

ADDENDA ET CORRIGENDA.

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YEAR AND DAY. The lapse of a year has several important effects in the law of Scotland, the day being added *in majorem evidentiam*. Thus, an heir had [formerly] a year and a day to deliberate as to whether or not he would take up his ancestor's succession, after the lapse of which he had not the privilege of serving heir *cum beneficio inventarii*. [The period was reduced to six months by 21 & 22 Vict. c. 76, § 27, re-enacted by 31 & 32 Vict. c. 101, § 61.] See *Annus Deliberandi. Beneficium Inventarii*. So also, if a marriage did not subsist for a year and day, or until the birth of a living child, matters, *quoad* the spouses, were restored to the state in which they were before the marriage, unless otherwise provided in the contract of marriage. [But this rule was done away with by 18 Vict. c. 23, § 7.] See *Marriage. Terce.*

All adjudications led within year and day of the first effectual adjudication rank *pari passu* on the debtor's estate. See *Adjudication. Effectual Adjudication*. Letters of horning must be denounced within year and day of the charge, in order to warrant the issue of a caption. See *Denunciation*. A summons must be called within year and day after its execution, otherwise it falls. See *Summons*. A depending process must be moved in by having an interlocutor pronounced within year and day after the immediately preceding interlocutor, otherwise it falls asleep. See *Wakening*. Under the Small Debt Act, [1 Vict. c. 41, § 13,] a new charge of payment must be given to the debtor if the decree is not enforced within a year from its date, or from the charge for payment. See *Computation of Time*.

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ZAIRS. See *Cruives*.

ZARDE; an old English land measure, the same as *virgata terræ*, containing in some places twenty, in others twenty-nine, and in others thirty acres. *Skene, h. t.*

ZELDE; a gift or donation. *Skene, h. t.*

ZEMSEL; of a castle; the custody and keeping of a castle. *Skene, h. t.*

ZETLAND. The *retractus gentilius*, i.e., the right of the udaller's heir to redeem from a purchaser, and the succession of all the sons or brothers by *gavel-kind*, with a *precipuum* of the house and pertinents to the eldest, formerly prevailed in Zetland. *Bank. B. ii. tit. 3, § 30.* See *Udal*.

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ABANDONING AN ACTION. As to abandoning a jury cause, after adjustment of issues, see A.S. 16 Feb. 1841, § 46; *Ross*, 26 June 1889, 16 R. 871.

ACCESSION, DEED OF. Delete reference to *Trust Deed*, and substitute reference to *Insolvency*, p. 550.

ACCOUNTANT IN BANKRUPTCY and ACCOUNTANT OF COURT. These offices were conjoined by the Judicial Factors Act, 1889, which see *infra*, p. 1135.

AD VITAM AUT CULPAM. See *Hastie*, 4 June 1889, 16 R. 715.

AGRICULTURAL HOLDINGS ACT. See the amending act of 1889, 52 & 53 Vict. c. 20 (as to procedure by reference).

ALIMENT. As to right of widow to deduct aliment in accounting for legitim, see *Morrison*, 18 Dec. 1888, 16 R. 247.

AMENDMENT OF RECORD. P. 43 *b* (mid.). See cases cited under *Summons*.

APPARENT HEIR. With reference to the act 1661, c. 24, see *Macalpine*, 6 Feb. 1885, 12 R. 604; and with reference to the act 1695, c. 24, see *Glen*, 15 Dec. 1881, 9 R. 317, and *Fleming's Trs.* 30 June 1882, 9 R. 1013.

APPEAL TO COURT OF SESSION. (1.) *For Review*, p. 53 *b*. In *Dickson*, 14 May 1889, 16 R. 673, appeal was held incompetent, the value of the cause being less than £25.

(2.) *For Jury Trial*, p. 55 *a* (foot). As to provisions of A.S. 11 July 1828, § 5, in regard to time for presenting appeal, see *Williams*, 28 May 1889, 16 R. 687.

APPEAL TO CIRCUIT COURT. Add reference to *Lees' Small Debt Handbook*, 74–86.

ARBITRATION. As to reduction of decree-arbitral, see *Adams*, 21 June 1889, 16 R. 843.

ARRESTMENT *jurisdictionis fundandæ causa*. Add reference to *Morley*, 9 Nov. 1888, 16 R. 78; *Stewart*, 5 July 1889, 16 R. 927.

BASTARD. The mother of a bastard has no title to sue for damages in respect of his death; *Weir*, 16 March 1889, 16 R. 614.

BILL OF EXCHANGE. P. 115; §§ 45–46 of statute. See *Bank of Scotland*, 12 June 1889, 16 R. 769.

P. 119; § 63. See *Dominion Bank*, 19 July 1889, 16 R. 1081.

BONUS. See cases referred to under *Property and Income Tax*, p. 868 *a*.

BOUNDING CHARTER. Where, in a feu-contract, a description of the subject by boundaries is inconsistent with a description by measurement and plan, the former prevails; *Currie*, 18 Dec. 1888, 16 R. 237.

BRIBERY. See the Public Bodies Corrupt Practices Act, 52 & 53 Vict. c. 69—an act for the more effectual prevention and punishment of bribery and corruption of and by members, officers, or servants of corporations, councils, boards, commissions, or other public bodies.

BURDENS. In *Edmonstone*, 16 Oct. 1888, 16 R. 1, two obligations—one *ad factum præstandum*, the other for payment of interest—were held to have been effectually made real burdens.

CAUTIONER. A cautioner who obtained from the principal debtor a special security was held not to be bound to communicate the benefit thereof to his co-cautioners; he having become cautioner on condition of such arrangement, and the co-cautioners having consented at the time; *Hamilton & Co.* 17 July 1889, 16 R. 1022.

CESSIO. The creditor of a person divested of his estate by cessio has no title to sue a debtor to such person; but he may compel the trustee in the cessio to give the use of his name, on security being found for expenses, or to grant an assignation of his claim against the debtor; *Henderson*, 18 Jan. 1889, 16 R. 341.

P. 158 *b* (near foot). With reference

to 44 & 45 Vict. c. 22, § 9, see *Reid*, 6 June 1889, 16 R. 751.

CLERK OF SESSION. The act 52 & 53 Vict. c. 54, regulates the number and duties of the Clerks of the Court of Session and Bill-Chamber. By § 1, the number of principal clerks is reduced to two; and these are entrusted, subject to the orders of the Lord President, with a general supervision of the whole staff of clerks in the Inner and Outer House and Bill-Chamber. By § 2, the number of assistant clerks in the Inner House is likewise reduced to two, who shall be termed Inner House depute-clerks; and there shall also be two ordinary clerks, one attached to each division. By § 3, all summary petitions and applications, appropriated to the Junior Lord Ordinary, shall be disposed of in the Bill-Chamber. By § 12, any law agent may be appointed to any clerkship in the Court of Session or Bill-Chamber. The act deals further with transfer of clerks, their remuneration, superannuation allowances, &c.

COIN. As to light gold coins, see 52 & 53 Vict. c. 58.

COMPUTATION OF TIME. P. 216 *a* (foot). The act 13 & 14 Vict. c. 21, is repealed, but its provisions are substantially re-enacted by 52 & 53 Vict. c. 63. See *Statute Law*.

CONFIRMATION OF EXECUTOR. P. 224 *b*. With reference to 39 & 40 Vict. c. 70, § 41, see *Hamilton*, 7 Dec. 1889, 16 R. 192.

COPYRIGHT. As to designs, on p. 249 *a*, refer to 51 & 52 Vict. §§ 6–7. The case of *Walker, Hunter & Co. v. Hecla Foundry Co.*, was affirmed by House of Lords, 8 Aug. 1889, 16 R. (H.L.) 27.

CROFTERS HOLDINGS ACT. P. 267 *b* (end of first paragraph). See *Macfarlane*, 14 Dec. 1888, 16 R. 230.

As to right to cut peats, see *Parr*, 19 June 1889, 16 R. 810.

CRUELTY TO CHILDREN. By the Prevention of Cruelty to, and Protection of, Children Act, 1889 (52 & 53 Vict. c. 44), § 1, any person over 16 years of age, who having the custody, control, or charge of a child, being a boy under 14, or a girl under 16 years, wilfully ill-treats, neglects, abandons, or exposes such child, or causes or procures this to be done, in a manner likely to cause the child unnecessary suffering or injury to its health, is guilty of a misdemeanour, and liable to a fine of £100, or imprisonment for two years, or to both of these (or if convicted by summary procedure, to a fine

of £25, or imprisonment for three months, or to both of these). By § 2, power is given to increase the fine where the offender is interested in the death of the child. By § 3, any person who (a) causes or procures any child, being a boy under 14, or a girl under 16, to be in any street, for the purpose of begging or receiving alms, or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale, or otherwise; or (b) causes or procures any child, being a boy under 14, or a girl under 16, to be in any street, or in any premises licensed for the sale of any intoxicating liquor, other than premises licensed for public entertainments, for the purpose of singing, playing, or performing for profit, or offering any thing for sale, between 10 P.M. and 5 A.M.; or (c) causes or procures any child under 10 years to be at any time in any street, or in any premises licensed for the sale of any intoxicating liquor, or in any premises licensed for public entertainments, or in any circus or other place of public amusement to which the public are admitted by payment, for the purpose of singing, playing, or performing for profit, or offering anything for sale, is liable on summary conviction to a fine of £25, or imprisonment for three months, or to both of these. Power is given to local authorities to extend or restrict the hours mentioned in subsection (b). The same section gives power to school boards to regulate the employment of children in places of entertainment; see *School*, p. 963*b*. The act provides further for the arrest of offenders and the protection of the children concerned, the disposal of children by order of court, power of search, &c. If a child appears to the court to be under the age specified in the act, he is deemed to be under that age, unless the contrary is proved; § 9.

CURATORY. A factor *loco tutoris* to a pupil becomes *ipso facto* curator on the pupil becoming a minor; Judicial Factors Act, 1889, § 11 (*infra*, pp. 1136–7).

DEAN OF GUILD. As to his jurisdiction in questions of nuisance, see *Kirkwood's Trs.* 20 Dec. 1888, 16 R. 255.

DEFAMATION. P. 299 *b* (admissible innuendo). See *Macrae*, 9 Feb. 1889, 16 R. 476.

P. 301 (newspaper reports). See *Wright & Greig*, 17 July 1889, 16 R. 1004.

P. 301–2 (privilege from duty to society). See *Croucher*, 14 June 1889, 16 R. 774.

DONATION. As to donation *inter*

virum et uxorem, see *Tennent*, 28 June 1889, 16 R. 876.

FEE-FUND. The fee-fund established by the Pupils Protection Act was abolished by the Judicial Factors Act, 1889 (§ 16); see *infra*, p. 1137.

HOLIDAY. For rules as to bills when last day of grace or other limit of time happens on a holiday, see §§ 14, 92 of Bills of Exchange Act, *supra*, pp. 110, 121.

INCORPORATION. Add reference to *Masons and Wrights of Haddington*, 20 July 1881, 8 R. 1029; *Muir*, 18 Nov. 1881, 9 R. 149.

INDICTMENT. P. 525. With reference to § 8 of the statute, see *Bourdais*, 29 Dec. 1888, 16 R. (J.C.) 68.

INSURANCE (LIFE). P. 570 *b*. Assignment of policy effectual by English law to confer preference on holder; *Scot. Provident Inst.* 20 Nov. 1888, 16 R. 112.

JOINT ADVENTURE. Add reference to *Miller*, 10 Dec. 1875, 3 R. 242; *Young*, 23 Feb. 1887, 14 R. 490; *Lockhart*, 14 June 1888, 15 R. 742.

JUDICIAL FACTOR. A factor appointed on heritable subjects “with all the usual powers” has no title to sue for rents uplifted prior to his appointment; *Gordon*, 16 July 1889, 16 R. 980.

The Judicial Factors Act, 1889, is printed *infra*, p. 1135.

LEGACY. P. 652 *a* (ademption). See *Mitchell's Trs.* 3 July 1889, 16 R. 902.

LEGITIM. A right to legitim is a debt to be measured by the actual value of the moveable estate left by the father at his death, and does not involve realisation of the estate. Interest at 5 per cent. is due on a claim for legitim which an executor unjustifiably delays to pay; *Gilchrist*, 5 July 1889, 16 R. 1118.

LOCAL GOVERNMENT (SCOTLAND) ACT, 1889; 52 & 53 Vict. c. 50. See annotated editions of the statute by *Nicolson & Mure*, *Chisholm & Shennan*, and *Black*.

MARRIAGE. P. 697 *b*. With reference to § 3 of the Married Women's Property Act, 1877, see *Morrison*, 18 Dec. 1888, 16 R. 247.

P. 698 *b*. With reference to § 3 (2) of the Married Women's Property Act, 1881, see *Scott's Tr.* 20 Feb. 1889, 16 R. 507; and with reference to § 6 of the same act, see *Fotheringham's Trs.* 27 June 1889, 16 R. 873.

MASTER AND SERVANT. P. 702 *a*

(first paragraph). Add reference to *Thomson*, 12 Jan. 1889, 16 R. 333.

P. 707 *a*. To the cases cited with reference to the defence of *volenti non fit injuria*, add *Membury*, 14 App. Ca. 179.

MESSENGER-AT-ARMS. Add reference to *Darling on Messengers-at-Arms*.

MINUTE-BOOK of Court of Session. The keeper of the minute-book and record of edictal citations, and his clerk, are hereafter to be under the general supervision of the principal clerks of session; 52 & 53 Vict. c. 54, § 7. The appointment of the clerk is now vested in the Crown; § 6.

MULTIPLEPOINDING. As to competency, see *Jamieson*, 23 Oct. 1888, 16 R. 15. As to riding claims, see *Gill's Trs.* 1 Feb. 1889, 16 R. 403.

NOTARY PUBLIC. P. 745 *a* (mid.). After case of *Ferrie*, add *Lang*, 15 March 1889, 16 R. 590.

PILOTS. See Merchant Shipping (Pilotage) Act, 1889, 52 & 53 Vict. c. 68.

POACHING. With reference to Day Trespass Act, see *Maxwell*, 28 Jan. 1889, 16 R. (J.C.) 48.

PRIVATE BILLS OR ACTS. The act 13 & 14 Vict. c. 21, is repealed, but substantially re-enacted by 52 & 53 Vict. c. 63. See *Statute Law*. As to construction of private act, see *infra*, under *Statute Law (Addenda)*.

PUBLIC HEALTH. See *Dykes & Stuart's Manual of Public Health Acts* (with special reference to changes effected by Local Government Act).

RAILWAY. See the Regulation of Railways Act, 1889, 52 & 53 Vict. c. 57. By § 1, the Board of Trade may order a railway company (*a*) to adopt the block system, (*b*) to provide for the interlocking of points and signals, (*c*) to provide for and use on all their trains carrying passengers continuous brakes complying with certain specified requirements as to instantaneous action, self-application, durability, &c. By § 5, every passenger shall, on request by an officer or servant of the company, either produce and (if asked) deliver up his ticket, or pay his fare, or give his name and

address, and in default is liable to a fine of 40s. If, having failed to produce or deliver his ticket, or pay his fare, he refuse to give his name and address, any officer of the company or any constable may detain him. If any person (*a*) travels or attempts to travel on a railway without having previously paid his fare, and with intent to avoid payment thereof; or (*b*) having paid his fare for a certain distance, knowingly and wilfully proceeds by train beyond that distance without previously paying the additional fare, and with intent to avoid payment thereof; or (*c*) having failed to pay his fare, gives in reply to a request by an officer of a railway company a name or address, is liable on summary conviction to a fine of 40s., or in case of second or subsequent offence, to a fine of £20 or imprisonment for one month. By § 6, from and after a date to be fixed by the Board of Trade, and subject to such exceptions as they may order, every passenger ticket shall bear upon its face the fare chargeable for the journey.

SALE. P. 936. With reference to § 1 of Merc. Law Amend. Act, see *Scott*, 20 Feb. 1889, 16 R. 504.

P. 939 *b*. Contract incomplete, no *consensus* as to subject; *Nelson*, 3 July 1889, 16 R. 898.

STATUTE LAW. Expressions of time in a statute denote Greenwich mean time, unless otherwise specifically stated; 43 & 44 Vict. c. 9.

Provisions of a private act, obtained by a company incorporated for profit, are strictly construed, and confer no right unless in express terms, or by necessary inference; *Scot. Drainage & Improvement Co.* 24 June 1889, 16 R. (H.L.) 16.

SUMMARY PROSECUTION. P. 1050 *a* (first paragraph). Add *Gray*, 18 July 1889, 16 R. (J.C.) 97.

SURROGATUM. See *Tennent*, 28 June 1889, 16 R. 876.

TRUST. As to application by testamentary trustees for superintendence order as to investment and distribution of estate, see Judicial Factors Act, 1889, § 18 (*infra*, p. 1138).

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JUDICIAL FACTORS (SCOTLAND) ACT, 1889 (52 & 53 VICT. c. 39).

An Act to amend and extend the Law relating to Judicial Factors and others in Scotland, and to unite the Offices of the Accountant of the Court of Session and the Accountant in Bankruptcy in Scotland.—[12th August 1889.]

Whereas it is expedient to amend the act 12 & 13 Vict. c. 51, intituled "an act of Parliament for the better protection of the property of pupils, absent persons, and persons under mental incapacity in Scotland," hereinafter called the Pupils Protection Act, 1849, and the Judicial Factors (Scotland) Act, 1880 (43 & 44 Vict. c. 4), and to put all judicial factors under the supervision of the accountant of court in Scotland: And whereas it is expedient to unite the offices of Accountant of the Court of Session in Scotland and Accountant in Bankruptcy 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. *Appointment of Accountant.*—From and after the commencement of this act, section 9 of the Pupils Protection Act, 1849, and section 156 of the Bankruptcy (Scotland) Act, 1856, shall be and are hereby repealed, and in lieu thereof it shall be lawful for Her Majesty and Her heirs and successors to appoint a person versant in law and accounts, to be called the accountant of court (hereinafter referred to as the accountant), with such yearly salary as may from time to time be fixed by the Commissioners of Her Majesty's Treasury, payable out of any moneys to be voted by Parliament for that purpose, and the accountant shall, subject to the approval of the Secretary for Scotland, appoint such number of clerks as may from time to time be necessary, and with such salaries as may be fixed by the Treasury, which salaries shall be paid out of any moneys to be voted by Parliament for that purpose. No person, other than the accountant, hereinafter appointed under the provisions of this section, shall be entitled to superannuation unless he has been admitted to his office with a certificate from the Civil Service Commissioners: provided that it shall be lawful for the Treasury, if and so far as they shall see fit, to grant superannuation to persons serving in the office of the

accountant of the Court of Session or the accountant in bankruptcy at the passing of this act, in all respects as if they had been admitted to their offices with such certificates.

2. *Accountant to hold no other office.*—The accountant to be appointed under this act, and his successors in office, shall hold no other office, and shall not directly or indirectly, by himself or any partner, be engaged in or transact any business for profit other than the business devolving upon him as accountant of court.

3. *Union of existing clerical staffs.*—The existing clerical staffs of the offices of accountant of the Court of Session and accountant in bankruptcy shall be so united that each member thereof shall be liable to perform any duties which may be assigned to him by the accountant.

4. *Compensation to Accountant of Court of Session.*—It shall be lawful for the Treasury to grant out of moneys to be provided by Parliament to the holder of the office of accountant of the Court of Session at the date of the passing of this act such compensation on the abolition of his office as they shall think proper, having reference to the tenure of his office, length of service, and all other circumstances of his case.

5. *Pupils Protection and Bankruptcy Acts to apply to Accountant.*—The provisions of the Pupils Protection Act, and of the Bankruptcy Acts and Cessio Acts, relating to the accountant of the Court of Session and accountant in bankruptcy respectively, shall, so far as not altered by this act, apply to the accountant to be appointed in terms of this act, and his successors in office.

6. *All judicial factors to be under supervision of Accountant.*—In addition to the factors specified in the recited act of 1849, the accountant shall superintend the conduct of all other actors and persons already appointed or to be appointed by the Court of Session or any of the Lords Ordinary in the said court, or by any of the sheriffs or sheriff-substitutes in the several sheriff courts in Scotland, to hold, administer, or protect any property or funds

belonging to persons or estates in Scotland; and all such factors and others, subject to such rules as may from time to time be made by acts of sederunt as hereinafter provided, shall be and hereby are made subject to the provisions affecting judicial factors of the said recited act of 1849, and of any acts amending the same, or in terms of the Judicial Factors (Scotland) Act, 1880, and of any acts of sederunt made in terms of said acts, and the accountant shall see that they duly observe all rules and regulations affecting them for the time: provided that nothing in this section contained shall be held to apply to executors dative or to trustees appointed by the court under the Trusts (Scotland) Acts, the Entail (Scotland) Act, 1882, or in virtue of any other power; but nothing in this section contained shall prevent trustees appointed by the court from availing themselves of the powers contained in § 18 of this act.

7. *Penalties for misconduct.*—Any person who in virtue of his office is subject to the provisions of this act, and who fails to comply therewith, or who misconducts himself or fails in the discharge of his duties, shall be liable to the penalties imposed by § 6 of the Pupils Protection Act, 1849, or to any one or more of them as the court in its discretion shall decide.

8. *Return of factors, &c., to be supplied to Accountant by clerks of court, &c.*—Immediately after the passing of this act it shall be incumbent on such one or more of the depute or assistant clerks of session, or of the clerks in the office of the Bill-Chamber or other qualified person or persons as shall be selected by the principal clerks of session with the approval of the Lord Advocate, to prepare under the supervision of the said principal clerks a return setting forth the following particulars applicable to all factors and other persons referred to in § 6 hereof appointed after 1st Jan. 1870, and to all factors and other persons under any factory constituted prior to said last-mentioned date in which proceedings have been taken in court since that date not embraced under the provisions of the Pupils Protection Act, 1849, the Judicial Factors (Scotland) Act, 1880, and the Bankruptcy Acts, and where the factories or other offices held by them still subsist, viz.:—(1) the date of the factor's appointment; (2) his name and designation; (3) the name of the estate on which he is factor; (4) the date of his lodging of the inventory, if lodged; (5) the date of

the last petition for the audit of his accounts; (6) the latest date of the accounts so submitted to audit; (7) the date of the interlocutor approving of the accounts; and the said return, with the whole of the factors' inventories, accounts, and reports thereon, so far as lodged in process, shall be transmitted to the accountant on or before 30th June 1890, and it shall also be incumbent on the sheriff-clerks to prepare the like returns applicable to all factors and other persons appointed in the sheriff courts, and not embraced under the provisions of the Pupils Protection Act, 1849, the Judicial Factors (Scotland) Act, 1880, and the Bankruptcy Acts.

9. *Inventories, &c., to be lodged with Accountant.*—The accountant shall have power to require every factor and other such persons named in such return, unless evidence to his satisfaction is produced that the factories or other offices held by them have ceased to subsist, to lodge with him, within a period to be specified by him, a copy of the original inventory of the estate, copies of any reports on the audit of his accounts, and his accounts and vouchers if not in process from the latest date to which the same have been judicially approved of to a date to be fixed by the accountant, and the factor and other persons aforesaid shall be bound to comply with such requisition within the time specified, failing which the matter shall be reported by the accountant to the court by which such factor or other person was appointed.

10. *Accountant in certain cases to apply for appointment of successor to factor deceased.*—In the event of its being found that any factor or other person referred to in § 6 hereof has died undischarged or has ceased to discharge the duties of his office without anyone having been appointed in succession to him, unless the purposes of his appointment have, in the opinion of the accountant, been exhausted, it shall be the duty of the accountant, unless the persons interested in such factory or any of them shall make the application on his requisition, to apply to the court for the appointment of a factor in place of such factor or other person, and it shall be the duty of the factor so appointed to investigate the accounts of the former factor or other person aforesaid and to receive any balance due from his representatives or his cautioner or cautioners.

11. *Factors loco tutoris to pupils to become curators on pupil attaining minority.*—After the passing of this act it shall not

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be necessary to apply for the appointment of a curator *bonis* to a minor whose estate has, up to the date of his becoming a minor, been administered by a duly appointed factor *loco tutoris*, and the said factor shall, *ipso facto*, become curator *bonis* to the said minor, and shall continue the administration of the estate until the majority of the said minor, or until he has himself chosen curators in the manner directed by law.

12. *Audit of accounts.*—In all cases coming for the first time under the supervision of the accountant he shall be required to audit the accounts from their commencement, and if for this purpose it shall appear to him to be necessary, he shall have power to remit such cases or any of them to such duly qualified persons as he may with the approval of the Lord Advocate select to audit, but all such audits shall be supervised by him, and he shall be responsible for the correctness thereof, and such persons shall be paid such remuneration for their services in such audit as the Lord Advocate with the approval of the Treasury shall determine, out of moneys to be provided by Parliament: provided always, that the accountant may, if he thinks fit, on the production of reports of a professional or official auditor in any case, accept such report as sufficient for the period up to the date thereof, and shall not be required to audit the said accounts for that period.

13. *Funds, &c., furth of Scotland to be paid to factor, &c., on the production of official extract of appointment.*—An official extract of the appointment of any judicial factor, trustee, tutor, curator, or other person judicially appointed and subject to the provisions of the recited acts or of this act, shall have throughout the British Dominions, as well out of Scotland as in Scotland, the full force and effect of an assignment or transfer, executed in legal and appropriate form, of all funds, property, and effects situated or invested in any part of the British Dominions, and belonging to or forming part of the estate under his charge; and all debtors and others holding any such funds, property, or effects, shall be bound, on production of such official extract, to pay over, assign, or transfer the same to such judicial factor, trustee, tutor, curator, or other person.

14. *Procedure before court.*—All applications under this act or any of the recited acts shall, except as after mentioned and notwithstanding any provision in any of the

recited acts to the contrary, be dealt with in the manner directed by §§ 4, 5, 6, and 10 of an act passed in the 20th & 21st year of the reign of Her Majesty, intituled “an act to regulate the distribution of business in the Court of Session in Scotland:” provided always, that cases arising under the Bankruptcy Acts shall be dealt with in the manner directed by the said acts.

15. *Fees to be charged in bankruptcy cases.*—The Court of Session shall, with the sanction of the Treasury, from time to time prescribe a scale of fees and percentages to be paid to the accountant for and in respect of proceedings under the Bankruptcy Acts and § 18 of this act, and the accountant shall annually prepare an account showing the receipts from bankruptcy cases, to be laid before the Queen’s and Lord Treasurer’s Remembrancer, who is hereby required to examine and audit such account, and submit it thereafter to the Lord President of the Court of Session, with a view to the reconsideration by the court of the fees in use to be charged, and such fees shall be regulated, increased, or diminished as the court, with such sanction as aforesaid, shall think proper.

16. *Fee fund to cease and future fees to be paid in stamps.*—The fee fund established by § 39 of the Pupils Protection Act, 1849, shall cease from the commencement of this act, and any accumulated balance which may then exist shall be paid into Her Majesty’s Exchequer, and thereafter all the fees payable in the office of the accountant shall be collected by means of stamps.

17. *Commission or fees in bankruptcy cases not to be paid without approval of Accountant.*—Every trustee appointed under the Bankruptcy Acts shall intimate by circular to every creditor upon the estates under his charge, and also to the bankrupt, the deliverance of the commissioners fixing a commission or fee to be allowed to such trustee, and every such trustee and also every creditor and the bankrupt shall be entitled to appeal to the accountant against any such deliverance, and that within ten days of the issue of such circular, by addressing a note to the accountant stating his objections to such deliverance, and the trustee shall thereupon lay the deliverance of the commissioners and the account to which such deliverance applies before the accountant, and such commission or fee shall not be paid to the trustee, or entered in his account, until the accountant has in-

timated his approval of the commission or other payments sanctioned by the commissioners. In the event of the accountant not concurring with the commissioners, he shall intimate his objections and the grounds thereof to the trustee or bankrupt or creditor appealing, and shall indicate the sum he would suggest, and in the event of the trustee or bankrupt or creditor or the commissioners not acquiescing in this suggestion, the matter shall be reported forthwith by the accountant to the Lord Ordinary officiating on the Bills in the Court of Session or to the sheriff, whose decision shall be final; and in the event of such appeal the procedure enacted under §§ 127, 130, 131, and 132 of the Bankruptcy (Scotland) Act, 1856, shall, in cases to which such sections apply, be postponed till the decision is given in the appeal; and where the deliverance of the commissioners is altered, the trustee shall give effect to the alteration in his accounts, and the commissioners shall in such cases reconsider and declare, within eight days after the date of the decision, the amount to be divided among the creditors in terms of §§ 125, 130, 131, and 132 of the Bankruptcy (Scotland) Act, 1856, after taking such alteration into account, and the trustee shall within four days thereafter, and in cases where no alteration is made in the deliverance of the commissioners within eight days from the date of the decision, give the notice in the Gazette, and give the notifications to creditors directed by §§ 127, 130, and 132 of the said act. The provisions of this section shall not apply to trustees appointed under the Cessio Acts.

18. *Testamentary trustees, &c., may apply to court for superintendence order as to investment and distribution of estate.*—Section 166 of the Bankruptcy (Scotland) Act, 1856, shall be and is hereby repealed, and in lieu thereof be it enacted that where a person deceased has left a settlement appointing trustees or other persons with

power to manage his estate, it shall be competent for such trustees or other persons to apply to the Court of Session for an order on the accountant to superintend their administration of the estate, in so far as it relates to the investment of the estate and the distribution thereof among the creditors of the deceased and the beneficiaries under the settlement, and the court may grant such order accordingly; and, if such order be granted, the accountant shall annually examine and audit the accounts of such trustees or other persons, and at any time, if he thinks fit, he may report to the court upon any question that may arise in the administration of the estate with regard to any of the foresaid matters, and obtain the directions of the court thereupon.

19. *Application of 50 & 51 Vict. c. 18 to judicial factors.*—The provisions of the Trusts (Scotland) Act, 1867, Amendment Act, 1887, shall apply to and include all trusts and trustees, as defined by the second section of the Trusts (Scotland) Amendment Act, 1884.

20. *Application of § 23 of 12 & 13 Vict. c. 51.*—Section 23 of the Pupils Protection Act shall be held to apply to all factories brought under the supervision of the accountant by virtue of this act.

21. *Power to pass acts of sederunt.*—It shall be competent to the Court of Session, and they are hereby authorised and required from time to time to pass such acts of sederunt as shall be necessary or proper relating to all matters requisite for effectually carrying out the purposes of this act.

22. *Interpretation.*—The expressions “Bankruptcy Acts,” and “Cessio Acts,” shall respectively have the meanings assigned to them by § 4 of the Bankruptcy and Cessio (Scotland) Act, 1881.

23. *Short title and commencement of act.*—This act may be cited as the Judicial Factors (Scotland) Act, 1889, and shall take effect on and after the 1st day of January 1890.