SCHEDULE (I.)

Notarial Instrument in favour of a Trustee in a Sequestration, or of Liquidators of Joint Stock Companies.

AT there was, by [*or* on behalf of] *A.B.*, as Trustee on the sequestrated Estate of *C.D.*, [*or* as Liquidator for winding up the (*specify Name of Company*)], presented to me, Notary Public subscribing, a Disposition [*or other Deed or Instrument*] [*insert Date*] recorded in the [*specify Register and Date of recording*], by which [*&c. specify the Title or Series of Titles by which the Bankrupt held the Lands*]; as also there was presented to me an Extract Act and Warrant of Confirmation in favour of the said *A.B.*, dated [*insert Date*] [*or here specify the Appointment of the Liquidator or Liquidators, and the Date thereof*]. Whereupon, *&c., as in Schedule* (*B.*)

SCHEDULE (K.)

REGISTER, in Terms of Clause of Direction, on behalf of *A.B.* [*insert Designation, and, where necessary, add,* along with Assignation hereon (*or* Assignations hereon) (*or* Writ of Resignation hereon) (*or* the Assignation *or* Assignations *or* Notarial Instrument docqueted with reference hereto) (*or otherwise, as the Case may be*)].

(Signed) *A.B.*

[*or, C.D.*, W.S., Edinburgh,]

[*or, as the Case may be*] Agent of the said *A.B.*

SCHEDULE (L.)

Clause of Reference to Conditions of Entail, &c.

[*After the Description of the Lands insert*] But always with and under the Conditions, Prohibitions, Declarations, Limitations, and Restrictions, and Clauses irritant and resolutive, [*or* Clause authorizing Registration in the Register of Tailzies, *as the Case may be,*] contained in a Disposition and Deed of Entail of the Lands of *X.* [*specify leading Name merely*], and others, executed by the Deceased *E.F.*, bearing Date the Day of in the Year and recorded in the Register of Tailzies on the Day of in the Year [*or* in the said Disposition and Deed of Entail dated and recorded as aforesaid] [*or* in (*specify Writ*) recorded in the General Register of Sasines (*or as the Case may be*) upon the Day of in the Year].

CAP. CXLIV.

An Act to amend the Procedure and Powers of the Court for Divorce and Matrimonial Causes. [28th *August* 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:

The Judge Ordinary may exercise Powers now vested in the full Court.

I. It shall be lawful for the Judge Ordinary of the Court for Divorce and Matrimonial Causes alone to hear and determine all Matters arising in the said Court, and to exercise all Powers and Authority whatever which may now be heard and determined and exercised respectively by the full Court or by Three or more Judges of the said Court, the Judge Ordinary being One, or where the Judge Ordinary shall deem it expedient, in relation to any Matter which he might hear and determine alone by virtue of this Act, to have the Assistance

Judge Ordinary may call in the Assist-

ance of One of the other Judges.

Assistance of One other Judge of the said Court, it shall be lawful for the Judge Ordinary to sit and act with such One other Judge accordingly, and, in conjunction with such other Judge, to exercise all the Jurisdiction, Powers, and Authority of the said Court.

Judge may direct any Matter to be heard by the full Court.

Appeal to the full Court.

II. Provided always, That the Judge Ordinary may, where he shall deem it expedient, direct that any such Matter as aforesaid shall be heard and determined by the full Court; and in addition to the Cases in which an Appeal to the full Court now lies from the Decision of the Judge Ordinary, either Party dissatisfied with the Decision of such Judge sitting alone in granting or refusing any Application for a new Trial which by virtue of this Act he is empowered to hear and determine may, within Fourteen Days after the pronouncing thereof, appeal to the full Court, whose Decision shall be final.

Appeal to the House of Lords.

III. Where there is a Right of Appeal to the House of Lords from the Decision of the full Court there shall be the like Right of Appeal to the said House from the Decision of the Judge Ordinary alone, or with any other Judge, under this Act.

Regulation of the Sittings of the full Court.

IV. The Sittings of the full Court shall be holden during the Seventh and Five following Days of Sitting in each Term, and on such other Days as the Judge Ordinary, with the Assent of the Lord Chief Justice of the Court of Queen's Bench, the Lord Chief Justice of the Court of Common Pleas, and the Lord Chief Baron of the Court of Exchequer, shall from Time to Time appoint; and the Judges of the Courts of Queen's Bench, Common Pleas, and Exchequer shall, by a Rota or otherwise, as they deem most convenient, make Provision for the Attendance of the requisite Number of such Judges to make with the Judge Ordinary a full Court during such Sittings; and Section Two of the Act of the last Session of Parliament, Chapter Sixty-one, shall be repealed.

22 & 23 Vict. c. 61. s. 2. repealed.

Court may, where One Party only appears, require Counsel to be appointed to argue on the other Side.

V. In every Case of a Petition for a Dissolution of Marriage it shall be lawful for the Court, if it shall see fit, to direct all necessary Papers in the Matter to be sent to Her Majesty's Proctor, who shall, under the Directions of the Attorney General, instruct Counsel to argue before the Court any Question in relation to such Matter, and which the Court may deem it necessary or expedient to have fully argued; and Her Majesty's Proctor shall be entitled to charge and be reimbursed the Costs of such Proceeding as Part of the Expense of his Office.

20 & 21 Vict. c. 85. s. 45. amended.

VI. 'And whereas by Section Forty-five of the Act of the Session holden in the 'Twentieth and Twenty-first Years of Her Majesty, Chapter eighty-five, it was enacted, 'that "In any Case in which the Court should pronounce a Sentence of Divorce or Judicial '"Separation for Adultery of the Wife, if it should be made appear to the Court that the '"Wife was entitled to any Property, either in possession or reversion, it should be lawful '"for the Court, if it should think proper, to order such Settlement as it should think '"reasonable to be made of such Property, or any Part thereof, for the Benefit of the '"innocent Party and of the Children of the Marriage, or either of them:"' Be it further enacted, That any Instrument executed pursuant to any Order of the Court made under the said Enactment before or after the passing of this Act, at the Time of or after the pronouncing of a final Decree of Divorce or Judicial Separation shall be deemed valid and effectual in the Law, notwithstanding the Existence of the Disability of Coverture at the Time of the Execution thereof.

Decrees.

VII. Every Decree for a Divorce shall in the first instance be a Decree Nisi, not to be made absolute till after the Expiration of such Time, not less than Three Months from the pronouncing thereof, as the Court shall by General or Special Order from Time to Time direct; and during that Period any Person shall be at liberty, in such Manner as the Court shall by General or Special Order in that Behalf from Time to Time direct, to show Cause why the said Decree should not be made absolute by reason of the same having been obtained by Collusion or by reason of material Facts not brought before the Court; and, on Cause being so shown, the Court shall deal with the Case by making the Decree absolute, or by reversing the Decree Nisi, or by requiring further Inquiry, or otherwise as Justice may require; and at any Time during the Progress of the Cause or before the Decree is made absolute any Person may give Information to Her Majesty's Proctor of any Matter material to the due Decision of the Case, who may thereupon take such Steps as the Attorney

Attorney General may deem necessary or expedient; and if from any such Information or otherwise the said Proctor shall suspect that any Parties to the Suit are or have been acting in collusion for the Purpose of obtaining a Divorce contrary to the Justice of the Case, he may, under the Direction of the Attorney General, and by Leave of the Court, intervene in the Suit, alleging such Case of Collusion, and retain Counsel and subpœna Witnesses to prove it; and it shall be lawful for the Court to order the Costs of such Counsel and Witnesses, and otherwise, arising from such Intervention, to be paid by the Parties or such of them as it shall see fit, including a Wife if she have separate Property; and in case the said Proctor shall not thereby be fully satisfied his reasonable Costs, he shall be entitled to charge and be reimbursed the Difference as Part of the Expense of his Office. Collusion.

VIII. This Act shall continue in force until the Thirty-first Day of *July* One thousand eight hundred and sixty-two, and no longer. Continuance of Act.

CAP. CXLV.

An Act to give to Trustees, Mortgagees, and others certain Powers now commonly inserted in Settlements, Mortgages, and Wills.

[28th *August* 1860.]

'WHEREAS it is expedient that certain Powers and Provisions which it is now usual to insert in Settlements, Mortgages, Wills, and other Instruments should be made incident to the Estates of the Persons interested, so as to dispense with the Necessity of inserting the same in Terms in every such Instrument:' 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:

PART I

Powers of Trustees for Sale, &c., and Trustees of renewable Leaseholds.

I. In all Cases where by any Will, Deed, or other Instrument of Settlement it is expressly declared that Trustees or other Persons therein named or indicated shall have a Power of Sale, either generally, or in any particular Event, over any Hereditaments named or referred to in or from Time to Time subject to the Uses or Trusts of such Will, Deed, or other Instrument, it shall be lawful for such Trustees or other Persons, whether such Hereditaments be vested in them or not, to exercise such Power of Sale by selling such Hereditaments, either together or in Lots, and either by Auction or private Contract, and either at One Time or at several Times, and (in case the Power shall expressly authorize an Exchange) to exchange any Hereditaments which for the Time being shall be subject to the Uses or Trusts aforesaid for any other Hereditaments in *England* or *Wales* or in *Ireland* (as the Case may be), and upon such Exchange to give or receive any Money for Equality of Exchange. Trustees empowered to sell may sell in Lots, and either by Auction or private Contract.

II. It shall be lawful for the Persons making any such Sale or Exchange to insert any such Special or other Stipulations, either as to Title or Evidence of Title, or otherwise, in any Conditions of Sale, or Contract for Sale or Exchange, as they shall think fit, and also to buy in the Hereditaments or any Part thereof at any Sale by Auction, and to rescind or vary any Contract for Sale or Exchange, and to re-sell the Hereditaments which shall be so bought in, or as to which the Contract shall be so rescinded, without being responsible for any Loss which may be occasioned thereby, and no Purchaser under any such Sale shall be bound to inquire whether the Persons making the same may or may not have in contemplation any particular Re-investment of the Purchase Money in the Purchase of any other Hereditaments or otherwise. Sale may be made under special Conditions, and Trustees may buy in, &c.