III. The Clauses of "The Commissioners Clauses Act, 1847," with respect to the Mortgages to be executed by the Commissioners, with the Exception of Section Eighty-four, are hereby incorporated with this Act; and the Word "Commissioners" in the said Clauses shall mean the Commissioners of Supply of the County of *Inverness;* and the Expression "the Special Act" in the said Clauses shall mean this Act. Clauses of 10 & 11 Vict. c. 16. as to Mortgages incorporated.

IV. It shall be lawful for the said Commissioners of Supply to borrow on Bond or Mortgage for the Purposes of this Act any Sum of Money not exceeding the Sum of Two thousand seven hundred Pounds, and to make and grant Mortgages and Assignations of the Assessments to be levied under the Provisions of this Act in security for the Payment of the Money so borrowed, and Interest thereon; and if after having borrowed the said Sum or any Part thereof, the said Commissioners of Supply shall pay off the same, it shall be lawful for them again to borrow the Amount so paid off by granting new Mortgages and Assignations in Security therefor or otherwise, and so from Time to Time as they shall think proper. Power to borrow on Bond or Mortgage.

V. It shall be lawful for the said Commissioners of Supply, in the Exercise of the said borrowing Powers, to take from any Bank or Banking Company, Credit on a Cash Account, to be opened and kept with such Bank or Banking Company in the Name of the said Commissioners of Supply, or their Clerk or Treasurer, according to the Usage of Bankers in *Scotland*, to the Extent of the Sum which the said Commissioners of Supply are hereby authorized to borrow, or any Part thereof, and to make and grant Mortgages and Assignations of the Assessments to be levied under the Provisions of this Act in Security for the Payment of the Amount of such Credit, or of the Sums advanced from Time to Time on such Cash Account, with the Interest thereon. Power to borrow on Cash Credit.

VI. The said Commissioners of Supply in borrowing Money as aforesaid shall make Provision that the Principal Money to be so borrowed, and all Interest for the same, shall be fully paid and discharged within a Time to be limited by the said Commissioners, not exceeding Thirty Years from the passing of this Act. Money borrowed to be paid off in Thirty Years.

VII. No Person lending Money to the said Commissioners of Supply, and taking a Mortgage or Assignation in Security for securing Repayment of the same, and purporting to be made under the Authority of this Act, shall be bound to require Proof that the Provisions of this Act have been duly complied with; and it shall not be competent to any Ratepayer or other Person to question the Validity of any such Mortgage or Assignation in Security, on the Ground that such Provisions have not been complied with. For Protection of Persons lending Money on the Security of Assessment.

VIII. This Act shall not apply to the Insular Portions of the County of *Inverness*, except the *Isle of Skye*. Act not to apply to certain Places.

CAP. XXXVIII.

An Act to further amend the Law of Property. [23d *July* 1860.]

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:

I. 'Whereas it is desirable to place Freehold, Copyhold, and Customary Estates on the 'same Footing with Leasehold Estates, in respect of Judgments, Statutes, and Recognizances 'as against Purchasers and Mortgagees, and also to enable Purchasers and Mortgagees of 'Estates, whether Freehold, Copyhold, or Customary or Leasehold, to ascertain when 'Execution has issued on any Judgment, Statute, or Recognizance, and to protect them 'against Delay in the Execution of the Writ:' Be it therefore enacted, That no Judgment, Statute, or Recognizance to be entered up after the passing of this Act shall affect any Land Writs of Execution of Judgments to be registered.

(of whatever Tenure) as to a *bonâ fide* Purchaser for valuable Consideration, or a Mortgagee, (whether such Purchaser or Mortgagee have Notice or not of any such Judgment, Statute, or Recognizance) unless a Writ or other due Process of Execution of such Judgment, Statute, or Recognizance shall have been issued and registered as herein-after is mentioned before the Execution of the Conveyance or Mortgage to him, and the Payment of the Purchase or Mortgage Money by him: Provided always, that no Judgment, Statute, or Recognizance to be entered up after the passing of this Act, nor any Writ of Execution or other Process thereon, shall affect any Land of whatever Tenure as to a *bonâ fide* Purchaser or Mortgagee, although Execution or other Process shall have issued thereon, and have been duly registered, unless such Execution or other Process shall be executed and put in force within Three Calendar Months from the Time when it was registered.

Mode of registering.

II. The Registry herein-before required of any Writ of Execution, or other due Process, on any Judgment, Statute, or Recognizance, in order to bind a Purchaser or Mortgagee, shall be made by a Memorandum or Minute referring to the Judgment, Statute, or Recognizance already registered, so as to connect the Registry of the Writ of Execution or other Process therewith; such Memorandum or Minute to be left with the Senior Master of the Court of Common Pleas at *Westminster*, who shall forthwith enter the Particulars in a Book in Alphabetical Order by the Name of the Person in whose Behalf the Judgment, Statute, or Recognizance upon which the Writ of Execution or other Process issued was registered, and also the Year and the Day of the Month when every such Memorandum or Minute is left with him, and such Officer shall be entitled for any such Registry to the Sum of Five Shillings; and all Persons shall be at liberty to search the same Book, in addition to all the other Books in the same Office, on Payment of the Sum of One Shilling only: And all the Provisions in this Act in regard to Writs of Execution or other Process and the Registry thereof, or otherwise relating thereto, shall extend, *mutatis mutandis*, to Writs of Execution or other due Process issuing on Judgments of the several Courts of Common Pleas of the County Palatine of *Lancaster*, and of Pleas of the County Palatine of *Durham*: But none of these Provisions are to extend to *Ireland*.

Provision for Protection of Heirs and Executors against unregistered Judgments.

III. 'And whereas by an Act passed in the Fourth and Fifth Years of Their late Majesties 'King *William* and Queen *Mary*, intituled *An Act for the better Discovery of Judgments in* 'the Courts of King's Bench, Common Pleas, and Exchequer in Westminster, it was enacted, 'that no Judgment not docketed and entered in Books in the Manner thereby provided 'should affect any Lands or Tenements as to Purchasers or Mortgagees, or have any 'Preference against Heirs, Executors, or Administrators in their Administration of their 'Ancestors, Testators, or Intestates Estates: And whereas by several later Acts Judgments 'are required to be registered with more Particulars than were required by the said recited 'Act; and it is thereby enacted that Judgments not so registered shall not affect any 'Lands, Tenements, or Hereditaments as to Purchasers, Mortgagees, or Creditors unless 'and until the same shall be registered in manner thereby required; and in obedience to a 'Direction in One of the same Acts contained the Dockets existing under the said first-'recited Act have been finally closed: And whereas the said several later Acts do not 'expressly enact that Judgments not docketed as thereby required shall not have any 'Preference against Heirs, Executors, or Administrators in their Administration of their 'Ancestors, Testators, or Intestates Estates, in consequence whereof such Heirs, Executors, 'or Administrators have been held to have lost the Protection which they enjoyed under the 'said first-recited Act, and it is expedient that the same should be restored:' Be it therefore declared and enacted, That no Judgment which has not already been or which shall not hereafter be entered or docketed under the several Acts now in force, and which passed subsequently to the said Act of the Fourth and Fifth Years of King *William* and Queen *Mary*, so as to bind Lands, Tenements, or Hereditaments as against Purchasers, Mortgagees, or Creditors, shall have any Preference against Heirs, Executors, or Administrators in their Administration of their Ancestors, Testators, or Intestates Estates.

Judgments as against Heirs and Executors

IV. No Judgments which since the passing of an Act of the First and Second Years of Her Majesty Queen *Victoria*, intituled *An Act for abolishing Arrest on Mesne Process in Civil Actions*

Actions except in certain Cases, for extending the Remedies of Creditors against the Property of Debtors, and for amending the Laws for the Relief of Insolvent Debtors in England, (being one of the Acts herein-before referred to,) have been registered under the Provisions therein contained, or contained in the later Act of the Second and Third Years of Queen *Victoria*, Chapter Eleven, as explained and amended by the Act of the Session of the Eighteenth and Nineteenth Years of Queen *Victoria*, Chapter Fifteen, (being Two other of the Acts herein-before referred to,) or which shall hereafter be so registered, shall have any Preference against Heirs, Executors, or Administrators in their Administration of their Executors, Testators, or Intestates Estates, unless at the Death of the Testator or Intestate Five Years shall not have elapsed from the Date of the Entry thereof on the Docket or from the only or last Re-registry thereof, as the Case may be, which Re-registry from Time to Time is hereby authorized to be made in manner directed by the said Act of the Second and Third of Queen *Victoria*, as explained and amended by the Act of the Eighteenth and Nineteenth of Queen *Victoria*; but it shall be deemed sufficient to secure such Preference as aforesaid, if such a Memorandum as was required in the first instance is again left with the Senior Master of the Common Pleas within Five Years before the Death of the Testator or Intestate, although more than Five Years shall have expired by Effluxion of Time since the last previous Registration, before such last-mentioned Memorandum or Minute was left; and so *toties quoties* upon every Re-registry. to be re-registered.

V. In the Construction of the previous Provisions the Term Judgment shall be taken to include registered Decrees, Orders of Courts of Equity and Bankruptcy, and other Orders having the Operation of a Judgment. Extent of the Word "Judgment."

VI. Where any actual Waiver of the Benefit of any Covenant or Condition in any Lease on the Part of any Lessor, or his Heirs, Executors, Administrators, or Assigns, shall be proved to have taken place after the passing of this Act in any one particular Instance, such actual Waiver shall not be assumed or deemed to extend to any Instance or any Breach of Covenant or Condition other than that to which such Waiver shall specially relate, nor to be a general Waiver of the Benefit of any such Covenant or Condition, unless an Intention to that Effect shall appear. Restriction of Effect of Waiver.

VII. Where by any Instrument any Hereditaments have been or shall be limited to Uses, all Uses thereunder, whether expressed or implied by Law, and whether immediate or future, or contingent or executory, or to be declared under any Power therein contained, shall take effect when and as they arise by force of and by relation to the Estate and Seisin originally vested in the Person seised to the Uses, and the continued Existence in him or elsewhere of any Seisin to Uses or Scintilla juris shall not be deemed necessary for the Support of or to give effect to future or contingent or executory Uses, nor shall any such Seisin to Uses or Scintilla juris be deemed to be suspended, or to remain or to subsist in him or elsewhere. Provision for Cases of future and contingent Uses.

VIII. The Section Twenty-four in the Act of the Session of the Twenty-second and Twenty-third of Queen *Victoria*, Chapter Thirty-five, shall be read and construed as if the Words "or Mortgagee" had followed the Word "Purchaser" in every Place where the latter Word is introduced in the said Section. Sect. 24. of 22 & 23 Vict. c. 35. extended to Mortgagees.

IX. Where any Trustee, Executor, or Administrator shall apply for the Opinion, Advice, or Direction of a Judge of the Court of Chancery under the Thirtieth Section of the Act of the Twenty-second and Twenty-third of Her present Majesty, Chapter Thirty-five, the Petition or Statement shall be signed by Counsel, and the Judge by whom it is to be answered may require the Petitioner or Applicant to attend him by Counsel either in Chambers or in Court where he deems it necessary to have the Assistance of Counsel. Form of applying for Advice of Judge, &c. under Section 30. of 22 & 23 Vict. c. 35.

X. It shall be lawful for the Lord Chancellor, Lord Keeper or Lords Commissioners for the Custody of the Great Seal of *England*, with the Advice and Assistance of the Master of the Rolls, the Lords Justices of the Court of Appeal in Chancery, and the Vice-Chancellors of the said Court, or any Three of them, and for the Lord Chancellor of *Ireland*, with the Advice and Assistance of the Lords Justices of Appeal and the Master of the Rolls in *Ireland*, to make such General Orders from Time to Time as to the Investment of Cash under Power to Lord Chancellors, &c. of England and Ireland to make General Orders as to Investment of

Cash under the Control of the Court.

under the Control of the Court, either in the Three per Cent. Consolidated or Reduced or New Bank Annuities, or in such other Stocks, Funds, or Securities as he or they shall, with such Advice or Assistance, see fit; and it shall be lawful for the Lord Chancellor, Lord Keeper or Lords Commissioners in *England*, and for the Lord Chancellor in *Ireland*, to make such Orders as he or they shall deem proper for the Conversion of any Three per Cent. Bank Annuities now standing or which may hereafter stand in the Name of the Accountant General of the said Court of Chancery, in trust in any Cause or Matter, into any such other Stocks, Funds, or Securities upon which, by any such General Order as aforesaid, Cash under the Control of the Court may be invested; all Orders for such Conversion of Bank Annuities into other Funds or Securities to be made upon Petition to be presented by any of the Parties interested in a summary way, and such Parties shall be served with Notice thereof as the Court shall direct.

Trustees, &c. to invest Trust Funds in the Stocks, &c. in which Cash under the Control of the Court may be invested.

XI. When any such General Order as aforesaid shall have been made it shall be lawful for Trustees, Executors, or Administrators having Power to invest their Trust Funds upon Government Securities, or upon Parliamentary Stocks, Funds, or Securities, or any of them, to invest such Trust Funds, or any Part thereof, in any of the Stocks, Funds, or Securities in or upon which by such General Order Cash under the Control of the Court may from Time to Time be invested.

Clause 32. of 22 & 23 Vict. c. 35. to act retrospectively.

XII. Clause Thirty-two of the said Act of the Twenty-second and Twenty-third of Queen *Victoria*, Chapter Thirty-five, shall operate retrospectively.

Extension of Sect. 40. of 3 & 4 W. 4. c. 27. s. 40. to Cases of Claims to Estates of Intestates.

XIII. 'Whereas by the Act of Parliament of the Third and Fourth of *William* the 'Fourth, Chapter Twenty-seven, Section Forty, it was enacted that after the Thirty-first 'Day of *December* One thousand eight hundred and thirty-three no Action or Suit or other 'Proceeding should be brought to recover any Sum of Money secured by any Mortgage, 'Judgment or Lien, or otherwise, charged upon or payable out of any Land or Rent, at Law 'or in Equity, or any Legacy, but within Twenty Years next after a present Right to 'receive the same should have accrued to some Person capable of giving a Discharge for or 'Release of the same, unless such Acknowledgment in Writing or Payment of Principal or 'Interest as therein mentioned should have been given or made, and then within Twenty 'Years next after such Payment or Acknowledgment, or the last of such Payments or Ac-'knowledgments: And whereas it is expedient that the said Enactment should be extended 'to the Case of Claims to the Estates of Persons dying intestate:' Be it therefore enacted, That after the Thirty-first Day of *December* One thousand eight hundred and sixty no Suit or other Proceeding shall be brought to recover the Personal Estate, or any Share of the Personal Estate, of any Person dying intestate, possessed by the legal personal Representative of such Intestate, but within Twenty Years next after a present Right to receive the same shall have accrued to some Person capable of giving a Discharge for or Release of the same, unless in the meantime some Part of such Estate or Share, or some Interest in respect thereof, shall have been accounted for or paid, or some Acknowledgment of the Right thereto shall have been given in Writing, signed by the Person accountable for the same, or his Agent, to the Person entitled thereto, or his Agent; and in such Case no such Action or Suit shall be brought, but within Twenty Years after such Accounting, Payment, or Acknowledgment, or the last of such Accountings, Payments, or Acknowledgments, if more than One was made or given. –

Order to take Account of Debts, &c. of deceased Person under Sect. 19. of 13 & 14 Vict. c. 35. may be made immediately after Probate granted.

XIV. The Order to take an Account of the Debts and Liabilities affecting the Personal Estate of a deceased Person, pursuant to the Nineteenth Section of the Act of the Thirteenth and Fourteenth Years of *Victoria*, Chapter Thirty-five, may be made immediately, or at any Time after Probate or Letters of Administration shall have been granted; and such Order may be made either by the Court of Chancery upon Motion or Petition of course, or by a Judge of the said Court, sitting at Chambers, upon a Summons in the Form used for originating Proceedings at Chambers; and after any such Order shall have been made, the said Court or Judge may, on the Application of the Executors or Administrators, by Motion or Summons, restrain or suspend, until the Account directed by such Order shall have been taken, any Proceedings at Law against such Executors or Administrators by any Person having, or claiming to have, any Demand upon the Estate of the deceased, by reason of

of any Debt or Liability due from the Estate of the deceased, upon such Notice and Terms and Conditions (if any) as to the said Court or Judge shall seem just; and the Judge, in taking an Account of Debts and Liabilities pursuant to any such Order, shall, on the Application of the Executors or Administrators, be at liberty to direct that the Particulars only of any Claim or Claims which may be brought in pursuance to any such Order shall be certified by his Chief Clerk, without any Adjudication thereon; and any Notices for Creditors to come in which may be published in pursuance of any such Order shall have the same Force and Effect as if such Notices had been given by the Executors or Administrators in pursuance of the Twenty-ninth Section of the Act of the Twenty-second and Twenty-third Years of *Victoria*, Chapter Thirty-five.

XV. This Act is not to extend to *Scotland*, nor are any of the Clauses, except Clause Six and the subsequent Clauses, to extend to *Ireland*. Act not to extend to Scotland, &c.

CAP. XXXIX.

An Act for the Construction of a new Harbour, and the Improvement of the existing Harbour, at *Anstruther Easter* in the County of *Fife*.

[23d *July* 1860.]

'WHEREAS it would be of great Advantage to the Public if a safe and convenient 'Harbour were constructed at *Anstruther Easter* in the County of *Fife*, for the 'Accommodation of Fishing Boats and Vessels resorting thereto: And whereas the 'Magistrates and Council of the Burgh of *Anstruther Easter* are willing to transfer to 'the Commissioners to be appointed by this Act all their Right and Title to the existing 'Harbour; and it is expedient that the said Harbour should be deepened and improved, 'and a new Harbour, with additional Piers and Quays, constructed in connexion therewith, 'and that Funds should be provided for the Execution of the said Works in the Manner 'after mentioned:' 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:

I. This Act may be cited for all Purposes as "The *Anstruther Union* Harbour Act, 1860." Short Title.

II. The following Words and Expressions shall in reference to this Act have the several Meanings hereby assigned to them; that is to say, Interpretation of Terms.

The Word "Commissioners" in "The Commissioners Clauses Act, 1847," and this Act, shall mean the Commissioners appointed and incorporated by this Act:

The Word "Harbour" in "The Harbours, Docks, and Piers Clauses Act, 1847," and this Act, shall mean the *Anstruther Union* Harbour within the Limits herein-after defined, and shall include the existing Harbour of *Anstruther Easter* and the new Harbour to be constructed under the Authority of this Act.

III. "The Lands Clauses Consolidation (*Scotland*) Act, 1845," "The Commissioners Clauses Act, 1847," with the Exception of Section Eighty-four, and "The Harbours, Docks, and Piers Clauses Act, 1847," with the Exception of Sections Sixteen to Nineteen, both inclusive, and Sections Twenty-five and Twenty-six, are hereby incorporated with this Act, and shall apply to the existing Harbour of *Anstruther Easter*, and to the new Harbour to be constructed under the Authority of this Act, and the Works, Lands, and Property connected therewith respectively, and to the whole Undertaking of the Commissioners: Provided that Sections Sixteen and Seventeen of the said Harbours, Docks, and Piers Clauses Act may come into force at any Time after Five Years from the passing of this Act, on Six Months Notice to that Effect being given to the Commissioners by Writing under the Hand of the Secretary of the Admiralty. 8 & 9 Vict. c. 19. and 10 & 11 Vict. cc. 16. and 27. incorporated.

IV. The