicate, with a fee of five shillings, shall, if required, be bound to return one of the copies with an acknowledgment of intimation thereon subscribed by him:

Implied entry not to affect rights of superiors to feu-duties, &c.

(3.) Such implied entry shall not prejudice or affect the right or title of any superior to any casualties, feu-duties, or arrears of feu-duties which may be due or exigible in respect of the lands, at or prior to the date of such entry; and all rights and remedies competent to a superior under the existing law and practice or under the conditions of any feu right, for recovering, securing, and making effectual such casualties, feu-duties, and arrears, or for irritating the feu ob non solutum canonem, and all the obligations and conditions in the feu rights prestable to or exigible by the superior, in so far as the same may not have ceased to be operative in consequence of the provisions of this Act or otherwise, shall continue to be available to such superior in time coming; but provided always, that such implied entry shall not entitle any superior to demand any casualty sooner than he could, by the law prior to this Act or by the conditions of the feu right, have required the vassal to enter or to pay such casualty irrespective of his entering:

Action in lieu of a declarator of non-entry.

(4.) No lands shall, after the commencement of this Act, be deemed to be in non-entry, but a superior who would but for this Act be entitled to sue an action of declarator of non-entry against the successor of the vassal in the lands, whether by succession, bequest, gift, or conveyance, may raise in the Court of Session against such successor, whether he shall be infeft or not, an action of declarator and for payment of any casualty exigible at the date of such action, and no implied entry shall be pleadable in defence against such action; and any decree for payment in such action shall have the effect of and operate as a decree of declarator of non-entry, according to the now existing law, but shall cease to have such effect upon the payment of such casualty, and of the expenses (if any) contained in said decree; but such payment shall not prejudice the right or title of the superior to the rents due for the period while he is in possession of the lands under such decree nor to any feu-duties or arrears thereof which may be due or exigible at or prior to the date of such payment, or the rights and remedies competent to him under the existing law and practice for recovering and securing the same; and the summons in such action may be in or as nearly as may be in the form of Schedule B. hereto annexed.

Compositions payable by corporations or trustees or persons having separate interests.

5. Unless where it has been or shall be otherwise stipulated, corporations shall pay at the date at which the first composition would have been payable if this Act had not been passed, and every twenty-fifth year thereafter, a sum equal to what, but for the passing of this Act, would have been payable on entry by a singular successor; and where a composition payable on the death of the vassal shall become exigible from any trustee or body of trustees, another composition shall be payable at the end of every twenty-five years, so long as the lands shall be vested in such trustee or trustees; and where, by the terms of the feu rights of the lands a taxed composition is payable on the occasion of each sale or transfer of the property, as well as on the occasion of the death of each vassal, and a composition shall in consequence of the acquisition of the property become exigible from any corporation or from any trustee or body of trustees, another composition, unless where it has been or shall be otherwise stipulated, shall be payable at the end of every fifteen years from the date of such acquisition by such corporation or trustee or trustees, so long as the lands shall be vested in such corporation or trustee or trustees, with such

interest, if any, as may be stipulated for in the feu rights during the not payment of casualties; provided always, that in the event of such corporation or of such trustee or trustees ceasing to be proprietors of the lands after having paid a composition or compositions in terms of this section the successor of such corporation or of such trustee or trustees who shall be duly infeft in the lands at the expiration of twenty-five years where a composition is payable on the death of the vassal, or at the expiration of fifteen years where a composition is payable on the occasion of each sale or transfer as well as on the occasion of each death, from the date of the last payment of composition as aforesaid, shall then pay a composition, and the casualties for and in respect of such lands shall thereafter become due and payable at the same time and in the same manner as if such lands had never been vested in such corporation or in such trustee or trustees; and where, by the terms of the feu rights of the lands a taxed composition is payable on the occasion of each sale or transfer of the property as well as on the occasion of the death of each vassal, and where an entry is implied in terms of this Act in favour of two or more parties having separate interests as life-renter and fiar respectively or as successive life-renters, a composition, or in the case of parties interested pro indiviso a rateable share of a composition, shall be due by and exigible from each of the parties who shall take or derive benefit under the implied entry in the order in which they shall severally take or derive benefit under such implied entry, with such interest, if any, as may be stipulated for in the feu right during the not payment of casualties.

Consolidation of superiority with property.

6. When a superior has acquired and completed or shall acquire and complete a title by infeftment to the property or mid-superiority of lands, or where the proprietor of the property or of the mid-superiority has acquired and completed or shall acquire and complete a title by infeftment to the superiority, a minute in the form, or as nearly as may be in the form of Schedule C. hereto annexed, shall, when recorded in the appropriate register of sasines, be held to consolidate the property or the mid-superiority, as the case may be, with the superiority, all to the same effect as consolidation effected by resignation ad perpetuam remanentiam duly completed according to the present law and practice.

Consolidation not to affect or extend superior's right.

7. No consolidation that may be effected under this Act or otherwise shall in any way affect or extend the rights or interests of any over superior, or entitle him to any more than the duties or casualties to which he would have been entitled had there been no consolidation.

Memorandum of allocation of feu-duty.

8. Where a proprietor desires to obtain the benefit of any provision as to allocation of feu-duty, or where the superior agrees to an allocation of the feu-duty contained in the original grant with or without augmentation, such proprietor may, either before or after the deed in his favour is recorded in the appropriate register of sasines, obtain a memorandum indorsed thereon in or as nearly as may be in the form of Schedule D. hereto annexed, and the allocation contained in such memorandum shall be binding on all having interest: Provided always, that such allocation shall not prejudice or affect the rights of heritable creditors who are not parties thereto.

Estates to vest in heirs without service.

9. A personal right to every estate in land descendible to heirs shall, without service or other procedure, vest or be held to have vested in the heir entitled to succeed thereto, by his survivance of the person to whom he is entitled to succeed, whether such person shall have died before or after the commencement of this Act, provided the heir shall be alive at the date of the commencement of this Act, if such person shall have died before that date, and such personal right shall, subject to the provisions of this Act, be of the like nature and be attended with the like consequences, and be transmissible in the same manner as a personal right to land under an unfeudalized conveyance, according to the existing law and practice.

Completion of title when deceased heir not served.

10. A title of an heir to, or disponee of, a proprieter of any lands who was neither infeft nor served, but vested only with a personal right to such lands, by virtue of this Act, or of any person acquiring right from such heir or disponee, may be made up in like manner as if the person making up a title had held a disposition from the proprietor last infeft in the lands in favour of his immediate successor therein, and a disposition and

assignation from each heir or disponee, if any, intervening between such immediate successor and the person so making up a title in favour of his immediate successor therein; and such title may be made up in manner following, viz.:

The heir or disponee or other successor making up such title shall present to the sheriff of Chancery, or to the sheriff of the county where the lands are situated, a petition which may embrace several separate lands or estates, and may be in the form of Schedule E. hereto annexed, or as nearly in that form as the circumstances in each particular case will permit, setting forth the name of the proprietor last infeft, a description of the lands, or a valid reference thereto, and the names and, so far as known, the designations of every proprietor having only a personal right therein, whether by succession, bequest, gift, or conveyance, who has intervened between the proprietor last infeft and the petitioner, and also setting forth the petitioner's own right to the said lands; and on the decree pronounced on said petition finding the facts therein set forth proved, and that the petitioner is entitled to be infeft in the said lands, being extracted in one or several extracts, and on such extract decree or decrees, as the case may be, being recorded in the appropriate register of sasines, the petitioner shall be held to be duly infeft in the said lands contained in the extract or extracts so recorded.

Petition to be proceeded with as if it were a petition for special service.

Such petition shall be presented, published, and carried through in all respects as if the same were a petition for special service under the now existing law; and the extract decree or decrees on such petition, as the case may be, shall be equivalent to a decree of special service, and when duly recorded as aforesaid in the appropriate register of sasines, shall have the same effect as regards the lands therein contained as an extract decree of special service duly recorded under the now existing law.

Error in character in which heir entered not to affect entry.

11. Notwithstanding any existing law or practice it shall be no objection to any precept or writ from Chancery or of clare constat, or to any decree of service whether general or special, or to any writ of acknowledgment, whether obtained before or after the commencement of this Act, or to any other decree, or to any petition, that the character in which an heir is or may have been entitled to succeed is erroneously stated therein; provided such heir was in truth entitled to succeed as heir to the lands specified in the precept, writ, decree, or petition.

Heir not liable beyond value of estate.

May renounce.

12. An heir shall not be liable for the debts of his ancestor beyond the value of the estate of such ancestor to which he succeeds, and if an heir shall renounce the succession, the creditors of the ancestor shall have the same rights against the estate as upon a renunciation according to the law before the commencement of this Act.

When an heir has, before renunciation, intromitted with the ancestor's estate, he shall be liable for the ancestor's debts to the extent of such intromission, but no further.

Right of any person to succession as heir may be challenged within 20 years.

13. The right of any person to an estate in land by succession as heir acquired after the commencement of this Act may, at any time within twenty years of his infeftment as heir and his entering into possession of such estate, but not thereafter, be challenged by any one who would have been entitled to challenge the decree of service of such person had he expede a service according to the practice existing prior to this Act; and, in the absence of evidence to the contrary, the date of his infeftment shall, for the purpose of this limitation, be assumed to be the date of entering into possession; and such challenge may be made by an action to negative or set aside the alleged right of succession, or to reduce any title expede in virtue of such alleged right.

Legal remedies to prevent entry preserved.

14. Nothing herein contained shall prejudice or affect the legal remedies of any person having lawful title and interest to prevent any other person from entering into possession of an estate in land as heir, or to remove him from possession, or to obtain sequestration of such estate, or the appointment of a judicial factor pending the trial of any question regarding the right of succession; and it shall be lawful for a court of competent jurisdiction to regulate possession pending such trial, as the Court shall see just, notwithstanding the completion, under this Act, of the title of any person as heir.

Redemption of casualties.

15. The casualties incident to any feu created prior to the commencement of this Act shall be redeemable on such terms as may be agreed on between the superior and the

proprietor of the feu in respect of which they are payable: And, failing agreement, all such casualties, except those which consist of a fixed amount stipulated and agreed to be paid in money or in fungibles at fixed periods or intervals, may be redeemed by the proprietor of the feu in respect of which the same are payable, on the following terms, viz., in cases where casualties are exigible only on the death of the vassal such casualties may be redeemed on payment to the superior of the amount of the highest casualty, estimated as at the date of redemption, with an addition of fifty per cent.; and in cases where casualties are exigible on occasion of each sale or transfer of the property, as well as on the death of the vassal, such casualties may be redeemed on payment of two and a half times the amount of the casualty estimated as aforesaid payable on such occasions: Provided always, that where the casualty consists of a sum calculated on the footing of an annual sum being paid for each year from the date of the last entry, such casualty may be redeemed upon payment of eighteen times the amount of such annual sum: And provided always, that before any such redemption, otherwise than by agreement, shall be allowed, any casualty which has become due shall be paid, and in the case of such annual sums the amount of such sums since the last payment thereof, and that the redemption shall apply only to future and prospective casualties.

Casualties redeemed to be discharged.

16. The superior, unless he shall elect to have the redemption money converted into an annual sum as herein-after provided, shall, on payment or tender of such redemption money, be bound, at the expense of the party redeeming, to discharge all right to the casualties so redeemed, and such discharge, which may be in the form set forth in Schedule F. hereto annexed, or in a similar form, being recorded in the appropriate register of sasines at the expense of the party redeeming, shall operate as a valid and effectual discharge of such casualties: Provided always, that when the superior shall have granted an heritable security affecting the superiority, no discharge to be granted to the vassal so redeeming shall be effectual without the consent of the creditor in such heritable security.

Option to superior of payment of an annual sum.

17. It shall be lawful for the superior to elect that the redemption money above provided shall be converted into an annual sum, equal to four per cent. upon the capital; and in that case, a memorandum, in the form set forth in Schedule G. hereto annexed, or in a similar form, of the amount of such annual sum, shall be signed by the parties or their respective agents and recorded in the appropriate register of sasines, at the expense of the party redeeming, whereupon such annual sum shall be deemed to be feu-duty with all the legal qualities thereof, and shall form an addition to any existing feu-duty, and the superior's right to all casualties shall be held to be discharged.

Entails not to bar redemption.

18. Casualties subject to the fetters of an entail may be redeemed as aforesaid notwithstanding such entail, the redemption money being consigned in one of the banks in Scotland incorporated by Royal Charter or Act of Parliament in name of the accountant of the Court of Session, who shall be allowed a reasonable fee for his trouble out of such money, and being applied by the heir of entail in possession under the orders of the said court for the benefit of the entailed estate, the accruing interest being payable to the heir of entail in possession during the time the same shall arise; provided always, that when the redemption money so consigned during any period of three years shall not exceed in whole the sum of one hundred pounds, the same may at the end of that period be paid over by the accountant for the time, without orders or authority from the court, to the person or persons or the representatives of the person or persons in possession of the entailed estate at the time or times when the consignment or consignments was or were respectively made. Or the heir of entail in possession of an entailed estate at the time, when any casualty shall be redeemed may, in his option, elect in lieu of such consignment in bank, that the redemption money shall be converted into an annual sum equal to four per centum upon the capital, in which case a memorandum as before provided shall be signed and recorded, whereupon such annual sum shall be deemed to be feu-duty, with the qualities and in manner and to the effect before provided.

Redemption of casualties by a mid-superior.

19. The person in right of any estate of superiority created prior to the commencement of this Act shall be entitled to redeem the casualties, legal or conventional, which may be

payable to an over superior, in the same manner and on the same terms and conditions as are herein-before enacted with respect to the redemption of casualties by a person in right of an estate of property.

Commutation of carriages and services by agreement;

20. Where carriages and services, or any of them, exigible by the superior, shall, for any period of five years, have been commuted to an annual money payment by agreement between the parties, whether reduced to writing or not, and whether express or implied from the conduct or actings of parties, and have not thereafter been exacted and performed, the said annual payment shall thereafter be deemed to be the value in all time coming of such carriages and services respectively, and the superior shall be bound to accept the same in lieu of such carriages and services respectively:

or by sheriff.

With respect to carriages and services which have not been so commuted, it shall be competent to either party to apply to the sheriff within whose jurisdiction the lands lie to determine summarily the annual value thereof, and the determination of the sheriff shall be final and not subject to review, and the superior shall be bound thereafter to accept of the annual sum so determined in lieu of such carriages and services.

Commuted value to be feu-duty.

21. The annual money value, where ascertained as aforesaid by agreement, may be stated in a memorandum in the form set forth in the said Schedule G. hereto annexed, or in a similar form, signed by the parties or their respective agents, and on such memorandum, or the extract decree pronounced by the sheriff, as the case may be, being recorded in the appropriate register of sasines, such annual money value shall be deemed to be feu-duty with all the legal qualities thereof, and shall form an addition to any existing feu-duty, and the superior's right to the carriages and services shall be held to be discharged. Such discharge, redemption, and commutation may be validly effected, notwithstanding the fetters of any entail.

Not barred by entails.

Monopolies of superior's agents annulled.

22. All conditions, whether made before or after the commencement of this Act, to the effect that the superior shall be entitled to select or appoint an agent to prepare or record sasines or warrants of registration, or conveyances or other deeds having reference to any estate in land, or restraining or restricting the proprietor of any estate in land in the selection of an agent to prepare or record such sasines, warrants, conveyances, or other deeds, or securing any privilege or monopoly to the superior's agent, or to any agent or agents selected or appointed by him, or to the effect that any proprietor of lands shall be bound to intimate to the superior of such lands any change of ownership, whether by succession or singular title, except as herein-before provided, or to pay any fees or expenses in connexion with such change of ownership, and further all conditions made after the commencement of this Act, to the effect that it shall not be lawful to the proprietor of lands to subfeu the same to be holden of himself as immediate lawful superior thereof, or to grant conveyances thereof to be holden a me vel de me or with an alternative manner of holding, shall, with all irritant clauses applicable thereto, be null and void, and not capable of being enforced, and all enactments to the contrary of, or at variance with, this enactment in any Act of Parliament shall be and the same are hereby repealed.

In absence of express condition, no casualties in feus created after commencement of Act.

Increase or reduction of feu-duty or periodical additional payment may be stipulated.

23. In feus granted after the commencement of this Act, the annual feu-duty shall be of fixed amount or quantity, and no casualties or duties shall by law, irrespective of express condition or covenant, be payable to the granter of the feu, or his successors in the superiority, and it shall not be lawful to condition or stipulate for any casualty to be paid on the succession of an heir or the acquisition of a singular successor, or in any way except at fixed intervals; but it shall be lawful to condition or stipulate for a permanent increase or reduction of the feu-duty, or for payment of a casualty in the form of a periodical fixed sum or quantity, provided that the amount of such increase or reduction, or of such periodical additional sum or quantity, shall be certain, and that the time or times at which such additional sum or quantity shall be exigible, or from and after which such increase or reduction is to have effect, shall also be certain and not dependent upon any event or occurrence except the occurrence or recurrence of the time or times at which under the terms of such condition or stipulation the periodical additional sum or quantity is made exigible, or the increase or reduction of feu-duty is to have effect.

Where feu rights stipulating or inferring casualties are contracted to be granted.

24. In all cases where superiors have agreed or contracted prior to the passing of this Act to feu land, but have not granted the feu rights thereto prior to the commencement of this Act, and but for the provisions of this Act would have been entitled in the feu rights to stipulate for the payment of casualties as well as of feu-duties, nothing in this Act contained shall be construed or held as depriving such superiors of their right to such casualties, but such casualties may, if desired by such superiors or their vassals in such feus, be converted into annual sums equal to four per cent. on the amount of the price of the redemption of such casualties ascertained as provided in section fifteen hereof, and such annual sums shall be deemed to be feu-duties, with all the legal qualities thereof, and shall form additions to the feu-duties which may have been contracted for, and in the feu rights to be granted of such feus superiors shall be entitled, in the event of the casualties being converted as aforesaid, to state as one feu-duty the feu-duty which has been contracted for or agreed upon, and that formed by the converted casualty, and shall have all competent remedies for recovery thereof. But in the event of neither the superiors nor the vassals in such feus desiring to convert casualties agreed or contracted for before the passing of this Act as aforesaid, it shall be competent in such feu rights to stipulate for payment of the casualties which the vassals may expressly or by force of law have agreed or contracted to pay, in the same manner as might have been done prior to the commencement of this Act; and it shall also be competent in such feu rights to stipulate that the same shall be recorded by the agent of the superior at the expense of the vassal if such or a similar stipulation shall have been made and agreed prior to the passing of this Act in the agreement or contract for feuing such land.

Distinction between burgage and feu abolished.

25. The proprietors of and all others having any estate in land held burgage shall have the same right and interest in such estate as would have belonged to them under this Act or otherwise had the tenure been feu instead of burgage, and there shall not after the commencement of this Act be any distinction between estates in land held burgage and estates in land held feu, in so far as regards the conveyances relating thereto, or the completion of titles, or any of the matters or things to which the provisions of this Act relate; and the proprietors of estates in land which were held burgage shall be entitled to grant feus of the same in the same manner and to the like effect as if such estates in land had been held by feudal tenure; and the titles of all such feus granted before the commencement of this Act shall be unchallengeable on the grounds that such feus are of land held by burgage tenure, or that such titles have been recorded in the burgh register of sasines.

Registration of writs in burgh register.

Writs affecting land which immediately prior to the commencement of this Act was held burgage shall be recorded in the burgh register of sasines.

Provisions for lands in Paisley held by booking tenure.

The provisions of this section in regard to land held by ordinary burgage tenure shall be applicable also to lands in the burgh of Paisley held by the peculiar tenure of booking, except that writs affecting land in said burgh held by the tenure of booking shall be recorded in the register of booking therein.

Form of conveyances.

26. Conveyances of land hitherto held burgage or by the tenure of booking may be in the forms allowed by "The Titles to Land Consolidation (Scotland) Act, 1868," in regard thereto; provided always, that it shall not be necessary to insert in any such conveyances a procuratory or clause of resignation, and that such procuratory or clause if inserted shall be held pro non scripto, and that the forms applicable to lands held feu shall be applicable likewise, and shall have the same or a similar effect with reference to lands which were held burgage or by the tenure of booking prior to the commencement of this Act.

The word "dispone" unnecessary.

27. It shall not be competent to object to the validity of any deed or writing as a conveyance of heritage coming into operation after the passing of this Act, on the ground that it does not contain the word "dispone," provided it contains any other word or words importing conveyance or transference, or present intention to convey or transfer.

Date of entry.

28. Where no term of entry is stated in a conveyance of lands, the entry shall be at the first term of Whitsunday or Martinmas after the date or last date of the conveyance, unless it shall appear from the terms of the conveyance that another term of entry was intended.

General dispositions forming links of series of titles not objectionable on certain grounds.

29. No decree, instrument, or conveyance under this Act, and no other decree, instrument, or conveyance, whether dated before or after the commencement of this Act, shall be deemed to be invalid because the series of titles connecting the person obtaining such decree, or expeding such instrument, or holding such conveyance, with the person last infeft, shall contain as links of the series two or more general dispositions, or because any general disposition forming a part of the series does not contain a clause of assignation of writs.

Conveyances and discharges of real burdens.

30. It shall be lawful to record in the appropriate register of sasines any deed, instrument, or writing whereby any real burden upon land is assigned, conveyed, or transferred, or is extinguished or restricted.

Real burdens effectual in competition from date of recording; mode of completing title to real burdens.

No deed, instrument, or writing, executed or dated after the commencement of this Act, whereby any real burden upon land shall be hereafter assigned, conveyed, or transferred, shall be effectual in competition with third parties, unless the same is recorded in the appropriate register of sasines; and such deed, instrument, or writing shall take effect in competition with third parties only from the date of such registration, and intimation according to the existing law and practice shall be unnecessary when such deed, instrument, or writing is recorded; and real burdens upon land may be assigned, conveyed, or transferred, and extinguished or restricted, and titles thereto may be completed as nearly as may be in the same manner as in the case of heritable securities constituted or requiring to be constituted by infeftment in favour of the creditor as defined by "The Titles to Land Consolidation (Scotland) Act, 1868," and the whole provisions, enactments, and forms of that Act and of this Act relative to the assignation, conveyance, or transference and extinction or restriction of bonds and dispositions in security, and other heritable securities constituted or requiring to be constituted by infeftment as aforesaid, and to the completing of titles thereto, and also the forms referred to, as well as the provisions and enactments contained in section one hundred and seventeen of the said Act shall be taken to apply and shall apply as nearly as may be to real burdens upon land; provided always, that securities by way of ground annual, whether redeemable or irredeemable, shall continue to be heritable as regards the succession of the persons in right thereof; and provided also, that where a real burden upon land shall have been assigned, conveyed, or transferred by any deed, instrument, or writing which has entered the appropriate register of sasines, it shall not be necessary to produce to the notary public expeding any notarial instrument applicable to such real burden, or to set forth in such notarial instrument, as a warrant thereof, the deed, instrument, or writing constituting the said real burden; but it shall be sufficient to produce to him, and to specify shortly in such notarial instrument, the deed, instrument, or writing, or the deeds, instruments, or writings whereby the said real burden shall have been assigned, conveyed, or transferred, and which, or one or more of which, if there are more than one, shall have entered the appropriate register of sasines.

A general service to be equivalent to a general disposition.

31. When a proprietor has died or shall have died infeft in lands, and the heir of the investiture has expede or shall have expede a general service as heir of such proprietor, the decree of general service in favour of such heir shall be equivalent to a mortis causa general disposition of the lands by such proprietor in favour of such heir, to the effect of enabling such heir, or those deriving right from or by succession to him, to expede and record in the appropriate register of sasines all notarial instruments applicable to such lands which a general disponee or those deriving right from him may expede and record under or in terms of "The Titles to Land Consolidation (Scotland) Act, 1868," or of this Act, and that notwithstanding that such proprietor may have died in nonage or been of insane mind, or laboured under any other disability whatever; provided always, that no general service shall have such effect in any case where the heir so served shall have died before the commencement of this Act; and a general service expede by the heir of any person so served and dying after the commencement of this Act, or by any of the successive heirs of the investiture, or by the heir of any general disponee, shall have the like effect as a transmission of the right to the lands; and any such services shall be sufficient links in the series of titles for the connection of the person expeding such

instrument with the person last infeft, in the same manner as is herein-before provided with reference to two or more general dispositions forming links in such series.

Reservations, conditions, and covenants affecting lands may be imported by reference.

32. Reservations, real burdens, conditions, provisions, limitations, obligations, and stipulations affecting land may be validly and effectually imported into any deed, instrument, or writing relating to such lands by reference to a deed, instrument, or writing applicable to such lands, or to the estate of which such lands form a part, recorded in the appropriate register of sasines, and in which such reservations, real burdens, conditions, provisions, limitations, obligations, and stipulations are set forth at full length, and a reference in the form set forth in Schedule H. hereto annexed, or in a similar form, shall be sufficient. And it shall be lawful for any proprietor of lands to execute a deed, instrument, or writing, setting forth the reservations, real burdens, conditions, provisions, limitations, obligations, and stipulations under which he is to feu or otherwise deal with or affect his lands, or any part thereof, and to record the same in the appropriate register of sasines; and the same being so recorded, such reservations, real burdens, conditions, provisions, limitations, obligations, and stipulations may be effectually imported in whole or in part by reference into any deed or conveyance relating to such lands subsequently granted by such proprietor, or by his heir or successor, or by any person whatsoever, provided it is expressly stated in such deed or conveyance that it is granted under the reservations, real burdens, conditions, provisions, limitations, obligations, and stipulations set forth in such deed, instrument, or writing.

All writs before being recorded to have warrants of registration.

33. The following proviso contained in section one hundred and forty-one of "The Titles to Land Consolidation (Scotland) Act, 1868," viz., "Provided always, that nothing "herein contained shall render it necessary to have a warrant of registration indorsed or "written upon any conveyance, deed, or writing of or relating to lands held by burgage "tenure, which, according to the existing law and practice, may be recorded in any burgh "register without such warrant," shall be and the same is hereby repealed; and the remainder of the said section shall apply to all conveyances and deeds, and all writings whatsoever, which may be recorded in any register of sasines.

Title and period of prescription.

34. Any ex facie valid irredeemable title to an estate in land recorded in the appropriate register of sasines shall be sufficient foundation for prescription, and possession following on such recorded title for the space of twenty years continually and together, and that peaceably, without any lawful interruption made during the said space of twenty years, shall, for all the purposes of the Act of the Parliament of Scotland, 1617, c. 12, "Anent prescription of heritable rights," be equivalent to possession for forty years by virtue of heritable infeftments for which charters and instruments of sasine or other sufficient titles are shown and produced, according to the provisions of the said Act; and if such possession as aforesaid following on an ex facie valid irredeemable title recorded as aforesaid shall have continued for the space of thirty years no deduction or allowance shall be made on account of the years of minority or less age of those against whom the prescription is used and objected, or of any period during which any person against whom prescription is used or objected was under legal disability. This enactment shall have no application to, and shall not be construed so as to alter or affect, the existing law relating to the character or period of the possession, use, or enjoyment necessary to constitute or prove the existence of any servitude or of any public right of way or other public right, and shall not be pleadable to any effect in any action in dependence at the commencement of this Act, or which shall be commenced prior to the first day of January one thousand eight hundred and seventy-nine: Provided always, that the possession for any space of time prior to the first day of January one thousand eight hundred and seventy-nine shall not have effect for the purposes of this section unless such space of time immediately preceded and was continuous up to the said first day of January.

Registration of a decree of division.

35. A decree of division of commonty or of common property or runrig lands, whether pronounced by a court of law, or by arbiters or by an oversman, shall have the effect of a conveyance containing assignations of writs by all the joint proprietors in favour of the several parties participating in the division of the shares severally allotted to them, and the

extract decree pronounced by the court, or the decree pronounced by the arbiters or oversman, or an extract thereof from any competent court books, may be recorded in the appropriate register of sasines in ordinary form on behalf of all or any of the parties, or may be used by all or any of the parties for the purpose of infeftment in, or of acquiring a personal right to the shares severally allotted to them, or to any portion thereof, as an assignation, or one of a series of assignations, of an unrecorded conveyance or of a personal right under this Act.

Effect of decree of sale of glebe.

36. A decree of sale obtained in terms of section seventeen of "The Glebe Lands (Scotland) Act, 1866," shall have the effect of a conveyance by the minister of the parish at the sight of the heritors of the parish and of the presbytery of the bounds, to the heritor in whose favour it is pronounced, and his heirs and assignees whomsoever, of the glebe or portion of glebe therein contained; and, on an extract of such decree being recorded in the appropriate register of sasines, shall vest in such heritor the glebe or portion of the glebe described therein, with a holding of the Crown for payment of a penny Scots yearly, if asked only, as fully and completely as if he had obtained a charter from the Crown by virtue of such decree, and been infeft thereon in common form.

Distinction between heritage and conquest abolished.

37. The distinction between fees of heritage and fees of conquest is hereby abolished with respect to all successions opening after the commencement of this Act, and fees of conquest shall descend to the same persons, in the same manner, and subject to the same rules as fees of heritage.

Certain rules as to probative deeds altered.

38. It shall be no objection to the probative character of a deed, instrument, or writing, whether relating to land or not, that the writer or printer is not named or designed, or that the number of pages is not specified, or that the witnesses are not named or designed in the body of such deed, instrument, or writing, or in the testing clause thereof, provided that where the witnesses are not so named and designed their designations shall be appended to or follow their subscriptions; and such designations may be so appended or added at any time before the deed, instrument, or writing shall have been recorded in any register for preservation, or shall have been founded on in any court, and need not be written by the witnesses themselves.

Deed not to be invalid because improbative.

39. No deed, instrument, or writing subscribed by the granter or maker thereof, and bearing to be attested by two witnesses subscribing, and whether relating to land or not, shall be deemed invalid or denied effect according to its legal import because of any informality of execution, but the burden of proving that such deed, instrument, or writing so attested was subscribed by the granter or maker thereof, and by the witnesses by whom such deed, instrument, or writing bears to be attested, shall lie upon the party using or upholding the same, and such proof may be led in any action or proceeding in which such deed, instrument, or writing is founded on or objected to, or in a special application to the Court of Session, or to the sheriff within whose jurisdiction the defender in any such application resides, to have it declared that such deed, instrument, or writing was subscribed by such granter or maker and witnesses.

Holograph testamentary writings.

40. Every holograph writing of a testamentary character shall, in the absence of evidence to the contrary, be deemed to have been executed or made of the date it bears.

One notary or justice of the peace and two witnesses to be sufficient where party cannot write.

41. Without prejudice to the present law and practice, any deed, instrument, or writing, whether relating to land or not, may, after having been read over to the granter, be validly executed on behalf of such granter, who, from any cause, whether permanent or temporary, is unable to write, by one notary public or justice of the peace subscribing the same for him in his presence and by his authority, without the ceremony of touching the pen, all before two witnesses, and the docquet thereto shall set forth that the granter of the deed authorised the execution thereof, and that the same had been read over to him in presence of the witnesses. Such docquet may be in the form set forth in Schedule I. hereto annexed, or in any words to the like effect.

Inhibitions to prescribe in five years.

42. All inhibitions subsisting at the commencement of this Act shall prescribe not later than on the lapse of five years after the said date, and all inhibitions which shall be

But may be registered anew.

recorded after the commencement of this Act shall prescribe on the lapse of five years from the date on which such inhibitions shall respectively take effect: Provided always, that the raisers of any such inhibitions, or their heirs or assignees, may again record the same, or a memorandum signed by them or their agents in terms of Schedule J. hereto annexed, or in a similar form, in the register of inhibitions before the expiration of the said respective periods of five years, and on such inhibitions or such memorandum being so recorded, such inhibitions shall continue in force for an additional period of five years from the date of such subsequent recording, and such inhibitions or memorandum may be again recorded, or a new memorandum in the terms foresaid may be recorded with the like effect, before the expiration of every subsequent period of five years; provided nevertheless, that in the case of inhibitions subsisting at the commencement of this Act, no such inhibitions shall in any case be effectual for a longer period than they would have remained in force if this Act had not been passed.

Completion of title of heir of last trustee.

43. When a sole or last surviving trustee has died or shall have died possessed of an estate in land held in trust, and there shall be no contrary provision in the deed of trust, and no contrary order shall be made by the Court of Session, the heir-at-law of such trustee, being of full age and not subject to any legal incapacity, may complete a title thereto as trustee in his room in the manner provided by "The Titles to Land Consolidation (Scotland) Act, 1868," with respect to the title of any other heir, but such heir-at-law shall not, unless under the orders of the court or with the consent and approval of all the beneficiaries (being all above age and not subject to any legal incapacity), administer the trust, but, in the absence of such order or such consent and approval, shall be bound forthwith to make over the lands to any trustee or judicial factor appointed by the court for administering the purposes of the trust, or to any trustee or trustees appointed by any person who has power under the trust deed to make such appointment, or to any person or persons whom the beneficiaries, as aforesaid, may have concurred in appointing to execute the remaining purposes of the trust, or to the beneficiaries themselves if the whole trust purposes except the conveyance of the lands in terms of the trust have been or shall have been executed; and such heir-at-law shall, unless he acts as a trustee under such orders or with such consent and approval, be in no way responsible as trustee in regard to the administration of the trust, or of the lands to which he may have made up title as aforesaid.

Provisions for the case of a person appointed by the court to administer a trust.

44. When a trust title has been duly completed and recorded, and any person is subsequently appointed by the court to administer the trust in whole or in part as a trustee or judicial factor, the interlocutor whereby the appointment is made shall specify the trust deed, and the other title or titles (if any) by which the trust title had been completed as aforesaid, in such manner as to identify the same, and shall refer to the register or registers of sasines where such deed or title or titles is or are recorded, and also set forth the lands by description or reference; and an extract of such interlocutor, being recorded in the appropriate register of sasines, shall operate a title by infeftment in the estate in favour of the trustee or judicial factor thereby appointed, in the same manner as if he had been a trustee named in the completed and recorded title in conformity always with the nature and terms of the appointment, and to the effect of enabling him to perform the duties of the office to which he is appointed.

How title shall be completed when the holder of an office or proprietor is ex officio a trustee and his successor in office takes the trust.

45. When by the tenor of the title to any estate in land held in trust duly completed in favour of the trustee or trustees therein named, or any of them, and recorded in the appropriate register of sasines, the office of a trustee has been or shall be conferred upon the holder of any place or office, or proprietor of any estate, and his successors therein, any person subsequently becoming a trustee by appointment or succession to the place or office or estate to which the office of trustee has thus been or shall be annexed shall be deemed and taken to have a valid and complete title by infeftment in the estate, in the same manner and to the same effect as if he had been named in the completed and recorded title, without the necessity of any deed of conveyance or other procedure.

Trustees or executors may

46. Where in any mortis causa conveyance, grant, or testamentary deed or writing purporting to convey or bequeath lands within the sense and meaning of the twentieth

section of "The Titles to Land Consolidation (Scotland) Act, 1868," and appointing trustees or executors, the words of conveyance, grant, or bequest are not expressed to be in favour of such trustees or executors, it shall nevertheless be lawful for such trustees or executors to complete a title to such lands in their own persons to the same effect and in the same manner as if the conveyance, grant, or bequest had been expressed to be in favour of them as such trustees or executors, and that by notarial instrument or in any other manner competent to a general disponee; and to hold, administer, and dispose of such lands for the purposes of such mortis causa conveyance, grant, or testamentary deed or writing: Provided always, that nothing herein contained shall prevent any disponee, grantee, or legatee to whom such lands may be expressly conveyed, granted, or bequeathed by such mortis causa conveyance, grant, or testamentary deed or writing, from completing a title thereto in his own person in terms of said recited Act where the completion of such title shall not be at variance with the purposes or directions of such mortis causa conveyance, grant, or testamentary deed or writing.

complete title where no direct conveyance of lands to them.

47. Subject to the limitation herein-before provided as to the liability of an heir for the debts of his ancestor, an heritable security for money, duly constituted upon an estate in land shall, together with any personal obligation to pay principal, interest, and penalty contained in the deed or instrument whereby the security is constituted, transmit against any person taking such estate by succession, gift, or bequest, or by conveyance, when an agreement to that effect appears in gremio of the conveyance, and shall be a burden upon his title in the same manner as it was upon that of his ancestor or author, without the necessity of a bond of corroboration or other deed or procedure; and the personal obligation may be enforced against such person by summary diligence or otherwise, in the same manner as against the original debtor. A warrant to charge may be applied for and validly granted in the Bill Chamber or in a Sheriff Court, in the form set forth in Schedule K. hereto annexed, or in a similar form, and all diligence may thereafter proceed against the party in common form. A discharge of the personal obligation of the original or any subsequent debtor, whether granted before or after the commencement of this Act, shall not where the debt still exists prejudice the security on the estate or the obligation as hereby made transmissible against the existing proprietor.

Securities upon land, and relative personal obligations, shall transmit against heirs and disponees.

48. Where lands are sold by an heritable creditor under the powers competent to creditors in heritable securities, and it shall occur that no surplus remains after deducting the debt secured, with the interest due thereon, and penalties incurred, and expenses in reference to the possession of the estate, (if the creditor had been in possession,) including expense of insurance, repairs and management, and whole expense attending such sale, and after paying all previous incumbrances, and the expense of discharging the same, it shall be competent to any notary public to execute a certificate to that effect, in, or as nearly as may be in, the terms of Schedule L., No. 1, hereto annexed, and the disposition by the creditor to the purchaser shall, along with such certificate, when recorded in the appropriate register of sasines, have the effect of completely disencumbering the lands and others sold of all securities and diligences prior and posterior to the security of such creditor, as well as of the security and diligence of such creditor himself, save and except when the security and diligence of such creditor shall be assigned by way of further or collateral security to the purchaser.

Provisions for disencumbering lands sold under heritable securities when no surplus emerges.

49. Where the debtor in any heritable security, whether granted before or after the commencement of this Act, shall have exercised the power or right of redemption contained therein, but where from the death or absence of the creditor, or any other cause, the debtor cannot obtain a discharge of the incumbrance created by the security, it shall be competent to him to consign the amount, principal and interest, due, and thereupon it shall be competent to any notary public to expede a certificate in, or as nearly as may be in, the terms of Schedule L., No. 2, hereto annexed, and the recording of the said certificate in the appropriate register of sasines shall, provided the principal debt and all interest due thereon in terms of the security shall have been so consigned, have the effect of completely disencumbering the lands contained in such heritable security of the debt and of all interest and penalties corresponding thereto.

Provision for disencumbering lands of heritable security.

Form and effect of assigning right of relief or other right affecting land.

50. An assignation or conveyance of any obligation or right of relief or other right connected with lands, but the title to which does not, according to the present law, pass under the general assignation of writs in the disposition of the lands, may be granted in, or as nearly as may be in, the form of Schedule M. hereto annexed, and may either be a separate deed or part of another deed, and shall have the effect of vesting in the person or persons in whose favour it is granted, and his or their successors, a valid and complete right and title to the obligation or right thereby assigned or conveyed, with all the intermediate transmissions thereof, to the same effect in all respects as if an assignation or conveyance in the form at present in use had been granted in his or their favour.

Probate equivalent to will or extract for completing title.

51. The production to any notary public of the probate of the will or other testamentary settlement of a person deceased, issued by any Court of Probate in England or in Ireland, or in any British colony or dependency, or of an exemplification of such probate, shall for the purpose of expeding a notarial instrument, or otherwise completing a title to any estate in land or to any heritable security, be held to be equivalent to and as effectual as the production to such notary of the will or settlement itself, or of an extract thereof from the books of council and session, and it shall not be competent to institute any challenge of any notarial instrument in respect of the probate or exemplification having been used as the warrant for expeding the same prior to the commencement of this Act.

Decrees of service unchallengeable on certain grounds.

52. It shall not be competent to challenge any judgment or decree of service pronounced in terms of the Act tenth and eleventh Victoria, chapter forty-seven, intituled "An Act "to amend the law and practice in Scotland as to the service of heirs," or of "The Titles to Land Consolidation (Scotland) Act, 1868," and dated before the commencement of this Act, or any extract of any such judgment or decree, or any titles following upon such judgment, decree, or extract, on account of any objection to the manner or form in which such judgment or decree was recorded or extracted by the director of Chancery or his depute, or on the ground that the manner and form of recording or extracting such judgments or decrees in use by the director of Chancery or his depute for the time had not been directed or approved of by the lord clerk register in terms of the said Acts, or on the ground that evidence was led in the petition on which such decree followed, and that the decree itself was pronounced before the expiry of the induciæ, or days of publication prescribed under the tenth section of the former Act, or under the thirty-third section of the latter Act.

Form of completing title to heritable securities under a general disposition.

53. It shall be competent to the grantee under a general disposition within the sense and meaning of the nineteenth section of "The Titles to Land Consolidation (Scotland) Act, 1868," or to a person acquiring or deriving right from such grantee, to complete a title to an heritable security belonging to the granter of such general disposition, and in which such granter was infeft, by expeding and recording in the appropriate register of sasines a notarial instrument in, or as nearly as may be in, the form of Schedule N. hereto annexed, and on such notarial instrument being so expede and recorded the grantee or the person acquiring or deriving right from such grantee, as the case may be, in whose favour such instrument has been expede shall be vested with the full right of the creditor in such security, and shall be held to be entered with the superior in like manner and to the same effect as the original creditor himself. And it shall not be competent to challenge the validity of any notarial instrument expede and recorded before or after the commencement of this Act with reference to any heritable security in terms of the said nineteenth section of the said Act upon the ground that such notarial instrument is not in the form of Schedule (L.) annexed to the said Act, or that the said form is not adapted to heritable securities.

Recorded deed or instrument unchallengeable on certain grounds.

54. No challenge of any deed, instrument, or writing recorded in any register of sasines shall receive effect on the ground that any part of the record of such deed, instrument, or writing is written on erasure, unless such erasure be proved to have been made for the purpose of fraud, or the record is not conformable to the deed, instrument, or writing as presented for registration.

Section 118 of the Bankruptcy Act of 1856 repealed.

55. Section one hundred and eighteen of "The Bankruptcy (Scotland) Act, 1856," is hereby repealed; and it is provided that all heritable creditors who have been in possession under their securities, and whose right to the rents collected by them has not been challenged by action previous to the commencement of this Act, shall be entitled to retain and apply all rents collected by them in the same manner as they might have done if the provisions of the section hereby repealed had not been enacted.

Form of executing deeds by companies under the Acts of 1862 and 1867.

56. Any deed executed after the commencement of this Act to which any company registered under "The Companies Acts, 1862 and 1867," is a party, shall be held to be validly executed in Scotland on behalf of such company if the same is either executed in terms of the provisions of these Acts or is sealed with the common seal of the company, and subscribed on behalf of the company by two of the ordinary directors and the secretary of the company, and such subscription on behalf of the company shall be equally binding and effectual, whether attested by witnesses or not.

Certain offices abolished, and the duties of the sheriff of Chancery, &c. enlarged.

57. The offices of presenter of signatures and of clerk to the presenter of signatures are hereby abolished, and it shall be competent for the present holders of these offices, and also for the deputy keeper of the Great Seal, to apply to the Commissioners of Her Majesty's Treasury, who are hereby empowered to award to each of such officers such compensation as the said Commissioners of Her Majesty's Treasury may deem just and reasonable, having regard to the terms by which such officers respectively hold their appointments, and to the net average amount of the emoluments received by them, and in the case of the deputy keeper of the Great Seal to the net average amount of emoluments received by him in respect of charters passing that seal, and now abolished under the provisions of this Act, and such compensation as may be awarded shall be subject to the provisions of the twentieth section of the Act of the fourth and fifth years of the reign of His Majesty King William the Fourth, chapter twenty-four, intituled "An Act to alter, amend, and consolidate the laws for regulating the pensions, com- "pensations, and allowances to be made to persons in respect of their having held civil "offices in His Majesty's service;" and from and after the commencement of this Act the duties of the office of presenter of signatures, so far as the same continue to be necessary, shall be discharged by the sheriff of Chancery, and the duties of the office of clerk to the presenter of signatures shall be performed by the sheriff clerk of Chancery; after the commencement of this Act it shall not be necessary either for the sheriff of Chancery or for the sheriff of any county to hold a court for the consideration or disposal of any unopposed petition for service.

Provisions as to Chancery office.

58. The office, duties, and emoluments of the director of Chancery, and of the deputy directors and clerks of Chancery, or any of them, may be regulated at any time by the Commissioners of Her Majesty's Treasury, and it shall be the duty of the director of Chancery, in addition to the duties at present discharged by him, from and after the commencement of this Act to send to every sheriff clerk in Scotland a copy of the printed index or abridgment of the record of services provided to be kept by him by the thirty-eighth section of "The Titles to Land Consolidation (Scotland) Act, 1868," and it shall be the duty of every sheriff clerk to keep the same in his office open for the inspection of the public.

Act shall apply to lands held of the Crown and Prince.

59. The provisions of this Act shall apply to lands held of the Crown and of the Prince, in the same way as to lands held of a subject superior, but shall not prejudice or affect the jus coronæ as a title to lands or heritages.

Title to private estates of Her Majesty in Scotland.

60. Notwithstanding the provisions of this Act, private estates in land of Her Majesty, her heirs or successors, as defined in "The Crown Private Estates Act, 1862," and situate or arising in Scotland, which are or shall be held feudally directly under the Crown as superior, may lawfully be held by Her Majesty, or her heirs or successors, of and under herself or themselves as sovereign or sovereigns of this realm and feudal superiors, and the dominium utile thereof shall not be held to merge in the dominium directum or superiority, or to be consolidated therewith; and such private estates shall not thereby fall or revert

to the Crown jure coronæ, but shall remain beneficially separate private estates of Her Majesty, her heirs and successors.

Section 11 of Titles to Land Consolidation Act repealed.

Description of lands contained in recorded deeds may be inserted in subsequent writs by reference merely.

61. Section eleven of "The Titles to Land Consolidation (Scotland) Act, 1868," is hereby repealed; and it is provided that in all cases where any lands have been particularly described in any conveyance, deed, or instrument of or relating thereto, recorded in the appropriate register of sasines, it shall not be necessary in any subsequent conveyance, deed, or instrument, conveying or referring to the whole or any part of such lands, to repeat the particular description of the lands at length; but it shall be sufficient to specify the name of the county, and where the lands were held by burgage or by any similar tenure prior to the commencement of this Act, the name of the burgh and county in which the lands are situated, and to refer to the particular description of such lands as contained in such prior conveyance, deed, or instrument so recorded in or as nearly as may be in the form set forth in Schedule O. hereto annexed; and the specification and reference so made in any such subsequent conveyance, deed, or instrument, whether dated prior or subsequent to the commencement of this Act, shall be held to be equivalent to the full insertion of the particular description contained in such prior conveyance, deed, or instrument, and shall have the same effect as if the particular description had been inserted in such subsequent conveyance, deed, or instrument exactly as it is contained in such prior conveyance, deed, or instrument; and it is further provided, that it shall not be competent, notwithstanding the terms of the section hereby repealed, or the form of the schedule therein referred to, to object to any specification and reference to any particular description of lands contained in any conveyance, deed, or instrument recorded prior to the commencement of this Act, provided such specification and reference states correctly the name of the county, and where the lands were held by burgage or by any similar tenure prior to the commencement of this Act, the name of the burgh and county in which the lands are situated, and refers correctly to the prior recorded conveyance, deed, or instrument containing the particular description of such lands; and where any conveyance, deed, or instrument recorded prior to the commencement of this Act contains a specification and reference stating these particulars correctly, the specification and reference so made shall be held to have been equivalent to the full insertion of the particular description contained in the prior conveyance, deed, or instrument referred to, as if the particular description had been inserted in such recorded conveyance, deed, or instrument exactly as it is contained in the prior conveyance, deed, or instrument referred to.

Reference already made in recorded deed not challengeable if certain particulars correctly given.

Section 62 of the Titles to Land Consolidation Act, 1868, and section 4 of the Titles to Land Consolidation Amendment Act, 1869, repealed.

Effect of a decree of adjudication or sale.

62. Section sixty-two of "The Titles to Land Consolidation (Scotland) Act, 1868," and section four of "The Titles to Land Consolidation (Scotland) Amendment Act, 1869," are hereby repealed, and in place thereof the following words shall be deemed and taken to be the sixty-second section of the said Act of 1868, and the said Act of 1868 shall be read and construed as if the sixty-second section thereof had been originally expressed in the following words, viz.:

In all cases a decree of adjudication, whether for debt or in implement, or a decree of constitution and adjudication, whether for debt or in implement, if duly obtained in the form prescribed by this Act, or obtained, if prior to the commencement of this Act, in the form then in use, or a decree of declarator and adjudication, or a decree of sale, shall, except in the case where the subjects contained in the decree of adjudication, or of constitution and adjudication, or of declarator and adjudication, are heritable securities, be held equivalent to and shall have the legal operation and effect of a conveyance in ordinary form of the lands therein contained granted in favour of the adjudger or purchaser by the ancestor of such apparent heir, or by the owner or proprietor in trust or otherwise, and whether in life or deceased, of the lands adjudged, or by the seller of the lands sold, although in nonage or of insane mind, to be holden in the case of lands not held by burgage tenure in the manner and to the effect and subject to the provisions enacted and provided by the sixth section of this Act in the case of conveyances in which no manner of holding is expressed, and to be holden of Her Majesty, in free burgage in the case of lands held by burgage tenure; and it shall be lawful and competent to such adjudger or purchaser to complete feudal titles to said lands, not only by infeftment on such decree

as a conveyance or by using it, for the purpose of infeftment, as an assignation or as one of a series of assignations of an unrecorded conveyance, as the case may be, in the manner provided by this Act, but also when the lands are not held by burgage tenure, by obtaining from the superior charter of adjudication or of sale of said lands and expeding infeftment on such charter in common form, or where the ancestor of such apparent heir, or the owner or proprietor in trust or otherwise, or seller of the lands adjudged or sold, shall have been or shall be entered with his superior, or in a situation to charge such superior, under the powers in this Act contained, to grant entry by confirmation, by taking infeftment on such decree as a conveyance, in the manner provided by this Act, and thereafter obtaining from the superior of the lands a charter or writ of confirmation of such decree and infeftment proceeding on the same, which infeftment shall, with such decree, be an effectual feudal investiture in the said lands in terms of such decree, holding base of the owner or proprietor in trust or otherwise, or seller of the lands adjudged or sold, and his heirs, until confirmation thereof shall be granted by the superior of the lands, in the same manner and to the same effect as if such owner or proprietor or seller had granted a disposition of the lands to the adjudger or purchaser in the terms of the said decree, with an obligation to infeft a me vel de me to be completed by confirmation, and a precept of sasine, and the adjudger or purchaser had been infeft on such precept, and the effect of the charter or writ of confirmation of such decree or of the infeftment thus proceeding upon the same shall be to make the lands hold immediately of and under such superior; but the right of the superior to the composition payable by the adjudger or purchaser as due under the existing law is hereby reserved entire, and the adjudger or purchaser, by taking infeftment on any such decree in any of the modes above mentioned, shall become indebted in such composition to the superior, and shall be bound to pay the same on the superior tendering a charter or writ of confirmation, whether such charter or writ shall be accepted or not, and the superior shall be entitled to recover such composition as accords of law; and it is hereby provided, that such infeftment on any such decree shall, without prejudice to any other diligence or procedure, be of itself sufficient to make the adjudication effectual in all questions of bankruptcy or diligence: Provided always, that where the investiture of any lands has imposed or shall impose a prohibition against sub-infeudation or alternative holding, such adjudger or purchaser shall, in respect of such recorded decree or of any notarial instrument following on such decree, and notwithstanding any such prohibition, be deemed and taken to be duly infeft in the lands adjudged or sold as from the date of recording such decree or instrument, but without prejudice to the right of the superior to require such adjudger or purchaser to enter forthwith as accords of law, and to deal with such adjudger or purchaser, as with a vassal unentered.

Section 125 of Titles to Land Consolidation Act, 1868, repealed.

63. Section one hundred and twenty-five of "The Titles to Land Consolidation (Scotland) Act, 1868," is hereby repealed, and in place thereof the following words shall be deemed and be taken to be the one hundred and twenty-fifth section of the last-recited Act, and the last-recited Act shall be read and construed as if the one hundred and twenty-fifth section thereof had been originally expressed in the following words, viz.:

Completion of title of executors nominate, or disponee or legatee of an heritable security, or of heir where executors excluded.

Upon the death of any creditor in right of an heritable security constituted by infeftment as aforesaid from which executors shall not have been excluded, who shall die leaving a testamentary or mortis causa deed or writing naming executors, or disponing or bequeathing his moveable estate or disponing or bequeathing the security, it shall be competent for the executors duly confirmed, or for the disponees, or for the legatees, as the case may be, to complete a title thereto by a writ of acknowledgment to be granted in their favour by the debtor in the said security infeft in the lands comprehended therein, in or as nearly as may be in the form set forth in Schedule (II.) hereto annexed; and when the executors or disponees (being more than one) shall be appointed under such deed or writing for holding the moveable estate of the deceased in trust for the purposes of the deed or writing, and not wholly for their own beneficial interest, it shall be competent (when not expressly precluded by the terms of the deed or writing) to take the said writ in favour of the said executors or disponees, and the survivors or survivor of them; and where any creditor has died or shall die before the commencement of this Act in right of such an

heritable security, or where any creditor shall die thereafter in right of such an heritable security, from which executors shall have been excluded, it shall be competent for the heir of such creditor to complete a title to the security by a writ of acknowledgment as aforesaid; and on such writ being recorded in the appropriate register of sasines, the executors, disponees, or legatees, or heirs, as the case may be, in whose favour such writ has been granted, shall be vested with the full right of the creditor in such security, and shall be held to be entered with the superior in like manner and to the same effect as the original creditor himself.

Section 127 of last-recited Act repealed.

64. Section one hundred and twenty-seven of the last-recited Act is hereby repealed, and in place thereof the following words shall be deemed and be taken to be the one hundred and twenty-seventh section of the last-recited Act, and the last-recited Act shall be read and construed as if the one hundred and twenty-seventh section thereof had been originally expressed in the following words, viz.:

Executor nominate or disponee mortis causa may complete title by notarial instrument.

Upon the death of any creditor in right of an heritable security constituted by infeftment as aforesaid from which executors shall not have been excluded, and who shall die leaving a testamentary or mortis causa deed or writing naming executors, or disponing or bequeathing his moveable estate, or disponing or bequeathing the security, it shall be competent for the executors, duly confirmed, or for the disponees, or for the legatees, as the case may be, to complete a title thereto by expeding and recording in the appropriate register of sasines an instrument under the hand of a notary public in the form or as nearly as may be in the form of Schedule (KK.) hereto annexed; and when such executors or disponees, or legatees, being more than one, shall not be entitled to such security wholly for their own beneficial interest, it shall be competent to take such notarial instrument in favour of such executors or disponees or legatees, and the survivors and survivor of them, unless such a destination be expressly excluded by the terms of the deed or writing; and where any creditor has died or shall die before the commencement of this Act, in right of such an heritable security, and leaving a mortis causa conveyance thereof, or of his heritable estate generally, or where any creditor shall die thereafter in right of such an heritable security from which executors shall have been excluded and leaving such a mortis causa conveyance, or a testamentary deed or writing within the meaning of the twentieth section of this Act, it shall be competent to the grantee or legatee under such mortis causa conveyance or testamentary deed or writing to complete a title to the security by notarial instrument as aforesaid; and on such instrument being so recorded the executors, disponees, legatees, or grantees, as the case may be, in whose favour such instrument has been expede, shall be vested with the full right of the creditor in such security, and shall be held to be entered with the superior in like manner and to the same effect as the original creditor himself.

Section 129 of last-recited Act repealed.

65. Section one hundred and twenty-nine of the last-recited Act is hereby repealed, and in place thereof the following words shall be deemed and be taken to be the one hundred and twenty-ninth section of the last-recited Act, and the last-recited Act shall be read and construed as if the one hundred and twenty-ninth section thereof had been originally expressed in the following words, viz.:

Adjudgers may complete their title by recording abbreviate or extract decree of adjudication.

In all cases of adjudication, whether for debt or in implement, or of constitution and adjudication whether for debt or in implement, in which the adjudger has obtained a decree of adjudication or of constitution and adjudication in the manner and to the effect provided by this Act, or in cases of declarator and adjudication, where the subjects contained in any such decree are heritable securities, it shall be competent for the adjudger to complete his title to such securities by recording either the abbreviate of adjudication or an extract of such decree in the appropriate register of sasines, in either of which cases he shall be in the same position as if an assignation of such heritable securities had heen granted in his favour by the ancestor or person or creditor in trust or otherwise, and whether in life or deceased, whose estate is adjudged, and as if such assignation had been duly recorded in the appropriate register of sasines at the date of so recording such abbreviate or such extract decree.

66. The schedules annexed to this Act, and the directions therein contained, and notes thereto appended, shall have the same effect as if they were contained in the body of this Act. Schedules to be part of Act.

67. All statutes, laws, and usages at variance with any of the provisions of this Act are hereby repealed. Repeal of Acts, &c.

68. Nothing herein contained shall affect any action now in dependence, or that shall be instituted before the commencement of this Act. Saving clause.

SCHEDULES.

SCHEDULE A.

FORM OF NOTICE TO BE GIVEN TO A SUPERIOR OF CHANGE OF OWNERSHIP.

(*Place and date.*)

Sir,

I hereby intimate to you that (1) has [*or* have] now right to (2) which lands [*or* subjects] formerly belonged to (3).

I am, Sir,
Your most obedient servant, (4).

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(1) *Here state name, designation, and address of the new proprietor or proprietors of the feu.*

(2) *Here mention the names by which the lands or subjects are generally known, so as to distinguish them to the superior, but without giving any detailed description of the lands or subjects, and if in a town or village mention the number of the street or otherwise distinguish the feu, and if a reference to the feu right will more easily and clearly distinguish the lands or subjects a reference to the feu right can be given, but the superior shall not be entitled to object either that the name or designation or address of the new proprietor or proprietors of the feu is erroneous, or that the form in which the lands or subjects are referred to is insufficient or erroneous, unless it can be shown that the notice given as to these particulars or any of them was intended to mislead the superior as to the identity of the new proprietor or proprietors of the feu or as to the particular lands or subjects to which the notice should have referred.*

(3) *Insert the name of the last entered vassal, whether by actual entry previous to the commencement of this Act or by implied entry under it.*

(4) *To be signed (but not attested) by the seller of the feu, or by heir or the trustees or executors of a deceased proprietor, or by any one of the trustees or executors for himself and his co-trustees or co-executors, or by an agent of any of these parties.*

To be addressed and posted or delivered to the superior or to his known agent, or to the person to whom the feu-duties of the feu have been paid, and in the event of the superior being unknown or doubtful, the notice to be addressed "to the "superior" of the lands mentioned in the notice without name (in the event of the proprietor being unable to ascertain name of the superior), and to be posted or sent to the keeper of the Office of Edictal Citations in Edinburgh, and published in the register of these citations, and also (where there is doubt as to the superior) to the person or to the agent of the person as to whom such doubt exists.

SCHEDULE B.

FORM OF SUMMONS OF DECLARATOR AND FOR PAYMENT OF A CASUALTY.

VICTORIA, &c. Whereas it is humbly meant and shown to us by our lovite *A.* [*design him*], immediate lawful superior of the lands [*or* subjects] after described [*or* referred to], and duly infeft therein conform to [*here mention title and date of recording same in the register of sasines*], Pursuer against *B.* [*design him*], Defender, in terms of the condescendence and note of pleas in law hereunto annexed: Therefore it ought and should be found and declared by decree of the lords of our council and session, that in consequence of the death of *C.* [*or otherwise, as the case may be*], who was the vassal last vest and seised in all and whole the lands of *X.* [*describe or refer to the lands, and if the casualty due is a taxed composition, or an heir's relief duty, say*] the casualty of £ [*or, if a singular successor's untaxed composition be due, say*] a casualty, being one year's rent of the lands, became due to the said *A.* as superior of the said lands upon the day of , being the date of the death of the said *C.* [*or*] the date of the infeftment of the said *B.* in the said lands of *X.* [*or otherwise, as the case may be*], and that the said casualty is still unpaid, and that the full rents, maills, and duties of the said lands of *X.*, after the date of citation herein, do belong to the pursuer the said *A.*, as superior thereof, until the said casualty and the

expenses after mentioned be otherwise paid to the said *A.*: And the said *B.* ought and should be decerned and ordained by decree foresaid forthwith to make payment to the pursuer the said *A.* of the said sum of £ , being the casualty foresaid, [*or* of the sum of £ , or such other sum more or less as shall be ascertained in the course of the process to follow hereon to be one year's rent of the said lands,] together with the sum of £ , or such other sum more or less as our said lords shall modify as the expenses of the process to follow hereon conform to the laws and daily practice of Scotland, used and observed in the like cases as is alleged. Our will is therefore, &c.

Note.—In the event of the summons being one at the instance of the Crown or Prince and Steward of Scotland, the necessary alteration will be made, and the summons will be at the instance of the Lord Advocate on behalf of the Commissioners of Her Majesty's Woods and Forests.

SCHEDULE C.

FORM OF MINUTE FOR EFFECTING CONSOLIDATION OF LANDS.

I, *A.B.*, heritable proprietor both of the immediate superiority and of the property [*or* of the mid-superiority] of all and whole [*describe or refer to the lands*], hereby consolidate the property of the said lands [*or* the mid-superiority of the said lands] with the immediate superiority thereof. In witness whereof [*testing clause*].

SCHEDULE D.

FORM OF MEMORANDUM OF ALLOCATION OF FEU-DUTY.

The proportion of the original feu-duty of £ allocated upon the lands within disponed [*or as the case may be*], is hereby fixed at £ , [*and if an augmentation has been stipulated for, add*] with £ of augmentation, making a total of £ .

(Signed) *A.B.* (*the superior of the lands or his commissioner.*)

SCHEDULE E.

FORM OF PETITION FOR COMPLETING A TITLE TO LANDS WHERE A PROPRIETOR OR PROPRIETORS HAVING ONLY A PERSONAL RIGHT HAVE INTERVENED BETWEEN THE PROPRIETOR LAST INFEFT AND THE PETITIONER.

Unto the Honourable the Sheriff of [*specify the county, or say* "of Chancery"],
The Petition of *A.B.* of *G.*

Humbly sheweth,

That the late *C.D.* of *G.* died last vest and seised in all and whole [*describe or refer to the lands as the same are described or referred to in the recorded deed or instrument in favour of the person who was last vest and seised in the lands, or refer to them as described in some other recorded deed or instrument*] conform to instrument of sasine [*or other recorded deed or instrument, as the case may be,*] recorded in the [*specify the register of sasines and date of recording, and where there are any real burdens, conditions, or qualifications, here specify or refer to them, or where the lands are held under entail, here specify the conditions of the entail, or refer to them as contained in the entail, as recorded in the register of tailzies, or if it is not so recorded, in the entail or other deed or instrument recorded in the register of sasines.*]

Or, that *M.N.* of *Y.* was last vest and seised in all and whole [*describe or refer and specify title and date of recording, &c. as above*]. That the said *M.N.* by disposition dated [*specify date*] conveyed the said lands to *C.D.* of *G.* That the said *C.D.* died never having been infeft in the said lands.

That *E.F.*, eldest son of the said *C.D.* [*or otherwise, as the case may be,*] is his heir in the said lands, but has only a personal right thereto.

That the said *E.F.*, by disposition dated [*specify date*], conveyed the said lands to the petitioner.

Or, that upon the death of the said *C.D.* he was succeeded by *E.F.* his eldest son [*or otherwise, as the case may be,*] as his heir in the said lands. That the said *E.F.* died unserved and uninfeft,

[*or* that the said *E.F.* expede a special service as heir of the said *C.D.*, conform to decree of the sheriff of Chancery [*or, as the case may be*], in his favour as heir foresaid, dated [*insert date*], but died without being infeft thereon], *or* that the said *E.F.* expede a general service as heir of the said *C.D.*, conform to decree [*specify the decree*], but made up no further title.

Or otherwise specify the nature of the right in the person of E.F.

That the said *E.F.* disponed the said lands *or* conveyed his whole estate, heritable and moveable, to *G.H.* conform to [*describe title by name and date, and where there are any real burdens, conditions, or qualifications specify or refer to them*].

That the said *G.H.* also died, having only a personal right to the said lands, and was succeeded by his eldest son *K.L.*, his nearest and lawful heir in the said lands, [*or otherwise, as the case may be*].

That the said *K.L.* died unserved, and having only a personal right to the said lands, [*if the petitioner is his heir, say*] and was succeeded by the petitioner the said *A.B.* his eldest son [*or otherwise, as the case may be*], and nearest and lawful heir in the said lands [*or when the petitioner is a disponee, or has otherwise acquired right from K.L., say*], That the said *K.L.* disponed the said lands [*or* conveyed his whole estate, heritable and moveable, *or otherwise, as the case may be,*] to the petitioner, the said *A.B.*, conform to disposition *or* general disposition [*or otherwise, as the case may be*], dated [*specify date*] granted in his favour by the said *K.L.*, who died unserved and having only a personal right to the said lands; [*and if the deed be granted under any real burden, or condition, or qualification, add,*] but always under the real burden, &c.; [*and if the deed be granted in trust or for specific purposes, add*], but always in trust *or* for the uses, ends, and purposes mentioned in the said general disposition [*or otherwise, as the case may be*].

May it therefore please your Lordship to find the facts above set forth proved, and that the petitioner is entitled to procure himself infeft in the foresaid lands, in terms of "The Conveyancing (Scotland) Act, 1874," and to decern.

According to justice, &c.

[*Signed by the petitioner or his mandatory.*]

Note—If any of the transmissions have been judicial, as by adjudication, act and warrant of court, or otherwise, or if by any of the transmissions a part or parts only of the lands are transferred, the necessary alterations may be made on the form of the petition.

SCHEDULE F.

FORM OF DISCHARGE OF CASUALTIES.

I *A.B.* [*design him*], proprietor of the estate of superiority in the lands of [*describe or refer to a description of the lands discharged*], whereof the estate of property belongs to *C.D* [*design him*], in consideration of [*state cause of granting*], hereby discharge in favour of the said *C.D.*, and his heirs and successors, all casualties incident to my said estate of superiority exigible in respect of the said estate of property [*if only some of the casualties are redeemed specify what they are*], and I consent to the registration hereof for preservation. In witness whereof [*testing clause*].

SCHEDULE G.

FORM OF MEMORANDUM CONSTITUTING A FEU-DUTY OR ADDITIONAL FEU-DUTY.

It is agreed between *A.* [*name and designation of superior*] immediate lawful superior of the lands of [*describe or refer to a description of the lands*] on the one part, and *B.* [*name and designation of proprietor of estate of property*] the proprietor of the dominium utile of the said lands on the other part, that the dominium utile of the said lands shall, from and after the term of [*state term*], be liable in payment to the superior thereof of a feu-duty of £ [*or if there be a feu-duty already payable,* of an additional feu-duty of £ over and above the existing feu-duty of £]; and that yearly, at two terms in the year [*state the terms at which the feu-duty is to be paid, or* and that at the term of (*state term*) yearly], beginning the first term's payment [*state term, and whether with interest*]; which feu-duty [*or* additional feu-duty] is constituted in respect of [*state here whether the additional feu-duty is in respect of a commutation of casualties, or of carriages, &c., or as the case may be*]. In witness whereof [*testing clause*].

Note.—If the memorandum be executed by the agents of either or both of the parties, it will be stated in the testing clause that the memorandum is signed by them in that capacity for and on behalf of their constituent or respective constituents.

SCHEDULE H.

FORM OF REFERENCE TO A DEED, INSTRUMENT, OR WRITING FOR RESERVATIONS, BURDENS, AND CONDITIONS AFFECTING LANDS.

The reservations, real burdens, conditions, provisions, limitations, obligations, and stipulations [*or as the case may be*] specified in [*refer to the deed, instrument, or writing in such terms as shall be sufficient to identify it, and specify the register in which it is recorded, and the date of registration, or where the deed, instrument, or writing referred to is recorded on the same date as the deed, instrument, or writing containing the reference, here say*, recorded of even date with the recording of these presents].

SCHEDULE I.

FORM OF DOCQUET WHERE GRANTER OF DEED CANNOT WRITE.

By authority of the above-named and designed *A.B.*, who declares that he cannot write, on account of sickness and bodily weakness [*or* never having been taught, *or otherwise, as the case may be*], I *C.D.* [*design him*], Notary Public, [*or* Justice of Peace for the county of [*name it*], *or as regards wills or other testamentary writings executed by a parish minister as Notary Public in his own parish*, minister of the parish of (*name it*)], subscribe these presents for him, he having authorised me for that purpose, and the same having been previously read over to him, all in presence of the witnesses before named and designed, who subscribe this docquet in testimony of their having heard [*or* seen] authority given to me as aforesaid, and heard these presents read over to the said *A.B.*

E.F., witness.
G.H., witness.

(Signed) *A.B.*, Notary Public [*or* Justice of the Peace *or* Parish Minister].

SCHEDULE J.

FORM OF MEMORANDUM RECORDING AN INHIBITION OF NEW.

Renew inhibition at the instance of *A.* [*here insert designation of the person in right of the inhibition*] against *B.* [*here insert designation of party inhibited*], recorded in this register [*or as the case may be*], on the day of on behalf of the said *A.* [*or if the party in right of the inhibition be an heir, assignee, &c., say*] on behalf of *C.* [*insert designation, and state shortly the title by which he has right to the inhibition*].

G.M., W.S., Edinburgh [*or as the case may be*],
Agent.

SCHEDULE K.

FORM OF MINUTE TO BE PRESENTED IN BILL CHAMBER OF COURT OF SESSION, OR IN SHERIFF COURT, FOR WARRANT TO CHARGE AN HEIR OR DISPONEE UNDER A PERSONAL OBLIGATION BY HIS ANCESTOR OR AUTHOR.

Warrant is craved, in virtue of "The Conveyancing (Scotland) Act, 1874," at the instance of *A.B.* [*name and design applicant*], the creditor [*if he is not the original creditor, or only a partial creditor, add*, in virtue of (*or* to the extent and in virtue of) the assignation (*or* general disposition and notarial instrument *or other writ or writs forming the title in the creditor's person*) in his favour after mentioned] under a bond and disposition in security over the lands of [*specify shortly the lands,*] for the principal sum of £ with corresponding interest and penalties, granted by *C.D.* [*design him*], then proprietor of the said lands, in favour of the said *A.B.* [*or* of *G.H.* (*design him*), *as the case may be*], and dated [*state date*] [*and if recorded say*, and recorded in the register of sasines [*state register and date of recording*], *or* and instrument of sasine thereon recorded, &c., *as the case may be*]: To charge *E.F.* [*design him*], the present proprietor of the said lands, and as such the present debtor in the said bond and disposition in security, to make payment to the said *A.B.* of the said principal sum of £ contained in and due by the said bond and disposition in security [*if A.B. is only a partial creditor, say*, of the principal sum of £ being the extent to which the said *A.B.* is in right of the said bond and disposition in security]: And also of the further sum of £ being the amount of the interest now due thereon. Produced herewith the said bond and disposition in security [*or an*

extract thereof from the books of council and session or from the register of sasines; if the applicant is not the original creditor, the title in his own person to the security will also be stated and produced].

Dated the day of .

(Signed) *A.B.*, W.S., Edinburgh,
[*or as the case may be*].

The Clerk of the Bills, or Sheriff Clerk, as the case may be, will subjoin

Fiat ut petitur.

[*To be dated and signed by the Clerk.*]

SCHEDULE L.

No. 1.

FORM OF CERTIFICATE WHERE LANDS ARE SOLD UNDER HERITABLE SECURITY AND NO SURPLUS EMERGES.

I *A.B.* [*insert designation*], Notary Public, with reference to the sale of all and whole the lands of [*describe or refer to the lands*], which sale took place at upon the day of at the instance of *C.D.* [*design him*], in virtue of the power of sale contained in a bond and disposition in security for the sum of £ , with interest and penalties corresponding thereto, dated and recorded in the register of sasines for the day of granted by *G.H.* [*design him*] in favour of the said *C.D.* [*or* in favour of *E.F.* [*design him*], but to which the said *C.D.* has acquired right by progress (*or otherwise, as the case may be*)], do hereby certify that there has been submitted to me a statement of the intromissions of the said *C.D.* with the price of the said lands subscribed, as authentic, by the said *C.D.* [*or* by *M.N.*, agent of the said *C.D.*, on his behalf], from which it appears that no surplus remains for consignation in bank, in terms of the 122nd and 123rd sections of "The Titles to Land Consolidation (Scotland) Act, 1868," and I make this certificate in terms of "The Conveyancing (Scotland) Act, 1874." In witness whereof [*testing clause*].

No. 2.

FORM OF CERTIFICATE WHERE LANDS HAVE BEEN REDEEMED OF HERITABLE SECURITY, BUT DISCHARGE CANNOT BE OBTAINED.

I *A.B.* [*design him*], Notary Public, do hereby certify that *C.D.* [*design him*], proprietor of the lands of *X.* [*name the lands as shortly as possible*] and others in the county of *Y.*, being the lands contained in the bond and disposition in security [*or other deed of security*] for £ after mentioned, has appeared before me and represented that he did on the day of consign in the bank at the sum of £ with £ being the whole interest due under the said bond and disposition in security [*or other deed of security*] in name of *E.F.* [*design him*] the creditor in the said bond and disposition in security [*or other deed of security; if only a partial creditor say* to the extent of £]; which consignation was made in virtue of the power of redemption reserved in the said bond and disposition in security [*or other deed of security*] which was granted by the said *C.D.* [*or* by *J.K.* (*design him*), then proprietor of the said lands] in favour of the said *E.F.* [*or L.M.* (*design him*) the original creditor in the said security], and is dated [*insert date*] and recorded in the register of sasines for the day of [*if sasine was expede on the bond and disposition in security or other deed of security, instead of* and recorded, &c., *say*, on which bond and disposition in security (*or other deed of security*) the said *E.F.* (*or L.M. as the case may be*) was infeft conform to instrument of sasine in his favour recorded in the register of sasines for the day of]; and the said consignation was rendered necessary by the refusal of the said *E.F.* to receive the said sum of £ and interest thereon [*or* by the absence of the said *E.F., or otherwise, as the case may be, stating the reason why discharge could not be obtained*], notwithstanding that the requisite notice of redemption was given to him; and I make this certificate in terms of "The Conveyancing (Scotland) Act, 1874." In witness whereof [*testing clause*].

SCHEDULE M.

FORM OF ASSIGNATION OF RIGHT OF RELIEF, &c.

I [*here insert the name and designation of the granter, and the cause of granting, unless the assignation forms part of another deed*] hereby assign to *C.D.* [*here insert the designation of the grantee, unless already given*], and his heirs and assignees [*or* and his foresaids], a disposition [*or other deed, as the case may be*] granted by [*here insert the names and designations of the persons by and in whose favour the deed to be assigned was granted, with its date, and also the*

date of registration, and the register in which it is recorded, if it has been recorded], whereby the said [*name of the original granter of the disposition or obligation*] bound and obliged himself, his heirs and successors [*here insert the terms of the obligation in the terms so far as possible of the disposition or other deed, e.g.*], "to warrant the parsonage tiends of the lands of" [*here specify by description or reference, if not already done, the lands to which the obligation or right refers*] "from all future augmentations of ministers stipend or other burden imposed or to be imposed upon "the said parsonage tiends except the stipend presently payable to the minister of ," [*or as the case may be. If the right to be assigned was originally granted in favour of some other person than the granter of the assignation, here specify the series of writs by which he acquired right, and add testing clause.*]

SCHEDULE N.

FORM OF INSTRUMENT IN FAVOUR OF A GENERAL DISPONEE OR HIS ASSIGNEE IN RIGHT OF AN HERITABLE SECURITY.

At there was by [*or* on behalf of] *A.B.* of *Z.*, presented to me, Notary Public subscribing, a bond and disposition in security [*or other security or extract, as the case may be*] dated [*insert date, and where recorded in the register of sasines insert date of recording and specify register of sasines,*] granted by *C.D.* [*insert designation*] in favour of *E.F.* [*insert designation*] [*if sasine has been expede thereon add,* and instrument of sasine thereon in favour of the said *E.F.*, recorded in the [*specify register of sasines and date of registration*] by which bond and disposition in security [*or as the case may be*] the said *C.D.* bound and obliged himself [*insert the personal obligation so far as necessary, and disposition of the lands in security, with the description of them, and also all real burdens, &c., if any, all as set forth at full length or by reference in the bond and disposition in security or other security*]: As also, there was presented to me a general disposition [*or other deed or writing containing a general conveyance, or an extract of such deed or writing, or otherwise, as the case may be,*] granted by the said *E.F.*, and dated [*insert date*], by which general disposition [*or otherwise, as the case may be,*] the said *E.F.* assigned and disponed [*or otherwise, as the case may be,*] to the said *A.B.* and his executors and assignees [*or otherwise, as the case may be,*] heritably and irredeemably [*or*, in liferent, *or otherwise, as the case may be*], all and sundry his whole heritable and moveable estate [*or otherwise, as the case may be, and if the deed be granted in trust or for specific purposes add,* but in trust always, *or*, for the uses and purposes specified in the said general disposition (*or otherwise, as the case may be*)], in which general conveyance was included the said bond and disposition in security [*or other security*] [and infeftment following thereon *if infeftment was expede*], the said *E.F.* being then vest therein as aforesaid. [*If the granter of the general disposition or other deed or writing was not the original creditor, but one who had acquired right to the security, instead of* as aforesaid *here say* in virtue of the following writs, viz. [*specify shortly the title or titles by which he acquired right to the security. If the person expeding the instrument be other than the original grantee under the general disposition or other deed or writing, add,* As also there were presented to me the following writs whereby the said *A.B.* acquired the said general disponee's right to the said bond and disposition in security [and infeftment following thereon], [*or otherwise, as the case may be*], viz. [*specify the title or series of titles by which such person acquired right, and the nature of his right*]. Whereupon this instrument is taken in the hands of *L.M.* [*insert name and designation*], Notary Public, in terms of "The Titles to Land Consolidation (Scotland) Act, 1868," and "The Conveyancing (Scotland) Act, 1874." In witness whereof [*testing clause*].

SCHEDULE O.

CLAUSE OF REFERENCE TO PARTICULAR DESCRIPTION OF LANDS CONTAINED IN A PRIOR CONVEYANCE, DEED, OR INSTRUMENT.

The lands [*or* subjects] and others [*or* the lands delineated and coloured on a copy of the ordnance survey map hereto annexed, and signed as relative hereto], [*or* the lands of *A.* and others], [*or* the house No. 10 Street and others], [*or other like short description*] in the county of [*or* in the burgh of and county of *as the case may be*], being the lands [*or* subjects] particularly described in the disposition [*or other conveyance, deed, or instrument, as the case may be*] granted by *C.D.*, and dated [*insert date*] and recorded in the [*specify register of sasines*] on the day of [*or* as particularly described in the instrument of sasine *or* notarial instrument recorded, *&c. or as the case may be. If part only of lands is conveyed, describe such part as above, and add,* being part of the lands particularly described, *&c., or thus,* being the lands [*or* subjects] as particularly described *&c.*, with the exception of, and [*describe the part excepted*].