and affects Section Sixty-nine of the Nuisances Removal (*Scotland*) Act, 1856, above recited: And the said Section Sixty-nine is hereby re-enacted and restored, and declared to be in full Force and Effect. repeals s. 69. of 19 & 20 Vict. c. 103. repealed, and the said s. 69. restored.

2. All Proceedings adopted and taken or to be adopted and taken under or in Terms of the Act passed in the Eighteenth and Nineteenth Years of the Reign of Her Majesty Queen *Victoria*, being the Burial Grounds (*Scotland*) Act, 1855, and under and in Terms of the Sixty-ninth Section of the Nuisances Removal (*Scotland*) Act, 1856, or either of them, shall be equally valid and effectual as if the said Section Sixty-nine had never been repealed. All Proceedings under 18 & 19 Vict. c. 68. and in Terms of said 69th Section to be valid.

3. This Act may be cited as the Burial in Burghs (*Scotland*) Act, 1866. Short Title.

CAP. LI.

An Act to amend the Acts relating to Lunacy in *Scotland*, and to make further Provision for the Care and Treatment of Lunatics.

[16th *July* 1866.]

'WHEREAS an Act was passed in the Twentieth and Twenty-first Year of the Reign of Her present Majesty, intituled *An Act for the Regulation of the Care and Treatment of Lunatics, and for the Provision, Maintenance, and Regulation of Lunatic Asylums, in* Scotland; and another Act was passed in the Twenty-first and Twenty-second Year of the Reign of Her present Majesty, intituled *An Act to amend an Act of the last Session for the Regulation of the Care and Treatment of Lunatics, and for the Provision, Maintenance, and Regulation of Lunatic Asylums, in* Scotland; and another Act was passed in the Twenty-fifth and Twenty-sixth Year of the Reign of Her present Majesty, intituled *An Act to make farther Provision respecting Lunacy in* Scotland; and another Act was passed in the Twenty-seventh and Twenty-eighth Year of the Reign of Her present Majesty, intituled *An Act to continue the Deputy Commissioners in Lunacy in* Scotland, *and to make farther Provision for the Salaries of the Deputy Commissioners, Secretary, and Clerk of the General Board of Lunacy in* Scotland: And whereas it is expedient that the said Deputy Commissioners should be continued, that certain of the Provisions of the said Acts should be amended, and that farther Provision should be made for the Regulation of the Care and Treatment of Lunatics, and for the Regulation of Lunatic Asylums, in *Scotland*:' 20 & 21 Vict. c. 71. 21 & 22 Vict. c. 89. 25 & 26 Vict. c. 54. 27 & 28 Vict. c. 59.

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:

1. This Act may be cited as "The Lunacy (*Scotland*) Act, 1866." Short Title.

2. This Act shall be construed with the recited Acts as One Act, and this Act and the said recited Acts may be recited together as the Lunacy (*Scotland*) Acts. Construction of Act.

3. The Provisions of the Twentieth and Twenty-first *Victoria*, Chapter Seventy-one, first recited, and of the Twenty-seventh and Twenty-eighth *Victoria*, Chapter Fifty-nine, last recited, in regard to the Appointment and Salary of Deputy Commissioners, shall be and are hereby continued until Parliament shall otherwise determine. Continuance of Deputy Commissioners.

4. It shall not be lawful for the Medical Superintendent, ordinary Medical Attendant, or Assistant Medical Officer of any Asylum, to grant a Certificate of Insanity for the Reception Medical Officers of Asylums may not grant Certificates.

Reception of any Lunatic, not a Pauper Lunatic, into such Asylum, except the Certificate of Emergency authorized by Section Fourteen of the third-recited Act.

Orders and Medical Certificates may be amended.

5. Section Thirty-six of the first-recited Act is hereby repealed; and in lieu thereof be it enacted, That if after the Reception of any Lunatic into any Asylum or House it appears that any Order or Medical Certificate upon which he was received is in any respect incorrect or defective, such Order or Medical Certificate may be amended by the Person who has granted the same at any Time within Twenty-one Days after the Reception of such Lunatic: Provided nevertheless, that no such Amendment shall have any Force or Effect unless the same shall receive the Sanction of the Board, and, failing such Amendment, it shall be lawful for the Board to report such Failure to the Sheriff, who shall, if satisfied that the original Order or Medical Certificates are in any respect incorrect or defective, and of the Failure to amend them, recal such original Order.

Orders to remain in force although Patient absent from Asylum.

6. In every Case in which any Lunatic or any Person who has entered an Asylum for Treatment under Authority of this Act is temporarily absent from the Asylum or House for his Reception into which the Order was given, or shall escape from such Asylum or House, or from the Care of the Officers thereof, such Order shall remain in force in the same Manner as if such Lunatic or Person as aforesaid were not absent or had not escaped: Provided always, that such Lunatic or Person as aforesaid shall return or be brought back to such Asylum or House within a Period not exceeding Twenty-eight Days from the Day on which he left or escaped from such Asylum or House, or within a Period of Three Months where such Lunatic or Person as aforesaid is accompanied by or remains under the Care of the Officers or Attendants of such Asylum or House.

Determination of Orders.

7. The Powers conferred by the Sheriff's Order for the Reception and Detention of any Lunatic in any Asylum or House shall cease and determine with the Notice of Discharge of such Lunatic given by the Superintendent of such Asylum or House to the Board; and in no Case shall the Sheriff's Order remain in force longer than the First Day of *January* first occurring after the Expiry of Three Years from the Date on which it was granted, or than the First Day of *January* in each succeeding Year, unless the Superintendent or Medical Attendant of the Asylum or House in which the Lunatic is detained shall, on each of the said First Days of *January*, or within Fourteen clear Days immediately preceding, grant and transmit to the Board a Certificate, on Soul and Conscience, according to the Form of Schedule A. hereunto annexed, that the Detention of the Lunatic is necessary and proper, either for his own Welfare or the Safety of the Public.

Discharge on Probation of Pauper Lunatics.

8. Every Pauper Lunatic who is discharged on Probation from any Asylum or House shall remain subject to Inspection by the Commissioners during the Period of Probation; and it shall not be lawful for the Parochial Board to take any such Pauper Lunatic off the Poor's Roll, or to alter the Conditions on which probationary Discharge was granted, without the Sanction of the Board, during the Period of Probation; and every Inspector of the Poor who shall infringe these Provisions shall be liable in a Penalty not exceeding Ten Pounds.

Discharge of Pauper Lunatics by Authority of Parochial Board.

9. It shall be lawful for any Parochial Board, by a Minute at a duly constituted Meeting, to direct that any Pauper Lunatic (not being a Lunatic committed as a dangerous Lunatic under the Fifteenth Section of the third-recited Act) with whose Maintenance it is chargeable, and who is detained in any Asylum or House, shall be discharged or removed therefrom; and if a Copy of such Minute, certified to be a true Copy by the Chairman for the Time of such Parochial Board, be produced to and left with the Superintendent of such Asylum, he shall, within Seven Days from the Production of such Minute, discharge such Lunatic, or cause or suffer such Lunatic to be discharged: Provided always, that, on the written Representation of such Superintendent that such Lunatic is dangerous to himself or the Public, or in any other Way not a fit Person to be discharged, it shall be lawful for the Board, after making such Investigation as they shall think expedient, to prohibit the Discharge of any such Lunatic; and any Inspector of the Poor removing any Pauper

Pauper Lunatic from an Asylum or House against the written Representation of the Superintendent of such Asylum or House, without the Sanction of the Board, shall be liable in a Penalty not exceeding Ten Pounds.

Inspector of Poor to intimate Removal of Pauper Lunatics.

10. Whenever any Pauper Lunatic has been removed from an Asylum or House by a Minute of the Parochial Board, the Inspector of the Poor shall, within Fourteen Days, intimate to the Board the Date of Removal, the Situation of the House to which he has been removed, the Christian Name and Surname of the Occupier thereof, and the Amount and Nature of the Parochial Allowances made to such Pauper Lunatic, and that under a Penalty of Ten Pounds; and it shall not be lawful for the said Parochial Board to remove such Lunatic to any other House, or to make any Alteration in the Nature and Amount of the Parochial Allowances, without the same being communicated within Fourteen Days, by the Inspector of the Poor, to the Board, under a similar Penalty; and it shall be lawful for the Board, at any Time whenever they see fit, to order the Lunatic to be replaced in an Asylum, and it shall not be lawful for the Relatives of any Pauper Lunatic for whose Removal to an Asylum the Board have issued an Order to take him off the Poor's Roll without their Sanction; and every Inspector of the Poor who shall delay for more than Fourteen Days sending any Pauper Lunatic to an Asylum, after receiving the Order of the Board to do so, shall be liable in a Penalty not exceeding Ten Pounds.

Pauper Lunatics may be removed from Poor's Roll and intrusted to private Parties.

11. It shall be lawful for any Parochial Board, by a Minute at a duly constituted Meeting, to remove from the Poor's Roll any Pauper Lunatic in any Asylum or House for whose Maintenance it is responsible, and to intrust the Disposal of such Lunatic to any Party who shall undertake to provide, in a Manner satisfactory to the Parochial Board, for his Care and Treatment; and on the Demand of such Party, and the Production and Delivery of a Copy of such Minute, certified to be a true Copy by the Chairman for the Time of such Parochial Board, the Superintendent of such Asylum or House shall permit the Removal of such Lunatic: Provided always, that in every Case in which such Superintendent is of opinion that such Removal will be injurious to such Lunatic, or a Risk to the Public, it shall be lawful for such Superintendent to detain such Lunatic for a Period not exceeding Fourteen Days from the Production of such certified Copy of such Minute, and to report the Case to the Board, and on the Report of such Superintendent, or on any Grounds which the Board may deem satisfactory, it shall be lawful for the Board to authorize the continued Detention of such Lunatic in the Asylum or House, and the Parochial Board shall continue to be responsible to the Asylum or House for his Maintenance.

Provision as to dangerous Lunatics.

12. If at the Time when the Discharge of a Lunatic, not being a Pauper, is desired, the Superintendent of the Asylum in which he is confined shall be of opinion that he is a dangerous Lunatic, and that his Liberation would be attended with Danger to himself or to the Public, such Superintendent shall forthwith communicate the Fact to the Procurator Fiscal of the District, and shall in the meantime detain such Lunatic in the Asylum; and it shall be the Duty of the Procurator Fiscal, if he shall see Cause, to take such Proceedings with respect to such Lunatic as are prescribed by the third-recited Act with respect to dangerous Lunatics; and if the Procurator Fiscal shall not see Cause to take such Proceedings, he shall signify such his Determination to the Superintendent of the Asylum, and the Lunatic shall thereupon be discharged, provided he is otherwise entitled to Discharge.

As to Lunatics received into any private House.

13. Section Forty-one of the first-recited Act is hereby repealed; and in lieu thereof, No Person shall receive or keep any Person as a Lunatic for Gain, without the Order of the Sheriff or the Sanction of the Board; and any Person who shall receive into or keep in his House any such Person, or any Person alleged to be a Lunatic, shall, within Fourteen clear Days thereafter, make Application for such Order or Sanction; provided always, that when the Lunatic is a Pauper Lunatic such Application shall be made by the Inspector of the Poor, and it shall be lawful in such Case for the Sheriff to grant his Order on One Medical Certificate: And every such Lunatic shall be visited, as often as the Board shall regulate, by a Medical Person, who shall enter in a Book to be kept in such House the Date of

each Visit, and the Condition of the mental and bodily Health of the Lunatic at each such Visit; and any Medical Person who shall make any such Entry without having visited the Patient within Seven Days of making such Entry, or who shall knowingly make any false Entry in such Book, shall be liable in a Penalty not exceeding Ten Pounds for each Offence: And it shall be in the Power of the Board to order such Inspection and Visitation of every such House from Time to Time as to them shall seem proper: And every Person detaining or aiding in detaining any such Lunatic, or any Person who on Inquiry is found to be a Lunatic, without the Order of the Sheriff or the Sanction of the Board, or after such Order or Sanction has been withdrawn, shall be liable in a Penalty not exceeding Twenty Pounds: Provided that the Enactments of this Section shall not apply to any Case where the Person so received and kept has been sent to such House for the Purpose of temporary Residence only not exceeding Six Months and under the Certificate of a Medical Person, which Certificate shall be in the Form of Schedule G. to the first-recited Act annexed.

Board may inspect Lunatics in private Houses.

14. Section Forty-three of the first-recited Act is hereby repealed; and in lieu thereof, If any Occupier or Inmate of any private House shall keep or detain therein, without the Order of the Sheriff or the Sanction of the Board, any Person as a Lunatic, although not for Gain, beyond the Period of One Year, and the Malady is such as to require compulsory Confinement to the House, or Restraint or Coercion of any Kind, such Occupier or Inmate shall intimate the Case to the Board, and shall state the Reasons which render it desirable that such Lunatic should remain under private Care; and if the Board shall have reason to believe or suspect that any Lunatic, or any Person treated as a Lunatic, whose Case has thus been intimated to them, or of whose Case no such Intimation shall have been made, has been subjected to compulsory Confinement to the House, or to Restraint or Coercion of any Kind, at any Time beyond a Year after the Commencement of the Malady, or has been subjected to harsh and cruel Treatment, it shall be lawful for the Board, with Consent of One of Her Majesty's Principal Secretaries of State, or of Her Majestys Advocate for *Scotland*, to authorize and empower any One or more of the Members thereof to visit and inspect such Lunatic or Person detained as a Lunatic, and to make such Inquiry respecting his Treatment, as to such Member or Members may seem fit; and if on such Inquiry it shall appear that such Person is a Lunatic, and has been so for a Space exceeding a Year, and that compulsory Confinement to the House, or Restraint or Coercion of any Kind, has been resorted to, or that he has been subjected to harsh and cruel Treatment, and that the Circumstances are such as to render the Removal of such Lunatic to an Asylum necessary or expedient, it shall be lawful for the Board to apply to the Sheriff, under a Procedure similar to that followed in the Cases of dangerous Lunatics, and the Sheriff, on being satisfied that the Person is lunatic, and has been so for more than a Year, and is subjected to compulsory Confinement, or to Restraint or Coercion of any Kind, or to harsh and cruel Treatment, shall issue his Order for the Transmission of the Lunatic to an Asylum, and his Detention therein until such Time as the Board shall sanction his Discharge: And the Sheriff shall grant Decree for the Expenses of the Inquiry and Procedure, and also for the Maintenance of the Lunatic in the Asylum, against the Parties legally liable for the Maintenance of such Lunatic.

As to Persons entering Asylums voluntarily.

15. The Sixth Section of the third-recited Act is hereby repealed; and instead thereof it is enacted as follows: It shall be lawful for the Superintendent of any Asylum, with the previous Assent in Writing of One of the Commissioners, which Assent shall not be given without written Application by the Patient, to entertain and keep in such Asylum, as a Boarder, any Person who is desirous of submitting himself to Treatment, but whose mental Condition is not such as to render it legal to grant Certificates of Insanity in his Case: Provided always, that every such Boarder shall be produced to the Commissioners at each of their Visits to such Asylum, that no such Boarder shall be detained for more than Three Days after having given Notice of his Intention or Desire to leave such Asylum, unless on Certificates of Insanity and an Order by the Sheriff being obtained, in which Case neither of the Certificates shall be granted by any Medical Person connected with the Asylum, or having

having any immediate or pecuniary Interest in it, and that Notices of Admission, Discharge and Death with respect to all such Boarders shall be made to the Board in the same Manner as in the Cases of Lunatics.

Letters to and from Patients to be private.

16. Every Letter written by a Patient in any Asylum or House, and addressed to the Board or their Secretary, or the Commissioners in Lunacy, or any of them, shall, unless special Instructions to the contrary have been given by such Commissioners, or any of them, be forwarded to its Address unopened; and every Letter from the Board or their Secretary, or such Commissioner or Commissioners, to any such Patient, when marked "Private" on the Cover, shall be delivered to him unopened; and every Person who shall intercept or detain or shall open any such Letter without the Authority of the Patient by whom it is written or to whom it is addressed shall be liable in a Penalty not exceeding Ten Pounds: Provided that the Board shall transmit a Copy of such Letter to the Superintendent of such Asylum or House if it shall appear to the Board that the Contents of the Letter are of such a Nature that it is of importance that the Superintendent should be made acquainted therewith.

As to Lunatics having Judicial Factors.

17. It shall be lawful for the Board to obtain from the Accountant of the Court of Session the Names of all Lunatics having Judicial Factors, and a Statement of their Funds, and of the Sums allowed for their Maintenance, and for the Board to make such Investigation, by Inspection or otherwise, as shall, in their Opinion, be necessary to ascertain in what Manner such Lunatics are treated and cared for; and in case of such Treatment and Care being deemed by them unsatisfactory, the Board may present a summary Application to the Court of Session, or in Time of Vacation to the Lord Ordinary officiating on the Bills, who may order such Inquiry and direct all such Steps to be taken for the improved Treatment and Care of such Lunatics as to the Court or the Lord Ordinary shall appear proper, and may direct the Expenses of such Application, and of the Procedure following thereon, to be paid by the Judicial Factor out of the Funds and Estate of such Lunatic under his Control, and it shall not be competent to bring under Review of the Court any Interlocutor pronounced by such Lord Ordinary upon any such Application with a view to Investigation and Inquiry merely, and which does not finally dispose thereof upon the Merits, but any Order pronounced by such Lord Ordinary upon the Merits may be reclaimed against by any Party having lawful Interest to reclaim to the Court, provided that a Reclaiming Note shall be lodged with an Inner House Clerk within Eight Days, after which the Order or Judgment of the Lord Ordinary, if not so reclaimed against, shall be final.

Powers of Board to extend to Lunatics detained, &c.

18. The Powers granted to the Board by Section Nine of the first-recited Act shall be and are hereby extended to embrace Lunatics detained under the Sanction of the Board.

Liberation of Lunatics committed as dangerous Lunatics.

19. It shall be lawful for the Sheriff to authorize the Discharge of a Lunatic committed as a dangerous Lunatic from any Asylum, on Certificates being granted by Two Medical Persons, approved of by the Procurator Fiscal, that such Lunatic may be discharged without Risk of Injury to the Public or the Lunatic.

Penalties for Infringement of Rules made by Board.

20. It shall be lawful for the Board to enforce the Rules and Regulations which they shall make from Time to Time in relation to the Books or Minutes to be kept or made in Asylums or Houses, and the Returns of Entries therefrom to be made to the Board by the Superintendents of such Asylums or Houses, by imposing a Penalty for each Infringement or Violation thereof, not exceeding Ten Pounds.

As to Recovery of Penalties.

21. All Penalties imposed by or under Authority of this or any of the said recited Acts shall be recoverable by the Board, without Prejudice to their Right to enforce specific Implement of the Matters in respect of which such Penalties shall have been incurred; and such Penalties may be sued for by the Secretary of the Board before the Sheriff or any Court having Jurisdiction, and that either in any Application to enforce such specific Implement,

Implement, or separately on summary Complaint; and such Penalties, when recovered shall be applied as Fees received for Licences are directed to be applied by the first-recited Act.

Fees to be paid for Admission of Lunatics to District Asylums.

22. For every Order granted by the Sheriff for the Admission of any Lunatic or Pauper Lunatic into any District Asylum there shall be paid, for the general Purposes of the said first-recited Act, the Fees authorized by the Thirty-first Section of the said Act for the Admission of a Patient into a Public Asylum.

Commissioner not to be personally responsible.

23. The Exemption from Responsibility conferred on the Commissioners by Section Eight of the said first-recited Act shall extend to everything done *bonâ fide* in the Execution of this or any other of the said recited Acts, or in the Exercise of the Powers herein and therein contained.

Actions against Medical Persons in respect to Certificates under Lunacy Acts to be tried by the Lord Ordinary without a Jury.

24. In any Action at Law which may be raised against any Medical Person in respect of any Certificate granted by him under the Provisions of this Act, or of any of the recited Acts, the Issue or Issues, after being adjusted, shall be tried, and the Amount of Damages (if any) assessed by the Lord Ordinary before whom such Action depends, without a Jury; and the Proceedings at and consequent on the Trial of such Issue or Issues shall be regulated by the Provisions of the Act, *&c.*, intituled *An Act to facilitate Procedure in the Court of Session in* Scotland, with respect to the Proceedings at and consequent on the Trial by the Lord Ordinary without a Jury of such Issues as may under the Provisions of that Act be so tried; and such Action at Law must be raised within Twelve Months from the Time when any Person who may allege that he has sustained any Injury in consequence of the granting of any such Medical Certificate shall have been liberated from the Asylum in which he may have been confined in consequence of such Certificate having been granted.

Power to Directors to grant Superannuations to Officers, &c.

25. The Directors of any chartered Asylum in *Scotland* may grant a Superannuation Allowance out of the Funds at their Disposal to any Officer or Matron of such Asylum who shall be not less than Fifty Years of Age, and who shall have been an Officer or Matron of such Asylum for not less than Fifteen Years; and such Superannuation shall be for such Term, and on such Conditions, and of such Amount, not exceeding Two Thirds of the Salary of such Officer or Matron, as the Directors shall think fit.

Powers to Directors of public Asylums to borrow Money.

26. The Directors of any public Asylum in whom the Property thereof is vested may borrow on the Security of such Property such Sums of Money as they may think necessary for administering such Asylums, or for maintaining or extending their Means of Accommodation.

Power to Parochial Boards to borrow Money.

27. Any Parochial Board which has erected or may erect Buildings for the Treatment of such Pauper Lunatics as they are authorized to receive and detain under the Provisions of the said recited Acts may, by themselves or the Trustees in whom the Property of such Buildings may be vested, borrow such Sums of Money as they may think necessary for the Administration, Maintenance, Erection, or Extension of the same, on the Security of such Buildings and the Lands on which they are erected, and on the Security of the Rates and Assessments leviable by them: Provided, that all such Sums shall be repaid by annual Instalments of not less in any One Year than One Thirtieth Part of the Sum borrowed, exclusive of the Interest on the same.

SCHEDULE A.

I hereby certify, on Soul and Conscience, that I have, within a Period not exceeding One Month preceding the Date of this Certificate, carefully reviewed and considered the Cases of the Patients whose Names are subjoined, and I am of opinion that their continued Detention in the Asylum is necessary and proper for their own Welfare [*or* for the Public Safety, *as the Case may be*].

Superintendent *or* Medical Attendant.

Dated at this
Day of 186 .

CAP. LII.

An Act to extend the Law relating to the Expenses of Prosecutions, and to make Provision for Expenses on Charges of Felony and certain Misdemeanors before examining Magistrates. [23d *July* 1866.]

'WHEREAS by the Act of the Seventh Year of King *George* the Fourth, Chapter Sixty-four, certain Provisions were made relating to the Allowance of Costs, Expenses, and Compensation to Prosecutors and Witnesses in Cases of Prosecutions for Felonies and certain Misdemeanors therein mentioned, and by an Act of the Session of the Fourteenth and Fifteenth Year of Her Majesty, Chapter Fifty-five, the Provisions of the said Act are extended, and Authority is given to One of Her Majesty's Secretaries of State to regulate the Scale of Payment to be allowed or ordered under the said Act or any other Act, as to the Rates or Scales of Payment according to which Certificates may be granted by the examining Magistrate or Magistrates in respect of the Expense of any Prosecutor or Witnesses attending before such Magistrate or Magistrates: 7 G. 4. c. 64. 14 & 15 Vict. c. 55.

'And whereas it is expedient to extend the Law relating to Expenses in Cases of Prosecutions to the Payment of Expenses incurred in attending before an examining Magistrate or Magistrates, and to Compensation for Trouble and Loss of Time therein, on any Charge of Felony *bonâ fide* made, and on any Case of the several Classes of Misdemeanor enumerated in Section Twenty-three of the said Act of King *George* the Fourth, or of Section Two of the said Act of Her Majesty, *bonâ fide* preferred, although the Parties may not be bound over by Recognizance or Subpœna to prosecute or give Evidence, and although no Committal for Trial may take place:'

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:

Powers of examining Magistrate to grant Certificate of Expenses to Witnesses extended and Petty Session

1. It shall and may be lawful for any Magistrate or Magistrates, at his or their Discretion, and he or they is and are hereby authorized and empowered, at the Request of any Prosecutor or other Person who shall have appeared before such Magistrate or Magistrates, either by Summons or otherwise, on a Charge of Felony, *bonâ fide* made upon reasonable and probable Cause, or on a Charge in any Case of the several Misdemeanors enumerated in Section Twenty-three of the said Act of King *George* the Fourth, and of Section Two of the said Act of Her Majesty, *bonâ fide* preferred, and who shall