ANNO VICESIMO & VICESIMO PRIMO

VICTORIÆ REGINÆ.

****

C A P. LVI.

An Act to regulate the Distribution of Business in the Court of Session in *Scotland*.

[25th *August* 1857.]

WHEREAS it is expedient that Provision should be made for the more convenient Distribution of the Business of the Court of Session, and for diminishing Arrears in that Court: 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:

Power to the Lord President to take Measures for promoting Despatch of Business.

I. It shall be lawful for the Lord President of the Court of Session, from Time to Time, as it shall appear to him to be necessary or expedient, with a view to promote the due Despatch of the Business of the Court, to transfer Causes from the one Division of the Court to the other, and from any one Lord Ordinary to any other Lord Ordinary, to such Extent as he shall judge to be necessary or expedient, for the Purpose of promoting Despatch and preventing Delay; and to enable the said Lord President to exercise such Power, it shall be lawful for him to require the Keepers of the Rolls of the respective Divisions, the Principal and Depute Clerks of Session, and the Clerks of the several Lords Ordinaries, or any of them, to transmit to him, from Time to Time as he shall direct, Lists of the

whole Causes depending before such Divisions respectively and the several Lords Ordinaries, and also to attend upon him from Time to Time, and give such Information in regard to such Lists, and the State of the Business generally, as he may require.

Lord President may order Lists to be prepared of Causes transferred.

II. When the said Lord President shall at any Time judge it necessary to transfer Causes from the one Division to the other, or from any one Lord Ordinary to any other Lord Ordinary, under the Power hereby given, he shall require to be prepared a List or Lists of the Causes so transferred; and every such List shall have a Title specifying the Division from which, or the Lord Ordinary from whom, and also the Division to which, and the Lord Ordinary to whom, the Transference is made, and bearing that such Transference is made by the Lord President under the Authority of this Act; and every such List shall be dated and subscribed at the End thereof by the said Lord President, and shall be effectual to operate a Transference of the Causes therein contained in Terms of the Title thereof, and the Causes shall thereafter be held to depend before the Division to which or the Lord Ordinary to whom the Transference is made in the same Manner and to the same Effect in all respects as if such Causes had originally depended before such Division or Lord Ordinary; and it shall be sufficient that the Causes shall be entered in the said Lists in the same Manner in which Causes are in use to be entered in the Long Rolls of the Divisions or the Debate Rolls of the Lords Ordinaries: Provided always, that all Causes so transferred shall be taken from the Causes last enrolled in the Order of their Enrolment, unless, from Connexion with any depending Action or other similar Reason, it may appear proper not to transfer any particular Cause.

Lists to be entered in Books of Sederunt and published.

III. Every List of Causes transferred by the Lord President as aforesaid shall be entered in the Books of Sederunt, and shall be forthwith printed and published on the Walls of the Court, and shall also be published in the Minute Book.

Summary Petitions, &c. how disposed of.

IV. All Summary Petitions and Applications to the Lords of Council and Session which are not incident to Actions or Causes actually depending at the Time of presenting the same shall be brought before the junior Lord Ordinary officiating in the Outer House, who shall deal therewith and dispose thereof as to him shall seem just; and in particular all Petitions and Applications falling under any of the Descriptions following shall be so enrolled before and dealt with and disposed of by the junior Lord Ordinary, and shall not be taken in the first instance before either of the Two Divisions of the Court: *viz.*,

1. Petitions and Applications under any of the various Statutes now in force relative to Entails:

2. Petitions

2. Petitions and Applications under any of the General Railway Acts, or under the Lands Clauses Consolidation (*Scotland*) Act, 1845, or under any Local or Personal Act:
3. Petitions and Applications relative to Money consigned under any Statute or Law, subject to the Order, Disposal, or Direction of the Court of Session:
4. Petitions and Applications for the Appointment of Judicial Factors, Factors loco tutoris or loco absentis, or Curators bonis, or by any such Factors or Curators for extraordinary or special Powers, or for Exoneration or Discharge:
5. All Petitions, Applications, and Reports under the Act of the Twelfth and Thirteenth *Victoria*, Chapter Fifty-one, intituled *An Act for the better Protection of the Property of Pupils, absent Persons, and Persons under Mental Incapacity, in* Scotland. 12 & 13 Vict. c. 51.

V. The Lord Ordinary before whom any such Petition, Application, or Report shall be enrolled or brought shall have full Power to decide on and dispose of the same, after making such Investigation and requiring such Assistance from professional Persons, or Persons of Science or of Skill, as he shall judge proper, and his Judgment upon the Merits shall be subject to Review in manner herein-after provided; and the Judgment of the Lord Ordinary granting or refusing any such Petition or Application, or disposing of any such Report, unless the same shall be brought under Review in manner herein-after provided, shall be equally valid and effectual as a Judgment of either Division of the Court to the like Effect, according to the present Law and Practice; and all Laws and Statutes inconsistent herewith are hereby repealed to the Effect of rendering the Provisions of this Act operative and effectual: Provided always, that such Lord Ordinary may in special Cases, if he see Cause, report such Petition or Application to the Court, who may thereupon dispose of the same, or give such Instructions thereanent to the Lord Ordinary as they may deem proper. Lord Ordinary may consult professional Persons or Persons of Science or Skill.

VI. It shall not be competent to bring under Review of the Court any Interlocutor pronounced by the Lord Ordinary upon any such Petition, Application, or Report as aforesaid, with a view to Investigation and Inquiry merely, and which does not finally dispose thereof upon the Merits; but any Judgment pronounced by the Lord Ordinary on the Merits, unless where the same shall have been pronounced in Terms of Instructions by the Court on Report as herein-before mentioned, may be reclaimed against by any Party having lawful Interest to reclaim to the Court, provided that a Reclaiming Note shall be boxed within Eight Days, after which the Judgment of the Lord Ordinary, if not so reclaimed against, shall be final. Review of the Lord Ordinary by Interlocutor on Merits only allowed.

VII. It

Causes may be transfered from the Rolls of one Division to the other Division.

VII. It shall be lawful to the Parties to any Cause which shall be enrolled after the First Day of *November* next in the Rolls of either Division of the Court, by a joint Note presented to the Court, to move the Court of Consent to transfer such Cause from the Rolls of the Division in which it is enrolled to those of the other Division, and such Cause shall be so transferred accordingly.

Court may remit Cause to the Lord Ordinary.

VIII. When an Issue for the Trial of any Matter of Fact, upon Report of the Lord Ordinary, in Terms of the Act of the Thirteenth and Fourteenth Years of the Reign of Her Majesty, Chapter Thirty-six, shall have been adjusted by either Division of the Court, the Court shall remit the Cause to the Lord Ordinary to be farther proceeded in; provided always, that it shall be competent to the Parties to give Notice of Trial in Terms of the existing Law and Practice applicable thereto.

Sittings of the Court to be extended.

IX. Provided always, That the ordinary Sittings of the Court, both Inner and Outer Houses, shall henceforward be as follows; namely, the Summer Session shall in each Year commence on the first lawful Day (*Monday* excepted) which shall happen next after the Eleventh Day of *May*, and shall end on the Twentieth Day of *July*, or, when that Day shall fall upon *Sunday* or *Monday*, on the *Saturday* immediately preceding; and the Winter Session shall in each Year commence on the first lawful Day (*Monday* excepted) which shall happen next after the Eleventh Day of *November*, and shall end on the Twentieth Day of *March*, or, when that Day shall fall upon a *Sunday* or *Monday*, on the *Saturday* immediately preceding; and it shall not be lawful for the said Court to make an Adjournment at the *Christmas* Recess for a longer Period than Fourteen Days, any Law, Statute, or Usage to the contrary notwithstanding.

Lord Ordinary on Bills during Vacation may dispose of Petitions for Factors, &c.

X. The Lord Ordinary on the Bills during Vacation shall have the same Powers in regard to Petitions for the Appointment of Factors loco tutoris, Curators bonis, and Judicial Factors as are by this Act conferred in relation thereto on the junior Lord Ordinary as aforesaid.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1857.