(2.)—In Scotland.

I, *A.B.* of , hereby bind and oblige myself, to the extent of £ at most, as caution and surety for *C.D.*, a person employed by the society, that he, the said *C.D.*, shall on demand faithfully and truly account for all moneys received and paid to him for behoof of the said society, and also assign and transfer or deliver all property (including books and papers) belonging to the said society in his hands or custody, and that to such person or persons as the said society or the trustees thereof shall appoint, according to the rules of the said society.

Dated at this day of .

Signature of Cautioner.

E.F. of witness.
G.H. of witness.

The above bond shall not require a testing clause or subscription clause, and may be wholly written or wholly printed, or partly written and partly printed.

FORM OF RECEIPT TO BE ENDORSED ON MORTGAGE OR FURTHER CHARGE.

The trustees of the society hereby acknowledge to have received all moneys intended to be secured by the within [*or* above] written deed.

Signed [*Signatures of Trustees.*]
Trustees.

Countersigned [*Signature of Secretary*]
Secretary.

SCHEDULE IV.

ACKNOWLEDGMENT OF REGISTRY OF SOCIETY.

The Society is registered as a [*friendly society, cattle insurance society, benevolent society, working men's club, or specially authorised society*], under the Friendly Societies Act, 1875, this day of .

[*Seal or stamp of central office*, or *signature of Assistant Registrar for Scotland or Ireland.*]

ACKNOWLEDGMENT OF REGISTRY OF AMENDMENT OF RULES.

The foregoing amendment of the rules of the Society is registered under the Friendly Societies Act, 1875, this day of .

[*Seal or stamp of central office*, or *signature of Assistant Registrar for Scotland or Ireland.*]

CHAPTER 61.

An Act to further amend the Law of Entail in Scotland. [11th August 1875.]

WHEREAS it is expedient further to amend the law of entail 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:

1. This Act may be cited for all purposes as "The Entail Amendment (Scotland) Act, 1875." Short title.

2. This Act shall commence and come into operation on the passing thereof. Commencement of Act.

Interpretation of terms.

3. In this Act the following terms shall have the meanings hereby assigned to them, unless the same are inconsistent with the context; that is to say,

"The court" shall mean the Court of Session, and shall include either division of the inner house thereof, or the lord ordinary, as the case may be:

"The lord ordinary" shall mean the junior lord ordinary or the lord ordinary officiating on the bills in time of vacation or recess, as the case may be:

"Land" shall include all heritages:

"Heir of entail" shall include the institute:

"Entailed estate" shall include all heritages which by the law of Scotland may be made the subject of entail, and also all lands or other heritages held in trust for the purpose of being entailed, and all money or other property real or personal invested in trust for the purpose of purchasing land to be entailed, and also all money consigned in respect of the taking of any land forming part of any entailed estate:

"Entail Act" shall mean the Act of the Parliament of Scotland passed in the year one thousand six hundred and eighty-five, intituled "Act concerning Tailzies," and any other Acts of Parliament in force relating to entailed estates in Scotland:

"Creditor" shall include the heirs and assignees of a creditor:

"Improvements" shall include all or any of the following matters, and all operations necessary for carrying into effect any of such matters; that is to say,

(1.) The draining, or the straightening, widening, deepening, or otherwise improving the drains, streams, and watercourses of an entailed estate, or the conducting of water to any house or houses or offices or mill or works, or to any town, village, or populous place situated on the estate;

(2.) The embanking, warping, or weiring of land from the waters of the sea, or of any lake, river, or stream;

(3.) The enclosing of land, and the straightening of fences, and re-division of land;

(4.) The reclamation of land;

(5.) The making of private roads through the estate, and the forming of roads or streets in any town, village, or populous place in so far as situated on the estate, and the making of tramways or railways or navigable canals for the benefit of and in so far as made within the estate;

(6.) The trenching of land, the clearing of land, or the planting of land;

(7.) The erecting or improving of, or the making additions to—

(*a.*) The mansion-house or any of the mansion-houses and offices or outbuildings of the same on an entailed estate;

(*b.*) Farmhouses and offices, or outbuildings for the same, and cottages for labourers, farm-servants, and artizans, whether employed on the estate or not;

(*c.*) Factors, ground officers, and overseers houses, with suitable offices and outbuildings;

(*d.*) Inns or hotels and offices, or outbuildings of the same on the estate;

(*e.*) Shooting lodges and offices, or outbuildings for the occupation of the tenants of any shootings which may be let on the estate, and of the servants of such tenants of shootings;

(*f.*) Engine houses, water wheels, water or horse mills, saw-mills, kilns, shafts, wells, ponds, tanks, reservoirs, dams, leads, pipes, conduits, watercourses, bridges, weirs, sluices, flood gates, or hatches, with all fixed machinery appertaining thereto, which will increase the value of the land for agricultural purposes, or otherwise be beneficial to the estate;

(*g.*) Jetties or landing places on the shores of the sea or of a lake, or on the banks of a navigable river, for facilitating the transport of agricultural stock and produce, or of manures, or other articles needed for agricultural purposes.

Nearest heirs of entail may consent when 21 years of age instead of when 25 years of age, as formerly.

4. Where under the terms of the Act of the eleventh and twelfth years of the reign of Her Majesty, chapter thirty-six, or under any Acts amending the same, it is provided that the nearest heir of entail for the time entitled to succeed to an entailed estate giving his consent in any application under the said Act or Acts, shall be of the age of twenty-five years complete, it shall be sufficient, after the passing of this Act, if such heir shall be of the age of twenty-one years complete, and the said Act and any amending Acts shall be read and construed as if for the provision therein in regard to the age of such heir the provision of this Act were inserted.

Amendment of Section 3 of 11 & 12 Vict. c. 36. Consents to disentail estates entailed before 1st August 1848, may be given in course of application, and when such consents are not given, the court may assess the value of the heirs interests and dispense with such consents, on payment or security of such value. In case of nearest heir consent must be given by himself.

5. Whereas it is expedient that section three of the Act of the eleventh and twelfth years of the reign of Her Majesty, chapter thirty-six, should be amended: Be it enacted as follows:

(1.) In any application to the Court of Session for authority to disentail an entailed estate in Scotland, holden by virtue of any tailzie dated prior to the first day of August one thousand eight hundred and forty-eight, the consent of any of the heirs of entail mentioned in the recited section entitled to succeed to such estate may competently be given after such application has been presented to the court, and in the course of the same:

(2.) In the event of any of the foresaid heirs, except the nearest heir for the time, whether an heir apparent or not, entitled to succeed, declining or refusing to give or being legally incapable of giving his consent, the court may dispense with such consent in terms of the provisions following; (that is to say,)

(*a.*) When any of the foresaid heirs entitled to succeed, except the nearest heir for the time, declines or refuses to give, or is legally incapable of giving his consent, the court shall, on a motion to that effect by the petitioner in the application, and on a statement by him of the declinature or refusal or incapacity of such heir or heirs aforesaid, and after such intimation to the heir or heirs so declining or refusing, or to the guardians or other persons interested in the heir or heirs incapacitated as aforesaid, as the court shall think necessary, ascertain the value in money of the expectancy or interest in the entailed estate with reference to such application of such heir or heirs declining or refusing, or incapacitated to give consent as aforesaid.

(*b.*) Upon such value in money being ascertained to the satisfaction of the court, the court shall direct the sum so ascertained to be paid into bank in name of the heir or heirs the value of whose expectancy or interest has been ascertained as aforesaid, or that proper security shall be given over the estate which is the subject of application for the amount so ascertained in favour of the heir or heirs aforesaid.

(*c.*) Upon such value in money being so paid or secured, to the satisfaction of the court, the court shall dispense with the consent or consents of the heir or heirs, the value of whose expectancy or interest has been ascertained as aforesaid, and shall thereupon proceed as if such consent or consents had been obtained: Provided always, that nothing herein contained shall render it competent to dispense with the consent of the nearest heir for the time entitled to succeed to any entailed estate sought to be disentailed.

(3.) So much of the recited section as provides that the heir of entail in possession, being the only heir of entail in existence for the time, shall be unmarried when he exercises the powers conferred upon him by the recited section, is hereby repealed; but nothing herein contained shall affect the provisions of section eight of the recited Act.

Provisions of preceding section as regards consents to apply to applications for selling, burdening, &c.

6. The provisions of the preceding section with reference to applications for authority to disentail shall apply also where an heir of entail in possession of an entailed estate in Scotland, holden by virtue of any tailzie dated prior to first August one thousand eight hundred and forty-eight, applies for power to sell, alienate, dispone, charge with debts or incumbrances, lease or feu, or excamb such estate in whole or in part: Provided always, that nothing contained in this Act shall render it necessary in any application with reference to an entailed estate to obtain the consent (or the dispensing with the consent)

of any heir of entail whose consent would not have been necessary before the passing of this Act.

Court empowered to authorise heir of entail to borrow money to defray the cost of improvements on the entailed estate.

7. From and after the passing of this Act, it shall be lawful for the court, on the application of the heir of entail in possession of an entailed estate in Scotland holden by virtue of any tailzie dated prior to the first day of August one thousand eight hundred and forty-eight, to grant authority to such heir of entail to borrow money to defray the cost of improvements on such estate, whether the same have already been executed by him or are in the course of execution, or are merely contemplated at the date of the application, and whether the same if executed prior to the date of the application were executed before or after the passing of this Act, and to grant security therefor to the lender in the manner herein-after provided, such heir of entail having paid the cost of such improvements as may have been executed prior to the date of the application, or being liable for the same so far as unpaid: Provided as follows:

(1.) The court shall be satisfied that any improvements executed prior to the date of the application are of a substantial nature and beneficial to the estate as at the date of the application to the extent of at least the sum authorised to be borrowed:

(2.) The court shall be satisfied with respect to any improvements in course of execution, or contemplated, that the same, if well executed, will be of a substantial nature and beneficial to the estate:

(3.) The amount to be borrowed to defray the cost of improvements executed prior to the date of the application shall be instructed by such evidence as the court shall deem reasonable:

(4.) The court may determine the amount to be borrowed to defray the cost of improvements in course of execution, or contemplated, upon an estimate of the probable amount of such cost made by a person or persons of skill:

(5.) It shall not be necessary in any application that the vouchers of the expenditure shall be produced; but it shall be in the power of the court, or of any reporter or other person appointed to inquire into the facts, and examine the improvements, to call for the production of the vouchers of the expenditure, or any of them, if the court or such reporter or other person shall think it is desirable or necessary that such vouchers or any of them should be produced:

(6.) In every case the court shall, in fixing the amount to be borrowed under their authority, add to the actual or estimated amount of the cost of the improvements, the actual or estimated amount of the cost of the application, and the proceedings thereon, and of obtaining the loan, and granting security therefor:

(7.) When the application is for authority to borrow money on the security of the estate to defray the cost of improvements thereon executed prior to the date of the application, the process shall be at an end on the court granting the prayer of the application; in every other case the process shall subsist as a depending process until the whole money authorised to be borrowed shall be paid away under the authority of the court, as herein-after provided:

(8.) In every such case as that last mentioned, the court in granting their authority shall make an order for the consignation in bank of the whole amount of the loan authorised on a receipt payable to the orders of court, and such order for consignation shall be set forth in the security to be granted by the heir of entail as after mentioned, and shall be obligatory on the lender; and thereafter the court may make such orders and give such directions in the process as they may think necessary from time to time for the inspection of the works of improvement in course of execution, for ensuring that the improvements shall be well executed, and may, on motion made in the process, grant orders from time to time for payment out of the consigned money to the applicant, or in the case of his death to his personal representative or other successor entitled thereto and sisted in the process as herein-after provided, of the cost of the improvements so far as executed to their satisfaction, paid for by him or for which he is liable, and of the expenses of the loan and security and of the process.

Provided also, that nothing in this Act shall authorise any heir of entail to charge the entailed estate with money expended on any improvement which may have been executed more than twenty years before the application for authority to charge the estate in respect of such improvement shall have been made to the court.

Heir of entail with authority of the court may grant bond over the estate; form and effect of bond.

8. It shall be lawful for an heir of entail in possession of an entailed estate in Scotland holden by virtue of any tailzie dated prior to the first day of August one thousand eight hundred and forty-eight (notwithstanding any provisions to the contrary contained in the tailzie), who has obtained the authority of the court to borrow money under this Act on the security of the estate, to charge the fee and rents of such estate other than the mansion-house, offices, and policies thereof, or the fee and rents of any portion of such estate other than as aforesaid, with a bond of annual rent, binding himself and his heirs of tailzie to make payment of an annual rent for twenty-five years from and after the date of such authority of the court, or, where the money has been consigned as aforesaid, from and after the expiration of two years from the date of consignation, such annual rent to be payable by equal moieties half-yearly, and to be at a rate not exceeding seven pounds two shillings per annum for every one hundred pounds so authorised to be borrowed, and so in proportion for any greater or less sum; or, where the improvements were executed before the date of the application to the court, in the option of such heir in possession, and in lieu of such bond of annual rent, with a bond and disposition in security over such estate, or any portion thereof, other than as aforesaid, for two thirds of the sum on which the amount of such bond of annual rent, if granted, would be calculated in terms of this Act, with interest thereof at the rate to be stated in such bond and disposition in security from the date aforesaid till repaid, with corresponding penalties, and such bond and disposition in security may be in the like form and shall have the like effect and operation, and be subject to the like conditions and provisions as to keeping down interest as are made and provided by the said Act of the eleventh and twelfth years of the reign of Her Majesty, chapter thirty-six, and any Acts amending the same, in regard to bonds and dispositions in security authorised to be granted in respect of provisions to younger children, and the granting of such bond of annual rent or bond and disposition in security shall operate as a discharge of all claims for or on account of the improvements with reference to which such bonds of annual rent or bonds and dispositions in security are hereby authorised to be granted.

Provision as to entailed estates now charged for improvements.

9. And whereas it is expedient that where an estate in Scotland holden by virtue of any tailzie dated prior to the first day of August one thousand eight hundred and forty-eight has, before the passing of this Act, been duly charged with the cost of improvements executed thereon, and shall continue charged therewith after the passing of this Act, the heir of entail in possession thereof at or after the passing of this Act should be entitled to relief in the manner but subject to the conditions herein-after provided: Be it therefore enacted as follows:

(1.) It shall be lawful for such heir of entail, with the consent of the nearest heir for the time entitled to succeed to the said estate, in case he or any of his predecessors in possession of the estate shall have granted a bond or bonds of annual rent over the estate or any portion thereof, or otherwise imposed or created a rentcharge or rentcharges thereon in respect of improvements executed under the Act of the tenth year of the reign of His Majesty King George the Third, chapter fifty-one, or under the Act of the eleventh and twelfth years of the reign of Her present Majesty, chapter thirty-six, or any Act amending either of these Acts, or under "The Improvement of Land Act, 1864," or any Act amending the same, or any other Act authorising the loan of money for the improvement of land, and in case such bond or bonds of annual rent or rentcharge or rentcharges continues or continue to affect the estate at the time, to agree with the creditor in any such bond of annual rent or rentcharge for the substitution therefor of a bond and disposition in security over the estate or any portion thereof, other than as in the preceding section mentioned, for the portion then remaining unpaid of the sum on which the amount of such bond of annual rent, or of such rentcharge, was calculated, or otherwise to obtain from any

person willing to advance the same, money on loan to pay to the creditor the portion of such sum then unpaid as aforesaid, under such bond of annual rent or rentcharge if the creditor will consent to receive the same, and, having obtained the sanction of the court to such agreement, to grant bond and disposition in security in terms thereof in favour of such creditor or other person, and such bond and disposition in security, if in favour of the creditor, shall operate as an absolute discharge by him of such bond of annual rent or rentcharge:

(2.) Bonds and dispositions in security granted in terms of this section shall set forth the rate of interest stipulated to be paid from the date of the advance until repayment, with corresponding penalties, and may be in the form, and shall have the effect and operation, and be subject to the conditions and provisions as to keeping down interest, which are mentioned in the preceding section.

Amendment of the law as to provisions for younger children of heirs of entail.

10. In all cases in which an heir of entail in possession of an estate in Scotland, holden by virtue of a tailzie dated prior to the first day of August one thousand eight hundred and forty-eight, shall have granted or shall grant provision for a lawful child in terms of the Act of the fifth year of the reign of His Majesty King George the Fourth, chapter eighty-seven, and any Acts amending the same, or in virtue of the powers in that behalf contained in the deed of entail of such estate, and such child shall either before or after the passing of this Act pre-decease the grantor of such provision leaving lawful issue who shall survive the grantor, such issue shall on the death of the grantor take the said provision and be entitled to receive payment thereof in like manner as their parent would have done if he or she had survived the grantor, subject to any settlement or apportionment of the same by such grantor; and it shall also be lawful for any heir of entail in possession as aforesaid to grant provision to the issue of a pre-deceasing child, and to apportion the same, whether such pre-deceasing child shall have been heir apparent or a younger child to the same extent and subject to the same conditions as if the provision were made under the foresaid Acts or any of them or under the entail of the estate in favour of a younger child of the grantor; and in the respective cases aforesaid the heir of entail in possession liable to pay such provision shall be entitled to charge the estate therewith in the same manner and to the same extent and subject to the same conditions as if the provision sought to be charged had fallen to be paid to a child of the grantor and not to the issue of such child: Provided that the whole provisions granted by such heir of entail shall not exceed in any case the amount authorised to be charged on the entailed estate and rents thereof, under the said Acts or any of them, or under the entail of the said estate: Provided also, that nothing contained in this section shall operate to defeat any right which shall have vested before the passing of this Act.

Improvement expenditure may be conveyed or bequeathed.

11. Where any heir of entail in possession of an estate in Scotland, holden by virtue of a tailzie dated prior to the first day of August one thousand eight hundred and forty-eight, shall have executed improvements on such estate, of the nature contemplated by this or any other Entail Act as the case may be, and shall have died after the passing of this Act without having charged the estate with the amount which he is entitled to charge of the sums expended on such improvements, it shall be lawful for any person to whom such heir of entail may have expressly bequeathed, conveyed, or assigned such sums or any part thereof, to make application by summary petition to the court, praying the court after such enquiry as to the court shall seem proper, to find and declare that the sums specified in the petition, or any part thereof have been expended on improvements on the said estate by the deceased heir of entail; and that the petitioner is in right thereof; and to decern and ordain the heir in possession of such entailed estate to execute in favour of the petitioner or of any other person such petitioner may think fit, a bond and disposition in security over the said estate other than the mansion-house, offices, and policies thereof, or over some sufficient portion of the said estate other than as aforesaid, for the amount with which the deceased heir of entail himself might under the provisions of this Act have charged the estate, which bond and disposition in security shall contain all clauses proper to

be inserted in bonds and dispositions in security which in virtue of this Act may be granted by an heir of entail in possession for sums expended by himself on improvements on his estate; provided always, that the said sums shall only be deemed to be a debt against the entailed estate and the heirs of entail therein, and shall only bear interest from and after the date of the decree of the court pronounced in such petition.

Procedure in applications under Entail Acts.

12. Subject to such rules in regard to the matters in this section mentioned as the court are hereby authorised and required to make by act of sederunt, on or before the fifteenth day of November one thousand eight hundred and seventy-five, and thereafter from time to time to vary or extend as they shall see fit, the following provisions shall have effect with reference to all applications to the court under this or any other Entail Act:

(1.) The application shall be addressed to the court, but shall be presented to the junior lord ordinary, and during any vacation or recess of the court to the lord ordinary officiating on the bills, who shall have all jurisdictions, powers, and authorities necessary for dealing with the same:

(2.) Applications, except for authority to disentail, sell, alienate, dispone, charge with debt or incumbrances, may be made and prosecuted by the tutor, curator, or other legal guardian of a pupil or minor, or person under legal incapacity:

(3.) Should the applicant die, his personal representative or his successor in the entailed estate, or his disponee, legatee, or assignee, or any of them, according to their respective rights and interests, shall, except in the case of applications in which it is necessary to obtain the consent or the dispensing with the consent of one or more heirs of entail, be entitled to be sisted in the process, at whatever stage the death may happen, and to prosecute the same:

(4.) The lord ordinary shall appoint intimation of every application to be made in the minute-book and on the walls in common form, and shall also appoint the same to be once advertised in the Edinburgh Gazette, and once in some newspaper published or circulating in a county in which the estate or some portion thereof is situated:

It shall be sufficient in the advertisements to state the leading name by which the lands are commonly known, without any detailed description thereof, and the leading purpose of the application, without any detailed statement of such purpose:

The lord ordinary may also order such service as he may think proper, the induciæ of which may be the same as the induciæ upon summonses in terms of "The Court of Session Act, 1868," and may permit any person not called as a respondent to appear in the process for his interest:

(5.) In any application for authority to disentail an estate in whole or in part, or to sell, alienate, dispone, charge with debts or incumbrances, lease, feu, or excamb the same, or any part thereof, it shall be sufficient that in lieu of lodging an affidavit as at present, a schedule shall be produced, signed by the petitioner and deponed to by him as correct, setting forth that there are no entailer's debts or other debts, and no provisions to husbands, widows, or children affecting or that may be made to affect the fee of the estate or the heirs of entail that are not secured by having been placed on the record; or if there are any such debts or provisions that are not so secured, setting forth as regards such debts or provisions the amounts or sums thereof in figures, the dates when the same were constituted, and the names and designations or residences of the parties who at the date of the application are in right of the same:

(6.) In every application it shall be competent to decern for payment of expenses of process against any of the parties to the proceedings, or to decern for payment thereof out of the entailed estate concerned or out of the money consigned under the application:

(7.) Power is hereby conferred on the court, by act of sederunt to establish, and from time to time to alter or vary, a scale of fees payable to reporters in entail applications, such as in their opinion shall afford to the said reporters a sufficient remuneration for performing the duties of their offices.

Effect of destination to heirs whomsoever.

13. Where any tailzie under which any estate is held shall not be valid and effectual in virtue of the recited Act of the Parliament of Scotland passed in the year one thousand six hundred and eighty-five, in respect the destination contained in such tailzie is in favour of the institute or heir in possession and his heirs whomsoever, or his heirs general, such estate shall be deemed and taken to be a fee simple estate, without any declarator or other judicial procedure; and where any money or other property, real or personal, has been, or shall be, invested in trust for the purpose of purchasing lands to be entailed under the same or like destinations, or where any lands are or shall be directed to be entailed under the same or like destinations, but the direction has not been carried into effect, such trust money or other property, and such lands, though still unentailed, may be dealt with under this section in all respects as such lands might have been dealt with if entailed in terms of such trust or direction.

Saving of power to improve estates under "The Improvement of Land Act, 1864."

14. Nothing herein contained shall operate to prevent any heir of entail in possession of an entailed estate from taking proceedings under "The Improvement of Land Act, 1864," or any other Act authorising the loan of money for the improvement of land, or any Act amending the same respectively, to charge the estate with the amount of sums expended for improvements thereon or affect the validity of any proceedings or charge under these Acts.

CHAPTER 62.

An Act to alter and amend the Law relating to Appeals in Summary Prosecutions before Inferior Judges in Scotland. [11th August 1875.]

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

Short title.

1. This Act may be cited for all purposes as "The Summary Prosecutions Appeals (Scotland) Act, 1875."

Interpretation of terms.

2. In this Act the following terms have the meanings herein assigned to them; that is to say,

"Inferior judge" means and includes any sheriff or sheriff substitute, justice or justices of the peace, or magistrate or magistrates:

"Magistrate" means a magistrate of any royal burgh, or of any burgh returning or contributing to return a member to Parliament, or of any burgh of regality or barony, and includes any commissioner of police authorised to act as a judge under any general or local Police Act:

"Cause" means and includes every proceeding which may be brought under the Summary Procedure Act, 1864, and every other summary proceeding for the prosecution of an offence or recovery of a penalty competent to be taken before an inferior judge:

"Clerk of court" means the clerk of the court of an inferior judge, and includes any depute clerk of court or other person authorised to act, and acting for the time as such clerk of court:

"The respondent" means and includes any party to a cause other than the party appealing under this Act against the determination thereof by an inferior judge.

Inferior judge on application of party aggrieved to state a case for opinion of superior court.

3. On an inferior judge hearing and determining any cause, either party to the cause may, if dissatisfied with the judge's determination as erroneous in point of law, appeal thereagainst, notwithstanding any provision contained in the Act under which such cause shall have been brought excluding appeals against or review in any manner of way of any determination, judgment, or conviction or complaint under such Act, by himself