

ANNO QUINTO

GEORGII IV. REGIS.

CAP. XCVIII.

An Act to consolidate and amend the Bankrupt Laws. [21st *June* 1824.]

WHEREAS it is expedient to amend the Laws relating to Bankrupts, and to simplify the Language thereof, and to consolidate the same so amended and simplified in one Act; and to make other Provisions respecting Bankrupts; be it therefore enacted by the King'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, That an Act passed in the Thirty-fourth and Thirty-fifth Years of the Reign of King *Henry* the Eighth, intituled *An Act against such Persons as do make Bankrupt;* and also an Act passed in the Thirteenth Year of the Reign of Queen *Elizabeth*, intituled *An Act touching Orders for Bankrupts;* and also an Act passed in the First Year of the Reign of King *James* the First, intituled *An Act for the better Relief of the Creditors against such as shall become Bankrupts;* and also an Act passed in the Twenty-first Year of the Reign of King *James* the First, intituled *An Act for the further Description of a Bankrupt, and Relief of Creditors against such as shall become Bankrupts, and for inflicting Corporal Punishment upon the Bankrupts, in some special Cases;* and also an Act passed in the Thirteenth and Fourteenth Years of the Reign of King *Charles* the Second, intituled *An Act declaratory concerning Bankrupts;* and also an Act passed in the Tenth Year of the Reign of Queen *Anne*, intituled *An Act for repealing a Clause in the above mentioned Statute, passed*

Former Enactments respecting Bankrupts repealed.

34 & 35 H. 8. c. 4.

13 Eliz. c. 7.

1 Jac. 1. c. 15.

21 Jac. 1. c. 19.

13 & 14 Car. 2. c. 24.

10 Ann. c. 15.

passed in the Twenty-first Year of the Reign of King James *the First, and for the Explanation of the Laws relating to Bankruptcy in Cases of Partnership;* and also an Act made in the Seventh Year
7 G. 1. c. 31. of the Reign of King *George* the First, intituled *An Act for explaining and making more effectual the several Acts concerning Bankrupts;* and also, an Act passed in the Fifth Year of the Reign of King
5 G. 2. c. 30. *George* the Second, intituled *An Act to prevent the committing of Frauds by Bankrupts;* and also an Act passed in the Nineteenth
19 G. 2. c. 32. Year of the Reign of King *George* the Second, intituled *An Act for amending the Laws relating to Bankrupts;* and also so much of an Act passed in the Twenty-fourth Year of the Reign of King *George*
24 G. 2. c. 57. the Second, the Title of which begins with the Words *An Act to continue several Laws therein mentioned, for preventing Theft and Rapine,* and concludes with the Words, *and to make some further Provisions in relation to the signing of Certificates for the Discharge of Bankrupts,* as relates to the Prevention of Frauds by Bankrupts, and to some further Provisions in relation to the signing of Certificates for the Discharge of Bankrupts; and also an Act passed in the Fourth Year of the Reign of His late Majesty King *George* the
4 G. 3. c. 33. Third, intituled *An Act for preventing Inconveniences arising in Cases of Merchants, and such other Persons as are within the Description of the Statutes relating to Bankrupts being entitled to Privilege of Parliament, and becoming insolvent;* and also so much of an Act passed in the Thirty-sixth Year of the Reign of His late Majesty,
36 G. 3. c. 90. intituled *An Act for the Relief of Persons equitably and beneficially entitled to or interested in the several Stocks and Annuities transferrable at the Bank of* England, as relates to Trustees in whose Names Stock shall be standing at the Bank, becoming Bankrupt, and to Bankrupts refusing to transfer Stock standing in their own Right; and also an Act passed in the Thirty-seventh Year of the Reign of His late
37 G. 3. c. 124. Majesty, intituled *An Act to make perpetual an Act passed in the Fifth Year of the Reign of His late Majesty, intituled 'An Act to 'prevent the committing of Frauds by Bankrupts;'* and also so much of an Act passed in the Forty-fifth Year of the Reign of His late
45 G. 3. c. 124. Majesty, intituled *An Act to amend an Act passed in the Fourth Year of His present Majesty, intituled 'An Act for preventing Inconveniences arising in Cases of Merchants, and such other Persons 'as are within the Description of the Statutes relating to Bankrupts being entitled to Privilege of Parliament, and becoming insolvent,' and to prevent Delay in the entering Appearances in Actions brought against Persons having Privilege of Parliament,* as relates to the Execution of certain Bonds by Traders having Privilege of Parliament, and to the Disobedience by such Traders of Orders for Payment of Money; and also an Act passed in the Forty-sixth Year of the
46 G. 3. c. 135. Reign of His late Majesty, intituled *An Act to amend the Laws relating to Bankrupts;* and also an Act passed in the Forty-ninth
49 G. 3. c. 121. Year of the Reign of His late Majesty, intituled *An Act to alter and amend the Laws relating to Bankrupts;* and also an Act passed in the
56 G. 3. c. 137. Fifty-sixth Year of the Reign of His late Majesty, intituled *An Act to extend the Provisions of an Act of the First Year of the Reign of King* James *the First, intituled 'An Act for the better Relief of 'the Creditors against such as shall become Bankrupts;'* and also so much of an Act passed in the First Year of the Reign of His present

present Majesty, intituled *An Act to repeal so much of the several Acts passed in the Thirty-ninth Year of the Reign of* Elizabeth, *the Fourth of* George *the First, the Fifth and Eighth of* George *the Second, as inflicts Capital Punishment on certain Offences therein specified, and to provide more suitable and effectual Punishment for such Offences*, as relates to the Punishment of Frauds committed by Bankrupts; and also an Act passed in the Third Year of the Reign of His present Majesty, intituled *An Act to amend the Laws relating to Bankrupts under joint Commissions*; and also another Act passed in the Third Year of the Reign of His present Majesty, intituled *An Act to amend the Laws relating to Bankrupts*, be hereby repealed. 1 G. 4. c. 115. 3 G. 4. c. 74. 3 G. 4. c. 81.

II. And be it enacted, That all Bankers, Brokers, Underwriters, and Persons insuring Ships or their Freight, or other Matters against Perils of the Sea, Warehousemen, Wharfingers, Packers, Builders, Carpenters, Shipwrights, Victuallers, Innkeepers, Stage Coach Proprietors, Brewers, Maltsters, Dyers, Printers, Bleachers, Fullers, Scavengers, Manufacturers of Alum or Kelp, Cattle or Sheep Salesmen, and all Persons engaged in any Traffic of drawing and redrawing, negotiating or discounting Bills of Exchange, Promissory Notes, or negotiable Securities, except Exchequer, Navy, or Victualling Bills, or Ordnance Debentures; and all Persons making Bricks or burning Lime for Sale, being Tenants, Lessees, or Partners in such Trade or Undertaking; and all Persons using the Trade of Merchandize by way of Bargaining, Exchange, Bartering, Commission, Consignment, or otherwise, in gross or by retail; and all Persons, who either for themselves, or as Agents or Factors for others, seek their Living by buying and selling, or by buying and letting for Hire, or by the Workmanship of Goods or Commodities, shall be deemed Traders liable to become Bankrupt: Provided, that no Farmer, Grazier, common Labourer, or Workman for Hire, Receiver General of the Taxes, or Member of or Subscriber to any incorporated, commercial, or trading Companies established by Charter, or by or under the Authority of any Act of Parliament, shall be deemed as such a Trader liable by virtue of this Act to become Bankrupt.

What Persons shall be deemed Traders liable to become Bankrupt.

III. And be it enacted, That if any such Trader shall depart this Realm, or being out of the Realm shall remain abroad, or depart from his Dwelling House, or otherwise absent himself, or begin to keep his House, or suffer himself to be arrested for any Debt not due, or yield himself to Prison, or suffer himself to be outlawed, or procure himself to be arrested, or his Goods, Money, or Chattels to be attached, sequestered, or taken in Execution, or make or cause to be made, either within the United Realm or elsewhere, any Grant or Conveyance of any of his Lands, Tenements, Goods, or Chattels, or make or cause to be made any Surrender of any of his Copyhold Lands or Tenements, or make or cause to be made any Gift, Delivery, or Transfer of any of his Goods or Chattels, every such Trader doing, suffering, procuring, executing, permitting, making, or causing to be made any of the Acts, Deeds, or Matters aforesaid, with Intent to defeat or delay his Creditors in the Recovery of their Debts, shall be deemed to have thereby committed an Act of Bankruptcy.

Departing the Realm; departing from Dwelling House; absenting; beginning to keep House; yielding to Prison; Fraudulent Outlawry, Arrest, Attachment, Execution, Deed, Surrender, Gift, Delivery, or Transfer; Acts of Bankruptcy.

IV. And

Verbal Declaration of Insolvency;

lying in Prison;

escaping out of Prison;

Acts of Bankruptcy.

Proviso as to lying in Prison.

IV. And be it enacted, That if any such Trader shall, at any Meeting of his Creditors, declare or admit that he is insolvent, or unable to meet his Engagements, or if any such Trader having been arrested or committed to Prison for Debt, or on any Attachment for Non-payment of Money, shall, upon such or any other Arrest or Commitment for Debt, or Nonpayment of Money, or upon any Detention for Debt, lie in Prison for Twenty-one Days; or if any such Trader, having been so arrested, committed, or detained, shall escape out of Prison or Custody, every such Trader shall be deemed to have thereby committed an Act of Bankruptcy; provided that if any such Trader shall be in Prison at the Time of the Commencement of this Act, such Trader shall not be deemed to have committed an Act of Bankruptcy by lying in Prison, until he shall have lain in Prison for the Period of Two Months.

Petition to take the Benefit of the Insolvent Act, an Act of Bankruptcy;

Commission within Two Months.

V. And be it enacted, That if any such Trader shall petition to take the Benefit of the present or any future Act for the Relief of Insolvent Debtors, such Petition, when filed, shall be an Act of Bankruptcy, but no Commission shall issue thereupon, unless it be sued out within Two Calendar Months next after Notice of such Petition has been inserted in the *London Gazette*.

Declaration of Insolvency left at the Bankrupt Office, an Act of Bankruptcy.

Advertisement to be inserted in the Gazette.

Commission must issue within Two Months.

Docket not to be struck before Four Days in a Town or Eighteen in Country Commission.

Gazette Evidence before the Commissioners.

VI. And be it enacted, That if any such Trader shall file, in the Office of the Lord Chancellor's Secretary of Bankrupts, a Declaration in Writing, signed by such Trader, and attested by an Attorney or Solicitor, that he is insolvent, or unable to meet his Engagements, the said Secretary of Bankrupts, or his Deputy, shall sign a Memorandum that such Declaration hath been filed, which Memorandum shall be Authority for the Printer of the *London Gazette* to insert an Advertisement of such Declaration therein; and every such Declaration shall, after such Advertisement inserted as aforesaid, be an Act of Bankruptcy committed by such Trader at the Time when such Declaration was filed; but no Commission shall issue thereupon unless it be sued out within Two Calendar Months next after the Insertion of such Advertisement, and unless such Advertisement shall have been inserted in the *London Gazette* within Eight Days after such Declaration was filed; and no Docket shall be struck upon such Act of Bankruptcy before the Expiration of Four Days next after the Insertion of such Advertisement, in case such Commission is to be executed in *London*; or before the Expiration of Eight Days next after such Insertion, in case such Commission is to be executed in the Country; and in all Proceedings before the Commissioners, the Gazette containing such Advertisement shall be Evidence to be received of such Declaration having been filed.

Declaration having been concerted between Bankrupt and Creditor, not to invalidate Commission.

VII. And be it enacted, That no Commission under which the Adjudication shall be grounded on the Act of Bankruptcy, being the filing of such Declaration, shall be deemed invalid by reason of such Declaration having been concerted or agreed upon between the Bankrupt and any Creditor or other Person.

Trader compounding with Petitioning

VIII. And be it enacted, That if any such Trader, liable by virtue of this Act to become Bankrupt, shall, after a Docket struck against

against him, pay to the Person or Persons who struck the same, or any of them, Money, or give or deliver to any such Person any Satisfaction or Security for his Debt, or any Part thereof, whereby such Person may receive more in the Pound in respect of his Debt than the other Creditors, such Payment, Gift, Delivery, Satisfaction, or Security shall be an Act of Bankruptcy; and if any Commission shall have issued upon the Docket so struck as aforesaid, the Lord Chancellor may either declare such Commission to be valid, and direct the same to be proceeded in, or may order it to be superseded, and a new Commission may issue upon such last-mentioned or any other Act of Bankruptcy; and every Person so receiving such Money, Gift, Delivery, Satisfaction, or Security as aforesaid, shall forfeit his whole Debt, and also repay or deliver up such Money, Gift, Satisfaction, or Security as aforesaid, or the full Value thereof, to such Person or Persons as the Commissioners acting under such original Commission, or any new Commission, shall appoint, for the Benefit of the Creditors of such Bankrupt.

ing Creditor an Act of Bankruptcy.

Commission may either be superseded or continued;

Penalty on Creditor so compounding.

IX. And be it enacted, That if any such Trader having Privilege of Parliament, shall commit any of the aforesaid Acts of Bankruptcy, a Commission of Bankrupt may issue against him; and the Commissioners, and all other Persons acting under such Commission, may proceed thereon in like Manner as against other Bankrupts; but such Person shall not be subject to be arrested or imprisoned during the Time of such Privilege, except in Cases hereby made Felony.

Traders having Privilege of Parliament, committing Acts of Bankruptcy, may be proceeded against as other Traders.

X. And be it enacted, That if any Creditor or Creditors of any such Trader having Privilege of Parliament, to such Amount as is herein-after declared requisite to support a Commission, shall file an Affidavit or Affidavits in any Court of Record at *Westminster* that such Debt or Debts is or are justly due to him or them respectively, and that such Debtor, as he or they verily believe, is such Trader as aforesaid, and shall sue out of the same Court a Summons, or an Original Bill and Summons against such Trader, and serve him with a Copy of such Summons, if such Trader shall not, within One Calendar Month after Personal Service of such Summons, pay, secure, or compound for such Debt or Debts to the Satisfaction of such Creditor or Creditors, or enter into a Bond in such Sum, and with Two sufficient Sureties, as any of the Judges of the Court out of which such Summons shall issue shall approve of, to pay such Sum as shall be recovered in such Action or Actions, together with such Costs as shall be given in the same, and within One Calendar Month next after Personal Service of such Summons cause an Appearance or Appearances to be entered to such Action or Actions in the proper Court or Courts in which the same shall have been brought, every such Trader shall be deemed to have committed an Act of Bankruptcy from the Time of the Service of such Summons; and any such Creditor or Creditors of such Trader may sue out a Commission against him, and proceed thereon in like Manner as against other Bankrupts.

Trader having Privilege of Parliament, not paying or compounding to the Satisfaction of the Creditor, and also entering an Appearance to the Action within One Month, an Act of Bankruptcy.

XI. And be it enacted, That if any Decree or Order shall have been pronounced in any Cause depending in any Court of Equity, or any

Trader having Privilege of Parlia-

ment, disobeying Order of any Court of Equity, or in Bankruptcy or Lunacy, for Payment of Money after Service and peremptory Day fixed, an Act of Bankruptcy.

any Order made in any Matter of Bankruptcy or Lunacy against any such Trader having Privilege of Parliament, ordering such Trader to pay any Sum of Money, and such Trader shall disobey, the same having been duly served upon him, the Person or Persons entitled to receive such Sum under such Decree or Order, or interested in enforcing the Payment thereof pursuant to such Decree or Order, may apply to the Court by which the same shall have been pronounced, to fix a peremptory Day for the Payment of such Money, which shall accordingly be fixed by an Order for that Purpose; and if such Trader, being personally served with such last-mentioned Order Eight Days before the Day therein appointed for Payment of such Money, shall neglect to pay the same, he shall be deemed to have committed an Act of Bankruptcy from the Time of the Service thereof; and any such Creditor or Creditors as aforesaid may sue out a Commission against him, and proceed thereon in like Manner as against other Bankrupts.

Power to the Lord Chancellor to issue a Commission.

Petitioning Creditor shall make Oath of his Debt; and give Bond to the Chancellor.

XII. And be it enacted, That the Lord Chancellor may, upon Petition made to him in Writing, against any such Trader having committed any Act of Bankruptcy, by any Creditor or Creditors of such Trader, by Commission under the Great Seal, appoint such Persons as to him shall seem fit, who shall by virtue thereof have the Powers and Authorities herein-after mentioned; and such Petitioning Creditor or Creditors shall, before any Commission be granted, make an Affidavit in Writing before a Master Ordinary or Extraordinary in Chancery (which shall be filed with the proper Officer) of the Truth of such his or their respective Debt or Debts; and shall likewise give Bond to the Lord Chancellor, in the Penalty of Two hundred Pounds, to be conditioned for proving his or their Debt or Debts, as well before the Commissioners as upon any Trial at Law, in case the due issuing forth of the Commission be contested, and also for proving the Party to have committed an Act of Bankruptcy at the Time of taking out such Commission, and to proceed on such Commission; but if such Debt or Debts shall not be really due, or if after such Commission taken out, it be not proved that the Party had committed an Act of Bankruptcy at the Time of the issuing of the Commission, and it shall also appear that such Commission was taken out fraudulently or maliciously, the Lord Chancellor may, upon Petition of the Party or Parties grieved, order Satisfaction to be made to him or them for the Damages by him or them sustained, and for the better Recovery thereof may assign such Bond or Bonds to the Party or Parties so petitioning, who may sue for the same in his and their Name or Names.

Petitioning Creditor to prosecute Commission at his own Costs until Choice of Assignees; and to be reimbursed after such Choice.

XIII. And be it enacted, That the Petitioning Creditor or Creditors shall, at his or their own Costs, sue forth and prosecute the Commission until the Choice of Assignees, and the Commissioners shall, at the Meeting for such Choice, ascertain such Costs, and by Writing under their Hands direct the Assignees (who are hereby thereto required) to reimburse such Petitioning Creditor or Creditors such Costs out of the first Money that shall be got in under the Commission; and all Bills of Fees or Disbursements of any Solicitor or Attorney employed under any Commission, shall be

be settled by the Commissioners, provided such Bills do not contain any Charge respecting any Action at Law or Suit in Equity, in which Case the same shall be settled by the proper Officer of the Court in which the Business contained in such Bill, or the greatest Part in Amount or Value thereof, shall have been transacted; and the same so settled shall be paid by the Assignees to such Solicitor or Attorney, provided that any Creditor who shall have proved to the Amount of Twenty Pounds or upwards, if he be dissatisfied with such Settlement by the Commissioners, may have the same settled by a Master in Chancery, who shall receive for such Settlement, and the Certificate thereof, Twenty Shillings.

Bills of Costs to be taxed by Commissioners, unless they contain Law Proceedings.

XIV. And be it enacted, That no such Commission shall be issued unless the single Debt of such Creditor, or of Two or more Persons being Partners petitioning for the same, shall amount to One hundred Pounds or upwards; or unless the Debt of Two Creditors so petitioning shall amount to One hundred and fifty Pounds or upwards; or unless the Debt of Three or more Creditors so petitioning shall amount to Two hundred Pounds or upwards; and that every Person who has given Credit to any Trader upon valuable Consideration for any Sum which shall not have become payable at the Time such Trader committed an Act of Bankruptcy, may so petition or join in petitioning as aforesaid, whether he shall have any Security for such Sum or not.

Amount of Petitioning Creditor's Debt.

A Debt not payable at the Time to be a sufficient Foundation for a Commission, although no Security given.

XV. And be it enacted, That any Creditor or Creditors whose Debt or Debts is or are sufficient to entitle him or them to petition for a Commission against all the Partners of any Firm, may petition for a Commission against One or more Partners of such Firm; and every Commission issued upon such Petition shall be valid, although it does not include all the Partners of the Firm; and in every Commission against Two or more Persons, the Lord Chancellor may supersede such Commission as to One or more of such Persons; and the Validity of such Commission shall not be thereby affected, as to any Person as to whom such Commission is not ordered to be superseded, nor shall any such Person's Certificate be thereby affected.

Joint Commissions may be issued against Partners in a Firm.

XVI. And be it enacted, That if after a Commission issued against Two or more Members of a Firm, any other Commission or Commissions shall be issued against any other Member or Members of such Firm, such other Commission or Commissions shall be directed to the Commissioners to whom the First Commission was directed; and immediately after the Adjudication under such other Commission or Commissions, all the Estate, Real and Personal, of such Bankrupt or Bankrupts, shall, in case Assignees have been chosen, vest in such Assignees, and all separate Proceedings under such other Commission or Commissions shall be stayed, and such Commission or Commissions shall, without affecting the Validity of the First Commission, be annexed to and form Part of the same; provided that the Lord Chancellor may direct that such other Commission or Commissions be issued to any other Commissioners, or that such other Commission

In Cases of a Second or other Commission being issued, Lord Chancellor may direct that such Commissions be proceeded in separately or in conjunction.

sion or Commissions shall proceed either separately or in conjunction with the First Commission.

Proceeding in case Petitioning Creditor's Debt be insufficient to support Commission.

XVII. And be it enacted, That if after Adjudication, the Debt or Debts of the Petitioning Creditor or Creditors, or any of them, be found insufficient to support a Commission, the Lord Chancellor may, upon the Application of any other Creditor or Creditors, having proved any Debt or Debts sufficient to support a Commission, order the said Commission to be proceeded in, and it shall by such Order be deemed valid.

Commission not invalid by reason of Act of Bankruptcy prior to Petitioning Creditor's Debt.

XVIII. And be it enacted, That no Commission shall be deemed invalid by reason of any Act or Acts of Bankruptcy prior to the Debt or Debts of the Petitioning Creditor or Creditors, or any of them; provided there be a sufficient Act of Bankruptcy subsequent to such Debt or Debts.

Auxiliary Commissions.

XIX. And be it enacted, That the Lord Chancellor may direct an auxiliary Commission to issue for Proof of Debts under Twenty Pounds, and for the Examination of Witnesses, or for either of such Purposes; and every such Commission heretofore issued is hereby declared valid; and the Commissioners in every such Commission, issued for the Examination of Witnesses, shall possess the same Powers to compel the Attendance of, and to examine Witnesses, and to enforce Obedience to such Examination, as are possessed by the Commissioners in any original Commission.

Commissioners Oath.

XX. And be it enacted, That no Commissioner shall be capable of acting in the Execution of any of the Powers and Authorities given by this Act, (except the Power hereby given of administering the Oath next herein-after mentioned) until he shall have taken an Oath, in the Presence of One or more of the said Commissioners, to the Effect following; (that is to say),

'I *A.B.* do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Knowledge, execute the several Powers and Trusts reposed in me as a Commissioner, in a Commission of Bankruptcy against and that without Favour or Affection, Prejudice or Malice. So help me GOD.'

How administered, and a Memorial thereof to be entered on the Proceedings.

Which Oath the Commissioners are hereby empowered and required to administer one to another, in the same Commission named; and they shall enter and keep a Memorial or Memorials thereof, signed by them respectively, among the Proceedings under each Commission.

Commissioners Fees.

XXI. And be it enacted, That the said Commissioners shall receive and be paid the Fee of Twenty Shillings each Commissioner for every Meeting, and the like Sum for their Certificate of the Choice of Assignees, and for the Signature of the Bankrupt's Certificate; and where any Commission shall be executed in the Country, every Commissioner, being a Barrister at Law, shall receive a further Fee of Twenty Shillings for each Meeting; and in case his usual Place of Residence

Residence is distant Seven Miles or upwards from the Place where such Meetings are holden, and he shall travel such Distance to any such Meeting, he may receive a further Sum of Twenty Shillings for every such Meeting; and every Commissioner who shall receive from the Creditors, or out of the Estate of the Bankrupt, any further Sum than as aforesaid, or who shall eat or drink at the Charge of the Creditors, or out of the Estate of the Bankrupt, or order any such Expence to be made, shall be disabled for ever from acting in such or any other Commission.

Barristers to be acting Commissioners in Meetings under any Commission in the Country, and entitled to Fees.

XXII. And be it further enacted, That at every Meeting under any Commission to be executed in the Country, wherein any One or more of the Commissioners named may be a Barrister or Barristers, such Barrister or Barristers, or as many of them as shall be willing to attend, not exceeding Three at each Meeting, shall be the acting Commissioner or Commissioners, and shall be entitled to his or their Summonses and Fees accordingly, in priority to any of the other Commissioners in the said Commission named.

No Postponement of Meetings to another Hour of the same Day to entitle to Fees, unless they sit for Two Hours.

XXIII. And be it further enacted, That no Postponement or Continuance of any public or private Meeting to another Hour of the same Day, where the Parties are ready to proceed, shall entitle the Commissioners to any further Fees, unless such Meeting shall have been sitting for the Space of Two Hours at the least.

Commissioners before Adjudication may summon Persons to give Evidence of Trading and Act of Bankruptcy.

XXIV. And be it enacted, That the Commissioners, after they have taken such Oath as aforesaid, may, by Writing under their Hands, summon before them any Person whom they shall believe capable of giving any Information concerning the Trading of, or any Act or Acts of Bankruptcy committed by the Person or Persons against whom such Commission is issued, and may also require any Person so summoned to produce any Books, Papers, Deeds, and Writings, and other Documents, in the Custody, Possession, or Power of such Person, which may appear to the said Commissioners to be necessary to establish such Trading, or Act or Acts of Bankruptcy; and every such Person so summoned shall incur such Danger or Penalty for not coming before the Commissioners, or for refusing to be sworn and examined, or for not disclosing the Truth, or for refusing to sign or subscribe his Examination, or for refusing to produce or for not producing any such Book, Paper, Deed, Writing, or Document, as is hereby provided as to Persons summoned after the Adjudication of Bankruptcy; and the Commissioners, upon Proof made before them of the Petitioning Creditor's Debt or Debts, and of the Trading, and Act or Acts of Bankruptcy of the Person or Persons against whom such Commission is issued, shall thereupon adjudge such Person or Persons Bankrupt.

Adjudication.

Commissioners to appoint Meetings, and to give Notice in the London Gazette.

XXV. And be it enacted, That the Commissioners, after they have so adjudged as aforesaid, shall forthwith cause Notice of such Adjudication to be given in the *London Gazette*, and shall appoint Three public Meetings for the Bankrupt to surrender and conform; the last of which Meetings shall be on the Forty-second Day hereby limited for such Surrender.

XXVI. And

Commissions not to abate by Death of the King. May be renewed, for Death of Commissioners; to proceed if Bankrupt die.

XXVI. And be it enacted, That no Commission shall abate by reason of a Demise of the Crown; and (if, by reason of the Death of Commissioners, or for any other Cause, it become necessary) any Commission may be renewed, but only Half the Fees usually paid upon obtaining Commissions shall be paid for the same; and if any Bankrupt shall die after Adjudication, the Commissioners may proceed in the Commission as they might have done if he were living.

Messenger may break open the Bankrupt's Doors, &c. and seize upon his Body or Property.

XXVII. And be it enacted, That any Person appointed by the Commissioners, by their Warrant under their Hands and Seals, may break open any House, Chamber, Shop, Warehouse, Door, Trunk, or Chest of any Bankrupt, where such Bankrupt, or any of his Property shall be reputed to be, and seize upon the Body or Property of such Bankrupt; and if the Bankrupt be in Prison or in Custody, the Person so appointed as aforesaid may seize any Property (his necessary Wearing Apparel only excepted) in the Custody or Possession of such Bankrupt, or of any other Person, in any Prison.

Messenger may seize Goods in Ireland.

XXVIII. And be it enacted, That the Person so appointed by the Commissioners as aforesaid may break open any House, Chamber, Shop, Warehouse, Door, Trunk, or Chest of such Bankrupt, in *Ireland*, where any of the Property of such Bankrupt shall be reputed to be, and seize the same: Provided such Warrant as aforesaid shall have been verified upon Oath, by the Attorney or Solicitor suing out the Commission, before the Mayor or other Chief Magistrate of the City, Borough, or Town Corporate where or near to which the said Commission is executed, and verified under the Common Seal thereof, or the Seal of the Office of such Mayor or other Magistrate; and provided also, that the Person thereby appointed shall, before a Justice of Peace residing in the County where such Property shall be reputed to be, depose upon Oath that he is the Person named in such Warrant.

Messenger may obtain Search Warrant, where Property of the Bankrupt is sworn to be concealed.

XXIX. And be it enacted, That in all Cases where it shall be made to appear to the Satisfaction of any Justice of Peace in *England* or *Ireland*, that there is Reason to suspect and believe that Property of the Bankrupt is concealed in any House, Premises, or other Place not belonging to such Bankrupt; such Justice of Peace is hereby authorized to grant a Search Warrant to the Person so deputed by the Commissioners as aforesaid, who may execute the same in like Manner, and shall be entitled to the same Protection as is allowed by Law in Execution of a Search Warrant for Property reputed to be stolen and concealed.

Execution of such Warrant in Scotland.

XXX. And be it further enacted, That if, in the Execution of such Warrant as aforesaid, it shall be necessary to have Access to any House, Chamber, Shop, Warehouse, Door, Trunk, or Chest of such Bankrupt, in *Scotland*, where any of the Property of such Bankrupt shall be reputed to be, or to seize and get Possession of such Property, such Warrant, after having been verified upon Oath as aforesaid, may be backed or indorsed with the Name of a Judge Ordinary or Justice of the Peace in *Scotland*, who are hereby required within their respective Jurisdictions to back or indorse the

same; and such Warrant so indorsed shall be sufficient Authority to the Person bringing such Warrant, and to all Officers of the Law in *Scotland*, to execute the same within the County or Burgh wherein it is so indorsed, and in virtue thereof to break open the House, Chamber, Shop, Warehouse, Door, Trunk, or Chest of such Bankrupt, and to seize and take Possession thereof, to be distributed under the said Commission, or otherwise dealt with according to Law.

Of Actions against Persons acting in obedience to Warrant of Commissioners.

XXXI. And be it enacted, That no Action shall be brought against any Person so appointed by the Commissioners for any thing done in obedience to their Warrant, unless Demand of the Perusal and Copy of such Warrant hath been made or left at the usual Place of Abode of such Person or Persons, by the Party or Parties intending to bring such Action, or by his or their Attorney or Agent, in Writing, signed by the Party or Parties demanding the same, and unless the same hath been refused or neglected for Six Days after such Demand; and if after such Demand and Compliance therewith, any Action be brought against the Person so appointed as aforesaid, without making the Petitioning Creditor or Creditors Defendant or Defendants, if living, on producing and proving such Warrant at the Trial of such Action, the Jury shall give their Verdict for the Defendant, notwithstanding any Defect of Jurisdiction in the Commissioners; and if such Action be brought against the Petitioning Creditor or Creditors, and the Person so appointed as aforesaid, the Jury shall, on Proof of such Warrant, give their Verdict for the Person so appointed as aforesaid, notwithstanding any such Defect of Jurisdiction as aforesaid; and if the Verdict shall be given against the Petitioning Creditor or Creditors, the Plaintiff or Plaintiffs shall recover his or their Costs against him or them, to be taxed so as to include such Costs as the Plaintiff or Plaintiffs are liable to pay to the Person so appointed as aforesaid.

Proof in such Actions that Defendants are Petitioning Creditors renders them liable.

XXXII. And be it further enacted, That in any such Action so brought as aforesaid against the Petitioning Creditor or Creditors, either alone or jointly with the Person so appointed by the Commissioners as aforesaid, for any thing done in obedience to their Warrant, Proof by the Plaintiff or Plaintiffs in such Action that the Defendant or Defendants, or any of them, are Petitioning Creditors, shall be sufficient for the Purpose of making such Defendant or Defendants liable, in the same Manner and to the same Extent as if the Act complained of in such Action had been done or committed by such Defendant or Defendants.

Commissioners empowered to summon Persons suspected of having Bankrupt's Property in their Hands, and all Persons who can give Information, &c.;

XXXIII. And be it enacted, That after Adjudication the Commissioners may, by Writing under their Hands, summon before them any Person known or suspected to have any of the Estate of the Bankrupt in his Possession, or who is supposed to be indebted to such Bankrupt; and also any Person whom the Commissioners believe capable of giving Information concerning any Part of the Bankrupt's Estate, or any fictious Debt, or any spurious Book or Document, or other Transactions material to the full Disclosure of the Dealings of the Bankrupt; and may also require such Person to produce any Books, Papers, Deeds, and Writings, and other Documents in his Custody

and compel them to produce Books, &c.

tody or Power, which may appear to the Commissioners necessary to the Verification of the Deposition of such Person, or to the full Disclosure of any of the Matters which the Commissioners are authorized to inquire into; and if such Person so summoned as aforesaid shall not come before the Commissioners at the Time appointed, having no lawful Impediment (made known to the said Commissioners at the Time of their Meeting, and allowed by them), the said Commissioners may, by Warrant under their Hands and Seals, the Person or Persons therein named for that Purpose, to apprehend and arrest such Person, and bring him before them to be examined as aforesaid.

Persons refusing to attend may be apprehended.

Persons refusing to be examined, or to produce Books, may be committed.

XXXIV. And be it enacted, That upon the Appearance of any Person so summoned as aforesaid, or if any Person be present at any Meeting of the Commissioners, it shall be lawful for them to examine every such Person either by Word of Mouth or by Interrogatories in Writing concerning any of the Matters which the said Commissioners are hereby authorized to inquire into, and to reduce into Writing the Answers of every such Person, and such Answers so reduced into Writing the Party examined is hereby required to sign and subscribe; and if any such Person shall refuse to be sworn, or, being one of the People called *Quakers*, to make solemn Affirmation, or shall refuse to answer any lawful Questions put to him by the said Commissioners touching the Matters aforesaid, or shall not fully answer, to the Satisfaction of the said Commissioners, any such lawful Questions, or shall refuse to sign and subscribe his Examination so reduced into Writing as aforesaid (not having any Objection allowed by the said Commissioners), or shall not produce any Books, Papers, Deeds, and Writings, and other Documents, in his Custody or Power, relating to any of the Matters aforesaid, which such Person was required by the Commissioners to produce, and to the Production of which he shall not state any Objection allowed by the said Commissioners, it shall be lawful for them, by Warrant under their Hands and Seals, to commit him to such Prison as they shall think fit, there to remain without Bail until he shall submit himself to them to be sworn or make Affirmation as aforesaid, and full Answers make, to their Satisfaction, to all such lawful Questions as shall be put to him, and sign and subscribe such Examination, and produce such Books, Papers, Deeds, Writings, and other Documents as aforesaid, in his Custody or Power, to the Production of which no such Objection as aforesaid has been allowed.

Witnesses to have their Expences.

XXXV. And be it further enacted, That where any Witness is summoned to attend before the Commissioners at any Meeting appointed prior to the Adjudication, his necessary Expences shall be tendered to every such Witness, in like Manner as is now by Law required upon Service of a Subpœna to a Witness in any Action at Law; and where any Witness is summoned to attend before the said Commissioners at any other Meeting, every such Witness shall have such Costs and Charges as the said Commissioners in their Discretion shall think fit.

Commissioners may summon Bankrupt

XXXVI. And be it enacted, That the Commissioners may, by Writing under their Hands, summon any Bankrupt before them, whether

whether such Bankrupt shall have obtained his Certificate or not; and in case he shall not come at the Time by them appointed, having no lawful Impediment, made known to them at such Time, and allowed by them, the said Commissioners may, by Warrant under their Hands and Seals, authorize any Person or Persons they shall think fit to arrest such Bankrupt, and bring him before them; and upon the Appearance of such Bankrupt, or if such Bankrupt be present at any Meeting of the said Commissioners, it shall be lawful for them to examine such Bankrupt upon Oath, either by Word of Mouth or on Interrogatories in Writing, touching all Matters relating either to his Trade, Dealings, or Estate, and to reduce his Answers into Writing, which Examination so reduced into Writing the said Bankrupt shall sign and subscribe; and if such Bankrupt shall refuse to be sworn, or to answer any Questions put to him by the Commissioners, touching any of the Matters aforesaid, or to sign and subscribe his Examination so reduced into Writing as aforesaid, (not having an Objection allowed by the said Commissioners), they may, by Warrant under their Hands and Seals, commit him to such Prison as they shall think fit, there to remain without Bail until he shall submit himself to the said Commissioners to be sworn, and full Answer make, to their Satisfaction, to such Questions as shall be put to him, and sign and subscribe such Examination.

Power to examine the Bankrupt.

Bankrupt refusing to be sworn, or answer or subscribe his Examination, to be imprisoned.

XXXVII. And be it enacted, That the Commissioners may summon before them the Wife of any Bankrupt, and examine her as to the Estate and Effects of such Bankrupt; and she shall incur such Danger or Penalty for not coming before the Commissioners, or for refusing to be sworn and examined, or to sign or subscribe her Examination, or for not disclosing the Truth, as is hereby provided against other Persons.

Commissioners may summon and examine the Bankrupt's Wife.

XXXVIII. And be it enacted, That if any Gaoler to whose Custody any Bankrupt or other Person shall be committed as aforesaid, shall suffer such Bankrupt or other Person to escape, every such Gaoler shall forfeit Five hundred Pounds; and every such Gaoler shall, upon the Request of any Creditor who shall have proved under the Commission, and who shall produce a Certificate thereof under the Hands of the Commissioners, (which they shall give *gratis*), forthwith produce any Person so committed as aforesaid to such Creditor; and if such Gaoler shall not produce such Person to such Creditor, he shall forfeit One hundred Pounds.

Penalty on Gaoler for Escape, 500*l.* and for refusing to produce his Prisoner to a Creditor, 100*l.*

XXXIX. And be it enacted, That if any Person be committed by the Commissioners for refusing to answer, or not fully answering any Question put to him by the said Commissioners, they shall, in their Warrant of Commitment, specify every such Question: Provided, that if any Person committed by the Commissioners shall bring any *Habeas Corpus*, in order to be discharged from such Commitment, and there shall appear on the Return of such *Habeas Corpus* any such Insufficiency in the Form of the Warrant whereby such Person was committed, by reason whereof he might be discharged, the Court or Judge before whom such Party shall be brought by *Habeas Corpus*, shall re-commit such Person to the same Prison, there to remain until he

Questions to be particularly specified on Warrant.

If Habeas Corpus be brought on such Commitment, the Judge may re-commit the Prisoner.

he shall conform, unless it shall be shown to such Court or Judge, by the Party committed, that he has fully answered all lawful Questions put to him by the Commissioners, or if such Person was committed for refusing to be sworn, or for not signing his Examination, unless it shall appear to any Court or Judge, that he had a sufficient Reason for the same: Provided also, that such Court or Judge shall, if required thereto by the Party committed, inspect and consider the whole of the Examination of such Party whereof any such Question was a Part, and if it shall appear from the whole Examination that the Answer or Answers of the Party committed is or are satisfactory, such Court or Judge may order the Party so committed to be discharged.

Court or Judge may look at the whole of the Examination.

In Actions of false Imprisonment, the Court may look at the whole of the Examination of the Party committed.

XL. And be it enacted, That in every Action, in respect of any such Commitment, brought by any Bankrupt or other Person so committed, the Court or Judge before which or whom such Action is tried, shall, if thereto required by the Defendant or Defendants in such Action, in case the whole of the Examination of the Party so committed shall not have been stated in the Warrant of Commitment, inspect and consider the whole of such Examination; and if upon such Inspection and Consideration it shall appear to such Court or Judge that the Party was lawfully committed, the Defendant or Defendants in such Action shall have the same Benefit therefrom as if the whole of such Examination had been therein stated.

No Writ to be sued out against any Commissioner in less than a Month after Notice given.

XLI. And be it enacted, That no Writ shall be sued out against, nor Copy of any Process served on any Commissioner, for any thing by him done as such Commissioner, unless Notice in Writing of such intended Writ or Process shall have been delivered to him, or left at his usual Place of Abode, by the Attorney or Agent for the Party intending to sue or cause the same to be sued out or served, at least One Calendar Month before the suing out or serving the same; and such Notice shall set forth the Cause of Action which such Party has or claims to have against such Commissioner; and on the Back of such Notice shall be indorsed the Name of such Attorney or Agent, together with the Place of his Abode, who shall receive no more than Twenty Shillings for preparing and serving such Notice.

Plaintiff shall not recover unless Notice proved, and no Evidence shall be given of any thing not contained in the Notice.

XLII. And be it enacted, That no such Plaintiff shall recover any Verdict against such Commissioner in any Case where the Action shall be grounded on any Act of the Defendant as Commissioner, unless it is proved upon the Trial of such Action that such Notice was given as aforesaid, but in default thereof such Commissioner shall recover a Verdict and Costs as aforesaid; and no Evidence shall be permitted to be given by the Plaintiff on the Trial of any such Action, of any Cause of Action, except such as is contained in the Notice.

Tender of Amends within One Month after

XLIII. And be it enacted, That every such Commissioner may, at any Time within One Calendar Month after such Notice, tender Amends to the Party complaining, or to his Agent or Attorney, and if the same is not accepted may plead such Tender in bar to

any Action brought against him grounded on such Writ or Process, together with the Plea of Not Guilty, and any other Plea with Leave of the Court; and if, upon Issue joined thereon, the Jury shall find the Amends so tendered to have been sufficient, they shall give a Verdict for the Defendant; and if the Plaintiff shall become nonsuit, or shall discontinue his Action, or if Judgment shall be given for such Defendant upon Demurrer, such Commissioner shall be entitled to the like Costs as he would have been entitled to in case he had pleaded the General Issue only; and if upon Issue so joined the Jury shall find that no Amends were tendered, or that the same were not sufficient, and also against the Defendant on such other Plea or Pleas, they shall give a Verdict for the Plaintiff, and such Damages as they shall think proper, which he shall recover together with Costs of Suit: Provided, that if any such Commissioner shall neglect to tender any Amends, or shall have tendered insufficient Amends before the Action brought, he may, by Leave of the Court where such Action shall depend, at any Time before Issue joined, pay into Court such Sum of Money as he shall think fit, whereupon such Proceedings shall be had in Court, as in other Actions where the Defendant is allowed to pay Money into Court.

Notice, and pleaded in bar, &c.

Amends may be paid into Court before Issue joined.

XLIV. And be it enacted, That every Action brought against any Person, for any thing done in pursuance of this Act, shall be commenced within Three Calendar Months next after the Fact committed; and the Defendant or Defendants in any such Action may plead the General Issue, and give this Act and the Special Matter in Evidence at the Trial, and that the same was done by Authority of this Act; and if it shall appear so to have been done, or that such Action was commenced after the Time before limited for bringing the same, or brought in any other County than as aforesaid, the Jury shall find for the Defendant or Defendants; and if there be a Verdict for the Defendant or Defendants, or if the Plaintiff or Plaintiffs shall be nonsuited, or discontinued his or their Action or Suit after Appearance thereto; or if, upon Demurrer, Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall recover Double Costs.

Limitation of Actions.

General Issue.

Double Costs.

XLV. And be it enacted, That the Commissioners may by Writing under their Hands appoint One or more Person or Persons an Assignee or Assignees of the Bankrupt's Real and Personal Estate, or of any Part thereof which shall by such Writing be vested in such Assignee or Assignees, without any Conveyance or Deed of Assignment, until the Choice of Assignees by the Creditors; and upon such Choice, the Consent in Writing of the Assignees so chosen to accept the Assignment of the Bankrupt's Estate, when verified by the Commissioners, shall divest such Estate out of the Assignee or Assignees so appointed by the Commissioners; and every such Assignee so appointed by the Commissioners shall deliver up all the Estate of the Bankrupt come to his Possession to the Assignees so chosen as hereinafter mentioned; and if such first Assignee or Assignees shall not within Ten Days after Notice given of the said Choice of Assignees, and of their Consent to accept such Assignment, signified to the first Assignee or Assignees by Writing under their Hands, make such Delivery

Commissioners may appoint Assignees until others are chosen by Creditors.

Penalty on first Assignee for not delivering the Effects to the new ones, 200*l.*

Delivery as aforesaid, every such first Assignee shall forfeit Two hundred Pounds.

Debts how to be proved.

XLVI. And be it enacted, That at the Three several Meetings so appointed by the Commissioners as aforesaid, and at every other Meeting by them appointed for Proof of Debts, whereof, and of the Purport whereof Ten Days Notice shall have been given in the *London Gazette*, every Creditor of the Bankrupt may prove his Debt by his own Oath; and that all Bodies Corporate and Public Companies may prove by an Agent, provided such Agent shall in his Deposition swear that he is such Agent as aforesaid, and that he is authorized to make such Proof; and if any Creditor shall live remote from the Place of Meeting of the Commissioners, he may prove by Affidavit sworn before a Master in Chancery, Ordinary or Extraordinary, or if such Creditor shall live out of *England*, by Affidavit sworn before a Magistrate where such Creditor shall be residing, and attested by a Notary Public; and no Creditor shall pay any Contribution on account of any such Debt: Provided that it shall be lawful for the said Commissioners to examine upon Oath, either by Word of Mouth or by Interrogatories in Writing, every Person claiming to prove a Debt under the said Commission, or to require such further Proof, and examine such other Persons in relation thereto, as they shall think fit.

Creditor may be examined upon Oath.

Bonâ fide Creditors shall be admitted to prove, notwithstanding any secret Act of Bankruptcy.

XLVII. And be it enacted, That every Person with whom any Bankrupt shall have really and *bonâ fide* contracted any Debt or Demand before the issuing the Commission against him, shall, notwithstanding any prior Act of Bankruptcy committed by such Bankrupt, be admitted to prove the same, and be a Creditor under such Commission, as if no such Act of Bankruptcy had been committed; provided such Person had not, at the Time the same was contracted, Notice (either actual or constructive) of any Act of Bankruptcy by such Bankrupt committed, or that he had stopped Payment.

Mutual Debts and Credits may be set off, notwithstanding a secret Act of Bankruptcy.

XLVIII. And be it enacted, That where there has been mutual Credit given by the Bankrupt and any other Person, or where there are mutual Debts between the Bankrupt and any other Person, the Commissioners shall state the Account between them, and one Debt or Demand may be set against another, notwithstanding any prior Act of Bankruptcy committed by such Bankrupt before the Credit given to or the Debt contracted by him; and what shall appear due on either Side on the Balance of such Account, and no more, shall be claimed or paid on either Side respectively; and every Debt or Demand hereby made proveable against the Estate of the Bankrupt, may also be set off in manner aforesaid against such Estate: Provided, that where there has been such prior Act of Bankruptcy, such Credit was given to the Bankrupt Two Calendar Months before the Date and suing forth of the Commission; and that the Person claiming the Benefit of such Set-off had not, when such Credit was given, any Notice either actual or constructive of an Act of Bankruptcy by such Bankrupt committed, or that he had stopped Payment.

XLIX. And

Debts not payable at the Time of the Bankruptcy may be proved, deducting Rebate of Interest.

XLIX. And be it enacted, That any Person who shall have given Credit to the Bankrupt upon valuable Consideration, for any Money which shall not have become payable when such Bankrupt committed an Act of Bankruptcy, may prove such Debt as if the same was payable presently, and receive Dividends equally with the other Creditors, deducting only thereout a Rebate of Interest for what he shall so receive, at the Rate of Five *per Cent.*, to be computed from the Declaration of a Dividend, to the Time such Debt would have become payable, according to the Terms upon which it was contracted.

Sureties and Persons liable for the Debts of Bankrupts may prove, after having paid such Debts.

L. And be it enacted, That any Person who at the issuing the Commission shall be Surety or liable for any Debt of the Bankrupt, or Bail for the Bankrupt, either to the Sheriff or to the Action, may, if he shall have paid the Debt, or any Part thereof in discharge of the whole Debt, (although he may have paid the same after the Commission issued) if the Creditor shall have proved his Debt under the Commission, stand in the Place of such Creditor as to the Dividends upon such Proof; or if the Creditor shall not have proved under the Commission, may prove his Demand in respect of such Payment as a Debt under the Commission, not disturbing the former Dividends, and may receive Dividends with the other Creditors although he may have become Surety, Bail, or liable as aforesaid, after an Act of Bankruptcy committed by such Bankrupt; provided that such Person had not, when he became such Surety or Bail, or so liable as aforesaid, Notice either actual or constructive of any Act of Bankruptcy by such Bankrupt committed, or that he had stopped Payment.

Obligee in Bottomry or Respondentia Bonds, and assured in Policy of Insurance, admitted to claim; and after Loss to prove.

Person effecting Insurance admitted to prove Loss, although he is not beneficially interested.

LI. And be it enacted, That the Obligee in any Bottomry or Respondentia Bond, and the assured in any Policy of Insurance made upon good and valuable Consideration, shall be admitted to claim; and after the Loss or Contingency shall have happened, to prove his Debt or Demand in respect thereof, and receive Dividends with the other Creditors, as if the Loss or Contingency had happened before the issuing the Commission against such Obligor or Insurer; and that the Person effecting any Policy of Insurance upon Ships or Goods with any Person as a Subscriber or Underwriter becoming Bankrupt, may prove any Loss to which such Bankrupt shall be liable in respect of such Subscription, although the Person so effecting such Policy was not beneficially interested in such Ships or Goods, in case the Person or Persons so interested is not or are not within the United Realm.

Annuity Creditor admitted to prove.

Value of Annuity how ascertained.

LII. And be it enacted, That any Annuity Creditor of any Bankrupt, by whatever Assurance the same be secured, and whether there were or not any Arrears of such Annuity due at the Bankruptcy, may prove for the Value of such Annuity; which Value the Commissioners shall ascertain, with Reference to the original Price given for the said Annuity, deducting therefrom such Diminution in the Value thereof as shall have been caused by the Lapse of Time since the Grant thereof to the Date of the Commission.

Sureties for Payment of Annuities granted by Bankrupt, in what Manner to come in under the Commission.

LIII. And be it enacted, That it shall not be lawful for any Person entitled to Annuity granted by any Bankrupt to sue any Person who may be collateral Surety for the Payment of such Annuity, until such Annuitant shall have proved under the Commission against such Bankrupt for the Value of such Annuity and for the Arrears thereof; and if such Surety, after such Proof, pay the Amount proved as aforesaid, he shall be thereby discharged from all Claims in respect of such Annuity; and if such Surety shall not (before any Payment of the said Annuity subsequent to the Bankruptcy shall have become due) pay the Sum so proved as aforesaid, he may be sued for the accruing Payments of such Annuity, until such Annuitant shall have been paid or satisfied the Amount so proved, with Interest thereon at the Rate of Four *per Cent. per Annum* from the Time of Notice of such Proof, and of the Amount thereof, being given to such Surety; and after such Payment or Satisfaction such Surety shall stand in the Place of such Annuitant in respect of such Proof as aforesaid, to the Amount so paid or satisfied as aforesaid by such Surety; and the Certificate of the Bankrupt shall be a Discharge to him from all Claims of such Annuitant or of such Surety in respect of such Annuity: Provided, that such Surety shall be entitled to Credit in Account with such Annuitant for any Dividends received by such Annuitant under the Commission, before such Surety shall have fully paid or satisfied the Amount so proved as aforesaid.

Debts contingent at the Time of the Bankruptcy to be proveable after the happening of the Contingency.

LIV. And be it enacted, That if any Bankrupt shall, before the issuing of the Commission, have contracted any Debt payable upon a Contingency which shall not have happened before the issuing of such Commission, the Person with whom such Debt has been contracted may, if he think fit, apply to the Commissioners to set a Value upon such Debt, who are hereby required to ascertain the Value thereof, and to admit such Person to prove the Amount so ascertained, and to receive Dividends thereon, or if such Value shall not be so ascertained before the Contingency shall have happened, then such Person may, after such Contingency shall have happened, prove in respect of such Debt, and receive Dividend with the other Creditors, not disturbing any former Dividends; provided such Person had not, when such Debt was contracted, Notice either actual or constructive of any Act of Bankruptcy by such Bankrupt committed, or that he was insolvent or had stopped Payment.

Interest on Promissory Notes and Bills of Exchange proveable.

LV. And be it enacted, That in all future Commissions against any Person or Persons liable upon any Bill of Exchange or Promissory Note, whereupon Interest is not reserved, overdue at the issuing the Commission, the Holder of such Bill of Exchange or Promissory Note may prove for Interest upon the same, to be calculated by the Commissioners to the Date of the Commission, at such Rate as is allowed by the Court of King's Bench in Actions upon such Bills or Notes.

Plaintiff obtaining Judgment, &c. entitled to prove for Costs,

LVI. And be it enacted, That if any Plaintiff in any Action at Law, or Suit in Equity, or Petitioner in Bankruptcy or Lunacy, shall have obtained any Judgment, Decree, or Order against any Person who shall thereafter become Bankrupt, for any Debt or Demand in

respect

respect of which such Plaintiff or Petitioner shall prove under the Commission, he may also prove for the Costs which he shall have incurred in obtaining the same, although such Costs shall not have been taxed at the Time of the Bankruptcy.

although not taxed at the Time of the Bankruptcy.

LVII. And be it enacted, That no Creditor who has brought any Action, or instituted any Suit against any Bankrupt, in respect of a Demand prior to the Bankruptcy, or which might have been proved as a Debt under the Commission against such Bankrupt, shall prove a Debt under such Commission, or have any Claim entered upon the Proceedings under such Commission, without relinquishing such Action or Suit; and the proving or claiming a Debt under a Commission by any Creditor, shall be deemed an Election by such Creditor to take the Benefit of such Commission with respect to the Debt so proved or claimed: Provided, that such Creditor shall not be liable to the Payment to such Bankrupt or his Assignees of the Costs of such Action or Suit so relinquished by him, and that where any such Creditor shall have brought any Action or Suit against such Bankrupt jointly with any other Person or Persons, his relinquishing such Action or Suit against the Bankrupt shall not affect such Action or Suit against such other Person or Persons: Provided, that any Creditor who shall have so elected to prove or claim as aforesaid, if the Commission be afterwards superseded, may proceed in the Action as if he had not so elected, and in bailable Actions shall be at liberty to arrest the Defendant *de novo*, if he has not put in Bail below, or perfected Bail above, or if the Defendant has put in or perfected such Bail, to have recourse against such Bail by requiring the Bail below to put in and perfect Bail above, within the first Eight Days in Term after Notice in the *London Gazette* of the superseding such Commission, and by suing the Bail upon their Recognizance, if the Condition thereof is broken.

Proving a Debt under a Commission to be an Election not to proceed against the Bankrupt by Action.

Creditor having elected to come in under the Commission, if it be afterwards superseded, restored to his former Rights.

LVIII. And be it enacted, That whenever it shall appear to the Assignees, or to Two or more Creditors who have each proved Debts to the Amount of Twenty Pounds or upwards, that any Debt proved under the Commission is not justly due, either in whole or in part, such Assignees or Creditors may make Representation thereof to the Commissioners, who may summon before them and examine upon Oath any Person who shall have so proved as aforesaid, together with any Person whose Evidence may appear to the Commissioners to be material either in support of or in opposition to any such Debt; and if the said Commissioners, upon the Evidence given on both Sides, or (if the Person who shall have so proved as aforesaid shall not attend to be examined, having been first duly summoned, or Notice having been left at his last Place of Abode) upon the Evidence adduced by such Assignees or Creditors as aforesaid, shall be of Opinion that such Debt is not due either wholly or in part, the said Commissioners may expunge the same, either wholly or in part, from the Proceedings: Provided, that such Assignees or Creditors requiring such Investigation shall, before it is instituted, sign an Undertaking to be filed with the Proceedings, to pay such Costs as the Commissioners shall adjudge, to the Creditor who has proved such Debt as aforesaid; such Costs to be recovered

Commissioners may expunge Proof of Debts.

recovered by Petition: Provided also, that such Assignees or Creditors may apply, in the first Instance, by Petition to the Lord Chancellor, or that either Party may petition against the Determination of the Commissioners.

Choice of Assignees at Second Meeting; how chosen.

LIX. And be it enacted, That at the Second Meeting appointed by the Commissioners as aforesaid, Assignees of the Bankrupt's Estate and Effects shall be chosen; and all Creditors who have proved Debts under the Commission to the Amount of Ten Pounds and upwards, and joint Creditors of Two or more Persons being Partners, who have proved Debts to such Amount in any Commission against One or more of such Partners, may vote in such Choice; and also any Person authorized by Letter of Attorney from any such Creditor or Creditors, upon Proof of the Execution thereof, either by Affidavit sworn before a Master in Chancery, Ordinary or Extraordinary, or by Oath before the Commissioners *viva voce*, and in case of Creditors residing out of *England*, by Oath before a Magistrate where the Party shall be residing, duly attested by a Notary Public.

Commissioners may reject any Person chosen Assignee as unfit.

LX. Provided always, and be it further enacted, That the Commissioners shall have Power to reject any Person so chosen, who shall appear to them for any Reason unfit for the Office of Assignee as aforesaid.

Estate of Bankrupt Real and Personal vested in Assignees for Benefit of Creditors.

LXI. And be it enacted, That upon such Choice being made, a Certificate or Declaration shall be signed by the Commissioners, and such Certificate or Declaration shall immediately vest the Whole of such Bankrupt's Real and Personal Estate, both within the United Kingdom and Abroad, except Copyhold and Customary Lands, and all such Estate as aforesaid which he may purchase, or which may revert, descend, be devised, or come to him before he shall have obtained his Certificate of Conformity, and all Debts due or to be due to the Bankrupt, in such Assignee or Assignees, for the Benefit of the Creditors who shall have proved under the said Commission, as fully and with the same Rights and Powers, both of alienating or recovering the same, as such Bankrupt possessed; provided that such Certificate or Declaration of the Choice of Assignees be entered of Record, within Two Months from the Signature thereof, in the Office of the Register of Proceedings in Bankruptcy.

Lord Chancellor may, upon Petition, remove Assignees.

LXII. And be it enacted, That the Lord Chancellor may, upon Petition, direct the Removal of any Assignee or Assignees so chosen as aforesaid, and the Creditors shall thereupon proceed in manner aforesaid to the Choice of a new Assignee or Assignees; and the Certificate or Declaration of such Choice of a new Assignee or Assignees, signed by the Commissioners as aforesaid, shall vest the whole of such Bankrupt's Real and Personal Estate in such new Assignee or Assignees, either solely, or jointly with any Assignee or Assignees who shall not have been removed; provided that the Order for the Removal of such Assignee or Assignees, and the Certificate or Declaration of the Choice of a new Assignee or Assignees as aforesaid, be both entered of Record in manner aforesaid.

LXIII. And

Suits not to be abated by Removal of Assignees.

LXIII. And be it enacted, That whenever a new Assignee or Assignees shall be chosen as aforesaid, no Action at Law or Suit in Equity shall be thereby abated; but the Court in which any Action or Suit is depending may, upon the Suggestion of such Removal and new Choice, allow the Name of such new Assignee or Assignees to be substituted in the Place of the former; and such Action or Suit shall be prosecuted in the Name or Names of the new Assignee or Assignees, in the same Manner as if he or they had originally commenced the same.

Assignees may make Sale of Copyhold Lands for the Benefit of Creditors.

LXIV. And be it enacted, That the Assignees may, by Deed indented and enrolled in any of His Majesty's Courts of Record, make Sale for the Benefit of the Creditors of any Copyhold or Customaryhold Lands, or of any Interest to which any Bankrupt is entitled therein, and thereby entitle or authorize any Person or Persons on their Behalf to surrender the same, at any Court at which the same may be lawfully surrendered, for the Purpose of any Purchaser or Purchasers being admitted thereto.

Vendees of Copyhold Lands shall compound with the Lord for their Fines.

LXV. And be it enacted, That every Person to whom any Sale of Copyhold or Customary Lands or Tenements shall be made by the Assignees, shall, before he enter or take any Profit of the same, agree and compound with the Lords of the Manors of whom the same shall be holden, for such Fines, Dues, and other Services as theretofore have been usually paid for the same; and thereupon the said Lords shall, at the next or any subsequent Court to be holden for the said Manors, grant unto such Vendee, upon Request, the said Copy or Customary Lands or Tenements, for such Estate or Interest as shall have been so sold to him as aforesaid, reserving the ancient Rents, Customs, and Services, and shall admit him Tenant of the same.

Assignees may make Sale of Hereditaments whereof the Bankrupt is seised of any Estate Tail, &c.

LXVI. And be it enacted, That the Assignees may, by Deed indented and enrolled as aforesaid, make Sale, for the Benefit of the Creditors, of any Hereditaments situated in *England* or *Ireland*, whereof the Bankrupt is seised of any Estate Tail in Possession, Reversion, or Remainder; and every such Deed shall be good against the Bankrupt and the Issue of his Body, and against all Persons claiming under him after he became Bankrupt, and against all Persons whom the said Bankrupt, by Fine, Common Recovery, or other Means, might cut off or debar from any Remainder, Reversion, or other Interest in or out of any of the said Hereditaments.

Conditional Estates granted by the Bankrupt may be redeemed.

LXVII. And be it enacted, That if any Bankrupt shall have granted, conveyed, assured, or pledged any Real or Personal Estate, or deposited any Deeds, such Grant, Conveyance, Assurance, Pledge, or Deposit being upon Condition or Power of Redemption at a future Day, by Payment of Money or otherwise, the Assignees may, before the Time for the Performance of such Condition, make Tender or Payment of Money, or other Performance, according to such Condition, as fully as the Bankrupt might have done; and after such Tender, Payment, or Performance, may sell and dispose of such Real or Personal Estate.

LXVIII. And

Sales to be free from Auction Duty.

LXVIII. And be it enacted, That all Sales, either of the Real or Personal Estate of Bankrupts, or of such Debts as aforesaid, shall be free from Auction Duty.

Commissioners may proceed when the Bankrupt by Fraud makes himself Accountant to the King.

LXIX. And be it enacted, That if any Real or Personal Estate or Debts of any Bankrupt be extended after he shall have become Bankrupt, by any Person under Pretence of his being an Accountant of or Debtor to the King, the Commissioners may examine upon Oath whether the said Debt was due to such Debtor or Accountant upon any Contract originally made between such Accountant and the Bankrupt; and if such Contract was originally made with any other Person than the said Debtor or Accountant, or in Trust for any other Person or Persons, the Commissioners may sell and dispose of such Real and Personal Estate or Debts for the Benefit of the Creditors under the Commission; and such Sale shall be valid against the said Extent, and all Persons claiming under it; and any Person to whom the said Real and Personal Estate or Debts shall be bargained, sold, granted, or assigned by the Commissioners, shall have and may recover the same against any Person who shall detain the same.

Goods in the Possession, Order, or Disposition of the Bankrupt may be assigned by the Commissioners.

LXX. And be it enacted, That if any Bankrupt, at the Time he becomes Bankrupt, shall, by the Consent and Permission of the true Owner thereof, have in his Possession, Order, or Disposition, any Goods or Chattels whereof he was reputed Owner, or whereof he had taken upon him the Sale, Alteration, or Disposition as Owner, the Commissioners may sell and dispose of the same for the Benefit of the Creditors under the Commission: Provided, that nothing herein contained shall invalidate or affect any Transfer or Assignment of any Ship or Vessel, or any Share thereof, made as a Security for any Debt or Debts, either by way of Mortgage or Assignment duly registered according to the Provisions of an Act of Parliament made in the Fourth Year of His present Majesty, intituled *An Act for the registering of Vessels.*

Not to affect any Assignment of Vessels, or of any Share therein. 4 G. 4. c. 41.

Bankrupt conveying his Lands or Goods to others, or delivering Securities or transferring Debts into other Names, void.

LXXI. And be it enacted, That if any Bankrupt, being at the Time insolvent, shall (except upon the Marriage of any of his Children, or for some valuable Consideration) have conveyed, assigned, or transferred to any of his Children, or any other Person, any Hereditaments, Officers Fees, Annuities, Leases, Goods, or Chattels, or have delivered or made over to any such Person any Bills, Bonds, Notes, or other Securities, or have transferred his Debts to any other Person or Persons, or into any other Person's Name, the Commissioners may sell and dispose of the same as aforesaid; and every such Sale shall be valid against the Bankrupt, and such Children and Persons as aforesaid, and against all Persons claiming under him.

Distress not to be available for more than Two Years Rent due; the Landlord to prove for the Residue.

LXXII. And be it enacted, That when any Distress for Rent shall be made and levied upon the Goods or Effects of any Person becoming Bankrupt, whether before or after the issuing of a Commission (an Act of Bankruptcy having been previously committed), if there shall be Two Years Rent or upwards due to the Landlord or Party making the Distress, such Distress shall not be in any Manner available for more

more than Two Years Rent accruing prior to the Date of the Commission; but the Landlord or Party to whom the Rent shall be due, shall be allowed to come in as a Creditor under the Commission for the Overplus of the Rent due, and for which the Distress shall not be available.

Bankrupts entitled to Leases, or Agreements for Leases, when liable for Rent or Covenants.

LXXIII. And be it enacted, That any Bankrupt entitled to any Lease or Agreement for a Lease, if the Assignees accept the same, shall not be liable to pay any Rent accruing after the Date of the Commission, or to be sued in respect of any subsequent Non-observance or Non-performance of the Conditions, Covenants, or Agreements therein contained; and if the Assignees decline the same, shall not be liable as aforesaid, in case he deliver up such Lease or Agreement to the Lessor, or such Person agreeing to grant a Lease, within Fourteen Days after he shall have Notice the Assignees shall have declined as aforesaid; and if the Assignees shall not (upon being thereto required) elect whether they will accept or decline such Lease or Agreement for a Lease, the Lessor or Person so agreeing as aforesaid, or any Person entitled under such Lessor or Person so agreeing, may apply by Petition to the Lord Chancellor, who may order them so to elect, and to deliver up such Lease or Agreement, in case they shall decline the same, and the Possession of the Premises; or may make such other Order therein as he shall think fit.

If Assignees decline to determine whether they will accept the Lease, the Lessor may petition.

Vendor of any Estate in Lands may compel Assignees to elect whether they will abide by, or decline the Agreement.

LXXIV. And be it enacted, That if any Bankrupt shall have entered into any Agreement for the Purchase of any Estate in Land, the Vendor thereof, or any Person claiming under him, if the Assignees of such Bankrupt shall not (upon being thereto required) elect whether they will abide by and execute such Agreement, or abandon the same, may apply, by Petition, to the Lord Chancellor, who may thereupon order them so to elect, and if they shall elect to abandon the same, may order them to deliver up the said Agreement and the Possession of the Premises to the Vendor or Person claiming under him, or may make such other Order therein as he shall think fit.

Assignees may execute Powers previously vested in Bankrupts.

LXXV. And be it enacted, That all Powers vested in any Bankrupt, which he might legally execute for his own Benefit (except the Right of Nomination to any vacant Ecclesiastical Benefice) may be executed by the Assignees for the Benefit of the Creditors, in such Manner as the Bankrupt might have executed the same.

Lord Chancellor may order Bankrupts to join in Conveyances.

LXXVI. And be it enacted, That the Lord Chancellor may, upon the Petition of the Assignees or any Purchaser from them of any Part of the Bankrupt's Estate, if such Bankrupt shall not try the Validity of the Commission, or if there shall have been a Verdict at Law establishing its Validity, order the Bankrupt to join in any Conveyance of such Estate or any Part thereof; and if he shall not execute such Conveyance within the Time directed by the Order, such Bankrupt, and all Persons claiming under him, shall be estopped from objecting to the Validity of such Conveyance; and all Estate, Right, or Title which such Bankrupt had therein, shall be as effectually barred by such Order, as if such Conveyance had been executed by him.

LXXVII. And

Bankrupt holding Stock as Trustee, the Chancellor may order Conveyance or Assignment to other Trustees.

LXXVII. And be it enacted, That if any Bankrupt shall have standing in his Name as Trustee, either alone or jointly, any Government Stock, Funds, or Annuities, or any of the Stock of any Company within the United Realm, the Lord Chancellor may, on the Petition of the Person or Persons entitled in Possession to the Receipt of the Dividends thereof, on due Notice given to all other Persons (if any) interested therein, order the Assignees, and all Persons whose Act or Consent thereto is necessary, to transfer the said Stock, Funds, or Annuities to such Person or Persons as the Lord Chancellor shall think fit, upon the same Trusts as the said Stock, Funds, or Annuities were subject to before the Bankruptcy, or such of them as shall be then subsisting and capable of taking Effect, and also to receive and pay over the Dividends thereof as the Lord Chancellor shall direct; and if any such Bankrupt shall have any such Stock, Funds, or Annuities standing in his Name as aforesaid, in his own Right, the Commissioners may, by Writing under their Hands, order all Persons whose Act or Consent is thereto necessary, to transfer the same into the Name of the Assignees, and to pay all Dividends upon the same to such Assignees; and all such Persons whose Act or Consent is so necessary as aforesaid are hereby indemnified for all Things done or permitted pursuant to such Order.

Where Bankrupt beneficially entitled to Stock.

Conveyances, Payments, Contracts, Executions, and Attachments made or levied without Notice, &c. Two Months before the Commission, valid.

LXXVIII. And be it enacted, That all Conveyances by, all Payments by, and all Contracts and other Dealings and Transactions by and with any Bankrupt, *bond fide* made and entered into more than Two Calendar Months before the Date and issuing of the Commission against him; and all Executions, Attachments, and Distresses for Rent against the Lands and Tenements or Goods and Chattels of such Bankrupt, *bond fide* executed or levied more than Two Calendar Months before the issuing of such Commission, shall be valid, notwithstanding any prior Act of Bankruptcy by him committed; provided the Person or Persons so dealing with such Bankrupt, or at whose Suit or on whose Account such Execution, Attachment, or Distress shall have issued or been levied, had not at the Time of such Conveyance, Payment, Contract, Dealing, or Transaction, or at the Time of executing or levying such Execution, Attachment, or Distress, Notice, either actual or constructive, of any prior Act of Bankruptcy by him committed, or that he had stopped Payment: Provided also, that where a Commission has been superseded, if any other Commission shall issue against any Person or Persons comprised in such first Commission within Two Calendar Months next after it shall have been superseded, no such Conveyance, Payment, Contract, Dealing, or Transaction, Execution, Attachment, or Distress, shall be valid, unless made, entered into, executed, or levied more than Two Calendar Months before the issuing of the first Commission.

Where an invalid Commission has issued within the Two Months, which is afterwards superseded, under a new Commission, the Two Months shall be reckoned from the Date of the First Commission.

Persons not liable to refund in respect of Payments before such Notice.

LXXIX. And be it enacted, That no Person really and *bond fide* a Creditor of any Bankrupt shall be liable to repay to the Assignees any Money which before the issuing of the Commission was really and *bond fide* received by such Person of the Bankrupt; provided such Person had not at the Time of receiving the same such Notice as aforesaid.

LXXX. And

What shall be constructive Notice.

LXXX. And be it enacted, That the issuing of a Commission shall be deemed Notice of a prior Act of Bankruptcy (if an Act of Bankruptcy has been actually committed before the issuing the Commission) if the Adjudication of the Person or Persons against whom such Commission has issued shall have been notified in the *London Gazette*, and the Person or Persons to be affected by such Notice may reasonably be presumed to have seen the same.

Persons not to be endangered for Payment of Debts or Delivery of Goods without Notice.

LXXXI. And be it enacted, That no Person or Company having in his or their Possession or Custody any Personal Estate belonging to any Bankrupt, nor any Person indebted to such Bankrupt, shall be endangered by reason of the Delivery of any such Personal Estate, or the Payment of any such Debt to the Bankrupt or his Order; provided such Person or Company had not at the Time of such Delivery or Payment actual Notice that such Bankrupt had committed an Act of Bankruptcy or had stopped Payment.

Bodies Politic, &c. deemed to have Notice, if Person acting on their Behalf had Notice.

LXXXII. And be it enacted, That if any accredited Agent of any Body Corporate, or Public Company, shall have had Notice, either actual or constructive, of any Act of Bankruptcy or Stoppage of Payment, such Body Corporate or Company shall be thereby deemed to have had such Notice.

Titles to Property sold under Commission not to be impeached unless Commission be superseded, &c.

LXXXIII. And be it enacted, That no Title to any Real or Personal Estate sold under any Commission, or under any Order in Bankruptcy, shall be impeached by the Bankrupt or any Person claiming under him, in respect of any Defect in the suing out of the Commission, or in any of the Proceedings under the same, unless the Bankrupt shall have commenced Proceedings to supersede the said Commission, and duly prosecuted the same, within Twelve Calendar Months from the issuing thereof.

Assignees, with Consent of Creditors, may compound or submit Disputes to Arbitration.

LXXXIV. And be it enacted, That the Assignees with the Consent of the major Part in Value of Creditors, who shall have proved under the Commission, present at any Meeting, whereof and of the Purport whereof Twenty-one Days Notice shall have been given in the *London Gazette*, may compound with any Debtor to the Bankrupt's Estate, and take any reasonable Part of the Debt in discharge of the whole, or may give Time or take Security for the Payment of such Debt; or may submit any Dispute between such Assignees and any Persons, concerning any Matter relating to such Bankrupt's Estate, to the Determination of Arbitrators, to be chosen by the Assignees and the major Part in value of such Creditors, and the Party with whom they shall have such Dispute; and the Award shall be binding on all the Creditors; and the Assignees are hereby indemnified for what they shall do according to the Directions aforesaid; and no Suit in Equity shall be commenced by the Assignees without such Consent as aforesaid; provided, that if no Creditor (except the Assignees) shall attend at any such Meeting, whereof such Notice shall have been given as aforesaid, the Assignees shall have Power, with the Consent of the Commissioners testified in Writing under their Hands, to do any of the Matters aforesaid, and the same shall be binding on all the Creditors.

Assignees may not commence a Suit in Equity without Consent of Creditors.

Assignees of One or more Members of a Firm may use the Names of Partners in Suits.

LXXXV. And be it enacted, That in any Commission against any one or more Member or Members of a Firm, the Lord Chancellor may, upon Petition, authorize the Assignees to commence or prosecute any Action at Law or Suit in Equity, in the Names of such Assignees and of the remaining Partner or Partners, against any Debtor of the Partnership, and may obtain such Judgment, Decree, or Order therein, as if such Action or Suit had been instituted with the Consent of such Partner or Partners; and if such Partner or Partners shall execute any Release of the Debt or Demand for which such Action or Suit is instituted, such Release shall be void: Provided that every such Partner, if no Benefit is claimed by him by virtue of the said Proceedings, shall be indemnified against the Payment of any Costs in respect of such Action or Suit, and that the Lord Chancellor may, upon the Petition of such Partner, direct that he may receive so much of the Proceeds of such Action or Suit as the Lord Chancellor shall think fit.

Partners whose Names are so used in Suits to be indemnified, and receive Proceeds upon Petition.

In Actions by or against any Person acting under the Commission, no Proof required at the Trial of Petitioning Creditor's Debt, Trading and Act of Bankruptcy, unless Notice be given that those Matters are to be disputed.

LXXXVI. And be it enacted, That in any Action by or against any Assignee, or in any Action against any Commissioner or Person acting under the Warrant of the Commissioners, for any thing done as such Commissioner, or under such Warrant, no Proof shall be required at the Trial of the Petitioning Creditor's Debt or Debts, or of the Trading, or Act or Acts of Bankruptcy respectively, unless the other Party in such Action shall, if Defendant, at or before pleading, and if Plaintiff, before Issue joined, give Notice in Writing to such Assignee, Commissioner, or other Person, that he intends to dispute some and which of such Matters; and where such Notice shall have been given, if such Assignee, Commissioner, or other Person shall prove the Matter so disputed, or the other Party admit the same, the Judge before whom the Cause shall be tried may, if he thinks fit, grant a Certificate of such Proof or Admission; and such Assignee, Commissioner, or other Person shall be entitled to the Costs, to be taxed by the proper Officer, occasioned by such Notice; and such Costs shall, if such Assignee, Commissioner, or other Person shall obtain a Verdict, be added to the Costs; and if the other Party shall obtain a Verdict, shall be deducted from the Costs, which such other Party would otherwise be entitled to receive from such Assignee, Commissioner, or other Person.

The same in Suits in Equity.

LXXXVII. And be it enacted, That in all Suits in Equity by or against the Assignees, no Proof shall be required at the Trial of the Petitioning Creditor's Debt or Debts, or of the Trading, or Act or Acts of Bankruptcy respectively, as against any the Parties in such Suit, except such Parties as shall, within Ten Days after Rejoinder, give Notice in Writing to the Assignees of his or their Intention to dispute some and which of such Matters; and where such Notice shall have been given, if the Assignees shall prove the Matter so disputed, the Costs occasioned by such Notice to be taxed by the proper Officer shall, if the Court see fit, be paid by the Party or Parties so giving such Notice as aforesaid, and the Service of such Notice may be proved by Affidavit upon the hearing of the Cause.

LXXXVIII. And

LXXXVIII. And be it enacted, That if the Bankrupt shall not, if he was within the United Kingdom at the issuing of the Commission, within Two Calendar Months after the Adjudication, or (if he was out of the United Kingdom) within Two Calendar Months after his Return, have given Notice of his Intention to dispute the Commission, and have proceeded therein with due Diligence, the Depositions taken before the Commissioners at the Time of or previous to the Adjudication of the Petitioning Creditor's Debt or Debts, and of the Trading and Act or Acts of Bankruptcy, shall be conclusive Evidence of the Matters therein respectively contained, in all Actions at Law or Suits in Equity brought by the Assignees, for any Debt or Demand for which the Bankrupt might have sustained any Action or Suit.

Depositions conclusive in Actions or Suits by Assignees for any Debt of the Bankrupt, unless he dispute the Commission, &c.

LXXXIX. And be it enacted, That if the Assignees commence any Action or Suit for any Money so due to the Bankrupt before the Time allowed as aforesaid for him to dispute the Commission shall have elapsed, any Defendant in any such Action or Suit may, after Notice given to the Assignees, pay the same or any Part thereof into the Court in which such Action or Suit is brought; and all Proceedings with respect to the Money so paid into Court shall thereupon be stayed, and after the Time aforesaid shall have elapsed, the Assignees shall have the same paid to them out of Court.

Proviso for Debtor to the Estate paying the Debt into Court when sued by the Assignee before the Time for the Bankrupt's contesting the Commission is over.

XC. And be it enacted, That all Persons from whom the Assignees shall have recovered any Real or Personal Estate, either by Judgment or Decree, are hereby discharged, in case the Commission be afterwards superseded, from all Demands which may thereafter be made in respect of the same, by the Person or Persons against whom such Commission issued, and all Persons claiming under him or them; and all Persons who shall, without Action or Suit, *bonâ fide* deliver up Possession of any Real or Personal Estate to the Assignees, or pay any Debt claimed by them, are hereby discharged from all Claim of any such Person or Persons as aforesaid in respect of the same, or any Person claiming under him or them; provided such Notice to try the Validity of the Commission had not been given and been proceeded in within the Time and in Manner aforesaid.

If the Commission afterwards superseded, Persons from whom the Assignees have recovered, or who *bonâ fide* paying the Assignees, &c. discharged from Claims by the Bankrupt.

XCI. And be it enacted, That all Things done pursuant to the Act passed in the Fifth Year of King *George* the Second, and hereby repealed, whereby it was enacted that the Lord Chancellor should appoint a Place where all Matters relating to Commissions of Bankruptcy should be entered of Record, and should appoint a Person to have the Custody thereof, be hereby confirmed; and the Lord Chancellor may from Time to Time, by Writing under his Hand, appoint a proper Person, who shall by himself, or his Deputy, to be approved by the said Lord Chancellor, enter of Record all Matters relating to Commissions, and have the Custody of the Entries thereof; and the Person so to be appointed, and his Deputy, shall continue in their respective Offices so long as they shall respectively behave themselves well, and shall not be removed, except by Order in Writing under the Hand of the Lord Chancellor, on sufficient Cause therein specified.

Office for registering Proceedings in Bankruptcy.

XCII. And

No Commission, Adjudication, Certificate or Declaration shall be received in Evidence, unless entered of Record, for which Entry the Fees herein mentioned shall be paid.

XCII. And be it enacted, That in all Commissions to be issued after the passing of this Act, no Commission of Bankruptcy, Adjudication of Bankruptcy by the Commissioners, Certificate or Declaration of Choice of Assignees, or Certificate of Conformity, shall be received as Evidence in any Court of Law or Equity, unless the same shall have been first so entered of Record as aforesaid; and the Person so appointed to enter Matters of Record as aforesaid shall be entitled to receive for such Entry of every such Commission, Adjudication of Bankruptcy, and Certificate or Declaration of Choice of Assignees, or Order for vacating the same respectively, having the Certificate of such Entry indorsed thereon respectively, the Fee of Five Shillings each, and for the Entry of every Certificate of Conformity having the like Certificate indorsed thereon, Two Shillings and Sixpence; and every such Instrument shall be so entered of Record upon the Application of or on behalf of any Party interested therein, and on Payment of the several Fees aforesaid, without any Petition in Writing presented for that Purpose; and the Lord Chancellor may, upon Petition, direct any Depositions, Proceedings, or other Matter relating to Commissions of Bankruptcy, to be entered of Record as aforesaid, and also appoint such Fee and Reward for the Labour therein of the Person so appointed as aforesaid, as the Lord Chancellor shall think reasonable; and all Persons shall be at liberty to search for any of the Matters so entered of Record as aforesaid: Provided, that on the Production in Evidence of any Instrument so directed to be entered of Record, having the Certificate thereon purporting to be signed by the Person so appointed to enter the same, or by his Deputy, the same shall, without any Proof of such Signature, be received as Evidence of such Instrument having been so entered of Record as aforesaid.

Office Copies made Evidence in certain Cases.

XCIII. And be it enacted, That in every Action, Suit, or Issue, Office Copies of any original Instrument or Writing filed in the Office, or officially in the Possession of the Lord Chancellor's Secretary of Bankrupts, shall be Evidence to be received of every such original Instrument or Writing respectively; and if any such original Instrument or Writing shall be produced on any Trial, the Costs of producing the same shall not be allowed on Taxation, unless it appears that the Production of such original Instrument or other Writing was necessary.

Punishment of Perjury and false Affirmation.

XCIV. And be it enacted, That any Bankrupt or other Person who shall in any Examination before the Commissioners, or in any Affidavit or Deposition authorized or directed by the present or any Act hereby repealed, wilfully and corruptly swear falsely, being convicted thereof, shall suffer the Pains and Penalties in force against wilful and corrupt Perjury: And where any Oath is hereby directed to be taken or administered, or Affidavit to be made, by or to any Party, such Party, if a Quaker, shall or may make solemn Affirmation; and all Quakers who shall in any Case knowingly and wilfully affirm falsely, shall suffer the same Penalties as are provided against Persons guilty of wilful and corrupt Perjury; and all Persons before whom Oaths or Affidavits are hereby directed to be made, are respectively empowered to administer the same, and also such solemn Affirmation as aforesaid.

XCV. And

Application of Forfeitures.

XCV. And be it enacted, That all Sums of Money forfeited under this Act, or by virtue of any Conviction for Perjury committed in any Oath hereby directed or authorized, may be sued for by the Assignees in any of His Majesty's Courts of Record; and the Money so recovered, the Charges of Suit being deducted, shall be divided among the Creditors; and if the Creditors shall have been fully paid, one Moiety of the Surplus of such Forfeitures shall be paid to the King, and the other be distributed amongst the Poor of the Parish where the Bankrupt resided.

Application of the Forfeitures in case of a Surplus.

Assignees directed to keep a Book of Account of Bankrupt's Estate.

Commissioners may summon Assignees, &c.

XCVI. And be it enacted, That the Assignees shall keep an Account, wherein they shall enter all Property of the Bankrupt received by them, and all Payments made by them on account of the Bankrupt's Estate; which Account every Creditor who shall have proved may inspect at all seasonable Times; and the Commissioners may at all Times, by Writing under their Hands, summon the Assignees before them, and require them to produce all Books, Papers, Deeds, Writings, and other Documents relating to the Bankruptcy in their Possession; and if such Assignees so summoned shall not come before the Commissioners at the Time appointed, having no Impediment made known to the Commissioners at the Time of their meeting, and allowed by them, the said Commissioners may, by Warrant under their Hands and Seals, directed to such Person as they shall think fit, cause such Assignees to be arrested and brought before them, and upon their refusing to produce such Books, Deeds, Writings, Papers, or Documents as aforesaid, the said Commissioners may commit the Party so refusing to such Prison as they shall think fit, there to remain without Bail, until such Assignees shall submit themselves to the said Commissioners.

Creditors to direct to where the Money arising from the Bankrupt's Estate shall be paid in; or in Default of such Direction the Commissioners direct such Payment.

XCVII. And be it enacted, That at the Meeting of Creditors for the Choice of Assignees, that the major Part in Value of such Creditors there present may direct how and with whom and where the Money received from Time to Time out of the Estate shall be paid in and remain until it be divided; and if such Creditors shall not make such Direction as aforesaid, the Commissioners shall, immediately after such Choice and at the same Meeting, make such Direction; but no Money shall be directed to be paid into the Hands of any of the Commissioners, or of the Solicitor to the Commission, or into any Banking-house or other House of Trade in which any such Commissioner, Assignee, or Solicitor is interested.

Commissioners may direct the Money paid in of Bankrupt's Estate to be vested in Exchequer Bills.

XCVIII. And be it enacted, That the Commissioners may, as often as it shall appear to them expedient for the Bankrupt's Estate, direct any Money, Part of such Estate, to be invested in the Purchase of Exchequer Bills, for the Benefit of the Creditors, and may direct where and with whom such Exchequer Bills shall be kept, and cause such Exchequer Bills to be sold, when it shall appear to them expedient, and may direct the Proceeds thereof to be again laid out in the Purchase of Exchequer Bills, or to be applied for the Benefit of the Creditors, subject to the Control of the Lord Chancellor.

Assignee disobeying Direction to pay or invest Money, and retaining or employing it, or permitting Assignee to retain or employ it, to be charged with 20*l.* per Cent. upon the Money so retained or employed.

XCIX. And be it enacted, That if any Assignee shall retain in his Hands, or employ for his own Benefit, or knowingly permit any Co-assignee so to retain or employ any Sum to the Amount of One hundred Pounds or upwards, Part of the Estate of the Bankrupt, or shall neglect to invest any Money in the Purchase of Exchequer Bills when so directed as aforesaid, every such Assignee shall be liable to be charged in his Accounts with such Sum as shall be equal to Interest, at the Rate of Twenty *per Cent.* on all such Money for the Time during which he shall have so retained or employed the same, or permitted the same to be so retained or employed as aforesaid, or during which he shall have so neglected to invest the same in the Purchase of Exchequer Bills; and the Commissioners may charge every such Assignee in his Accounts accordingly.

If Assignee become Bankrupt, having Bankrupt's Estate wilfully retained and employed by him, his Certificate shall not discharge his future Effects in respect of it.

C. And be it enacted, That if any Assignee indebted to the Estate of which he is such Assignee, in respect of Money so retained or employed by him as aforesaid, become Bankrupt, if he shall obtain his Certificate, it shall only have the Effect of freeing his Person from Arrest and Imprisonment; but his future Effects (his Tools of Trade, necessary Household Goods, and the necessary Wearing Apparel of himself, his Wife and Children, excepted), shall remain liable for so much of his Debts to the Estate of which he was Assignee, as shall not be paid by Dividends under his Commission, together with lawful Interest for the whole Debt.

Commissioners shall audit the Accounts of the Assignees within Six Months, and not earlier than Four Months after the last Examination.

CI. And be it enacted, That the Commissioners shall, at the Meeting appointed for the last Examination of the Bankrupt, appoint a public Meeting not sooner than Four nor later than Six Calendar Months therefrom, whereof, and of the Purport whereof, they shall give Twenty-one Days Notice in the *London Gazette*, to audit the Accounts of the Assignees; and the Assignees at such Meeting shall deliver upon Oath a true Statement in Writing of all Money received by them respectively, and when and on what Account, and how the same have been employed; and the Commissioners shall examine such Statement, and compare the Receipts with the Payments, and ascertain what Balances have been from Time to Time in the Hands of such Assignees respectively, and shall inquire whether any Sum appearing to be in their Hands ought to be retained; and the said Assignees may be examined upon Oath by the said Commissioners touching the Truth of such Accounts; and in such Accounts the said Assignees shall be allowed to retain all such Money as they shall have expended in suing out and prosecuting such Commission, and all other just Allowances.

Method of making Dividends.

CII. And be it enacted, That the Assignees shall, not sooner than Four nor later than Twelve Calendar Months from the issuing the Commission, appoint a public Meeting (whereof, and of the Purport whereof, they shall give Twenty-one Days Notice in the *London Gazette*), to make a Dividend of the Bankrupt's Estate, at which Meeting all Creditors who have not proved their Debts may prove the same; and the said Commissioners at such Meeting shall order such Part of the Net Produce of the Bankrupt's Estate in the Hands of the Assignees, as they shall think fit, to be forthwith divided amongst such

such Creditors as have proved Debts under the Commission, in proportion to their respective Debts; and shall make an Order for a Dividend in Writing under their Hands, and shall cause one Part of such Order to be filed amongst the Proceedings under the Commission, and shall deliver another Part thereof to the Assignees; which Order shall contain an Account of the Time and Place of making such Order, of the Amount of the Debts proved, of the Money remaining in the Hands of the Assignees to be divided, of how much in the Pound is then ordered to be paid to every Creditor, and of the Money allowed by the Commissioners to be retained by the Assignees, with their Reasons for allowing the same to be so retained; and the Assignees, in pursuance of such Order (and without any Deed of Distribution made for that Purpose) shall forthwith make such Dividend, and shall take Receipts in a Book to be kept for that Purpose from each Creditor, for the Dividend received by such Creditor, and such Order and Receipt shall be a Discharge to every such Assignee, for so much as he shall pay pursuant to such Order; and no Dividend shall be declared unless the Accounts of the Assignees shall have been first so audited as aforesaid, and such Statement delivered by them upon Oath as aforesaid.

Creditors having Securities for their Debts, not to receive more than other Creditors.

CIII. And be it enacted, That no Creditor having Security for his Debt, or having made any Attachment in *London*, or any other Place by virtue of any Custom there used, of the Goods and Chattels of the Bankrupt, shall receive upon any such Security or Attachment more than a rateable Part of such Debt, except in respect of any Execution or Extent served and levied by Seizure upon, or any Mortgage of or Lien upon any Part of the Property of such Bankrupt before the Bankruptcy.

Joint Creditor not to take a Dividend of the separate Estate though Petitioning Creditor.

CIV. And be it enacted, That in all Commissions against one or more of the Partners of a Firm (except in Commissions against one of several Partners issued previous to this Act) where the Debt of the Petitioning Creditor is a joint Debt of the Bankrupt or Bankrupts, and any other Person or Persons, such Petitioning Creditor shall not receive any Dividend out of the separate Estate of the Bankrupt or Bankrupts, until all the separate Creditors shall have received the full Amount of their respective Debts.

Final Dividend within 18 Months;

except where Suit depending, or Estate standing out, &c.

CV. And be it enacted, That if the Bankrupt's Estate shall not have been wholly divided upon the First Dividend, the Assignees shall, within Eighteen Calendar Months after the issuing of the Commission, appoint a public Meeting, whereof, and of the Purport whereof, they shall give Twenty-one Days Notice in the *London Gazette*, to make a Second Dividend of the Bankrupt's Estate, when all Creditors who have not proved their Debts may prove the same; and the Commissioners at such Meeting, after taking such Audit as herein-before directed, shall order the Balance in the Hands of the Assignees to be forthwith divided amongst such of the Creditors as shall have proved their Debts; and such Second Dividend shall be final, unless any Action at Law or Suit in Equity be depending, or any Part of the Estate be standing out, not sold or disposed of, or unless some other Estate or Effects of the Bankrupt shall afterwards come to the Assignees;

signees; in which Case they shall, as soon as may be, convert such Estate and Effects into Money, and within Two Calendar Months after the same shall be so converted, divide the same in manner aforesaid.

Assignees required to make Payment of unclaimed Dividends in manner herein mentioned.

CVI. And be it enacted, That if any Assignee under any Commission of Bankrupt shall have either in his own Hands or at any Bankers, or otherwise subject to his Order or Disposition, or to his Knowledge, in the Hands of or in the Order and Disposition of himself and any Co-assignee or Assignees, any or either of them, any unclaimed Dividend or Dividends amounting in the Whole to the Sum of Fifty Pounds, and shall not within Six Months after the passing of this Act, or Two Calendar Months after the Expiration of One Year after the Declaration and Order of Payment of such Dividend or Dividends made by the Commissioners, either pay to the Creditor or Creditors entitled thereto, or cause a Certificate thereof to be filed in the Office of the Lord Chancellor's Secretary of Bankrupts, such Assignee or Assignees shall be charged in account, with the Estate of the Bankrupt, Interest upon such unclaimed Dividend or Dividends, to be computed from the Time that such Certificate is hereby directed to be filed, at the Rate of Five Pounds *per Centum per Annum* for such Time as he shall thenceforth retain the same, and also such further Sum as the Commissioners shall think fit, not exceeding in the Whole Twenty Pounds *per Centum per Annum*; and the Commissioners may order the Investment of any unclaimed Dividends in the Public Funds, or in any Government Security, for or on account of the Creditors, entitled and subject to such Order as the Lord Chancellor may think fit to make respecting the same, who, if he shall think fit, may, after the same shall have remained unclaimed for the Space of Three Years from the Declaration of such Dividends by the Commissioners, order the same to be divided amongst and paid to the other Creditors, and the Proof of the Creditors to whom such Dividends were allotted shall from thenceforth be considered as void as to the same, but renewable as to any future Dividends to place them *pari passu* with the other Creditors, but not to disturb any Dividends which shall have been previously made.

No Action to be brought for Dividends, but the Remedy to be by Petition to the Lord Chancellor.

CVII. And be it enacted, That no Action for any Dividend shall be brought against the Assignees by any Creditor who shall have proved under the Commission; but if the Assignees shall refuse to pay any such Dividend, the Lord Chancellor may, on Petition, order Payment thereof, with Interest for the Time that it shall have been withheld, and the Costs of the Application.

Bankrupt not surrendering and submitting to be examined;

CVIII. And be it enacted, That if any Bankrupt shall not, before Three o'Clock in the Afternoon of the Forty-second Day after he shall have been declared Bankrupt, Notice thereof in Writing having been first left at his usual Place of Abode, or served upon him in case he was in Prison, and Notice given in the *London Gazette*, of the issuing of the Commission, and of the Meetings of the Commissioners, surrender himself to them, and sign or subscribe such Surrender, and submit to be examined before them from Time to Time upon Oath, or being a Quaker upon solemn Affirmation; or if any such Bankrupt upon

upon such Examination shall not discover all his Real or Personal Estate, and how, and to whom, upon what Consideration, and when he disposed of, assigned, or transferred any of such Estate, and all Books, Papers, and Writings relating thereunto, except such Part as shall have been really and *bonâ fide* before sold or disposed of in the Way of his Trade, or laid out in the ordinary Expence of his Family; or if any such Bankrupt shall not upon such Examination deliver up to the Commissioners all such Part of such Estate, and all Books, Papers, and Writings relating thereunto, as be in his Possession, Custody, or Power (except the necessary Wearing Apparel of himself, his Wife and Children), or if any such Bankrupt shall remove, conceal, or embezzle any Part of such Estate, to the Value of Ten Pounds, or any Books of Account, Papers, or Writings relating thereto, with Intent to defraud his Creditors, every such Bankrupt shall be deemed guilty of Felony, and be liable to be transported for Life, or for such Term, not less than Seven Years, as the Court before which he shall be convicted shall adjudge; or shall be liable to be imprisoned only, or imprisoned and kept to hard Labour in any Common Gaol, Penitentiary House, or House of Correction, for any Term not exceeding Seven Years.

or not making Discovery of his Estate and Effects;

or not delivering up his Goods, Books, &c.;

or removing, concealing, or embezzling to the Value of 10*l.*;

guilty of Felony, liable to be transported for Life, &c.

CIX. And be it enacted, That the Lord Chancellor may, as often as he shall think fit, from Time to Time enlarge the Time for the Bankrupt surrendering himself, for such Time as the Lord Chancellor shall think fit, so as every such Order be made Six Days at least before the Day on which such Bankrupt was to surrender himself.

Lord Chancellor may enlarge the Time for Bankrupt surrendering himself.

CX. And be it enacted, That the Commissioners before the Choice of Assignees, and after such Choice the Assignees, with the Approbation of the Commissioners, testified in Writing under their Hands, may from Time to Time make such Allowance to the Bankrupt out of his Estate, until he shall have passed his last Examination, as the said Assignees shall think necessary for the Support of himself and his Family.

Allowance to Bankrupt for Maintenance.

CXI. And be it enacted, That if any Bankrupt apprehended by any Warrant of the Commissioners shall, within the Time hereby allowed for him to surrender, submit to be examined, and in all Things conform, he shall have the same Benefit as if he had voluntarily surrendered.

Bankrupt apprehended to have the same Benefit on conforming, as if he had voluntarily surrendered.

CXII. And be it enacted, That the Bankrupt, after the Choice of Assignees, shall (if thereto required) forthwith deliver up to them, upon Oath, before a Master Ordinary or Extraordinary in Chancery, or Justice of the Peace, all Books of Account, Papers, and Writings relating to his Estate in his Custody or Power, and discover such as are in the Custody or Power of any other Person; and every such Bankrupt, not in Prison or Custody, shall at all Times after such Surrender attend such Assignees upon every reasonable Notice in Writing for that Purpose given by them to him, or left at his House, and shall assist such Assignees in making out the Accounts of his Estate; and such Bankrupt, after he shall have surrendered, may at all

Bankrupt to deliver up his Books of Accounts to the Assignees upon Oath;

to attend Assignees;

to be at liberty to inspect Accounts;

after Allowance of Certificate to attend Assignees in settling Accounts.

Allowance for Attendance.

all seasonable Times before the Expiration of the said Forty-two Days, or such further Time as shall be allowed to him to finish his Examination, inspect his Books, Papers, and Writings in the Presence of his Assignees, or any Person appointed by them, and bring with him each Time any Two Persons to assist him; and after he shall have obtained his Certificate, shall upon Demand in Writing given to him, or left at his usual Place of Abode, attend the Assignees, to settle any Accounts between his Estate and any Debtor to or Creditor thereof, or attend any Court of Record to give Evidence touching the same, or do any Act necessary for getting in the said Estate; for which Attendance he shall be paid Five Shillings *per* Day by the Assignees out of his Estate; and if such Bankrupt shall, after such Demand as aforesaid, not attend, or on such Attendance refuse to do any of the Matters aforesaid, without sufficient Cause shown to the Commissioners for such Refusal, and by them allowed, the Assignees making Proof thereof upon Oath before the Commissioners, the said Commissioners may, by Warrant directed to such Person as they shall think proper, cause such Bankrupt to be apprehended, and committed to the County Gaol, there to remain until he shall conform to the Satisfaction of the said Commissioners, or of the Lord Chancellor.

Imprisonment on Non-attendance.

To be free from Arrest during Examination, if not in Custody before,

If arrested, to be discharged on producing Summons under the Hands of the Commissioners.

Penalty on Officer detaining Bankrupt.

CXIII. And be it enacted, That the Bankrupt shall be free from Arrest or Imprisonment by any Creditor in coming to surrender, and after such Surrender during the said Forty-two Days, and such further Time as shall be allowed him for finishing his Examination, provided he was not in Custody at the Time of such Surrender; and if such Bankrupt shall be arrested for Debt, or on any Escape Warrant, in coming to surrender, or shall after his Surrender be so arrested within the Time aforesaid, he shall, on producing the Summons under the Hands of the Commissioners to the Officer who shall arrest him, and giving such Officer a Copy thereof, be immediately discharged; and if any Officer shall detain any such Bankrupt after he shall have shown such Summons to him, so signed as aforesaid, such Officer shall forfeit to such Bankrupt, for his own Use, the Sum of Five Pounds for every Day he shall detain such Bankrupt, to be recovered by Action of Debt in any Court of Record at *Westminster*, in the Name of such Bankrupt, with full Costs of Suit.

Commissioners may adjourn last Examination of Bankrupt sine Die.

CXIV. And be it enacted, That the Commissioners may, at the Time appointed for the last Examination of the Bankrupt, or any Enlargement or Adjournment thereof, adjourn such Examination *sine Die*; and he shall be free from Arrest or Imprisonment for such Time not exceeding Three Calendar Months, as they shall, by Indorsement upon such Summons as aforesaid, appoint, with like Penalty upon any Officer detaining such Bankrupt after having been shown such Summons.

Bankrupt in Custody to be brought before the Commissioners at the Creditor's Expence.

CXV. And be it enacted, That whenever any Bankrupt is in Prison or in Custody, under any Process, Attachment, Execution, Commitment, or Sentence, the Commissioners may, by Warrant under their Hands directed to the Person in whose Custody such Bankrupt is confined, cause such Bankrupt to be brought before them at any Meeting either public or private; and if any such Bankrupt is desirous to surrender, he shall be so brought up, and the Expence thereof

thereof shall be paid out of his Estate, and such Person shall be indemnified by the Warrant of the Commissioners for bringing up such Bankrupt; provided that the Assignees may appoint any Persons to attend such Bankrupt from Time to Time, and to produce to him his Books, Papers, and Writings, in order to prepare an Abstract of his Accounts and Statement, to shew the Particulars of his Estate and Effects previous to his final Examination and Discovery thereof, a Copy of which Abstract and Statement the said Bankrupt shall deliver to them Ten Days at least before his last Examination.

Penalty on Persons concealing Bankrupt's Effects, 100*l.*, &c.

CXVI. And be it enacted, That any Person wilfully concealing any Real or Personal Estate of the Bankrupt, and who shall not within Forty-two Days after the issuing of the Commission discover such Estate to One or more of the Commissioners or Assignees, shall forfeit the Sum of One hundred Pounds, and Double the Value of the Estate so concealed; and any Person who shall, after the Time allowed to the Bankrupt to surrender, voluntarily discover to One or more of the Commissioners or Assignees any Part of such Bankrupt's Estate, not before come to the Knowledge of the Assignees, shall be allowed Five *per Cent.* thereupon, and such further Reward as the major Part in Value of the Creditors present at any Meeting called for that Purpose shall think fit, to be paid out of the Estate recovered on such Discovery.

Allowance to Persons making Discovery thereof.

Bankrupt discharged by Certificate of Conformity.

CXVII. And be it enacted, That every Bankrupt who shall have duly surrendered, and in all Things conformed himself to the Laws in force concerning Bankrupts at the Time of issuing the Commission against him, shall be discharged from all Debts due by him when he became Bankrupt, and from all Claims and Demands hereby made proveable under the Commission, in case he shall obtain a Certificate of such Conformity so signed and allowed, and subject to such Provisions as herein-after directed; but no such Certificate shall release or discharge any Person who was Partner with such Bankrupt at the Time of his Bankruptcy, or who was then jointly bound, or had made any joint Contract with such Bankrupt.

By Discharge of Bankrupt Partner not discharged.

Certificate to be signed by Four-fifths in Number and Value of Creditors above 20*l.*

CXVIII. And be it enacted, That such Certificate shall be signed by Four-fifths in Number and Value of the Creditors of the Bankrupt, who shall have proved Debts under the Commission to the Amount of Twenty Pounds or upwards, who shall thereby testify their Consent to the Bankrupt's Discharge as aforesaid; and no such Certificate shall be such Discharge unless the Commissioners shall, in Writing under their Hands and Seals, certify to the Lord Chancellor that such Bankrupt has made a full Discovery of his Estate and Effects, and in all Things conformed as aforesaid, and that there does not appear any Reason to doubt the Truth or Fulness of such Discovery, and also that the Creditors have signed in Manner hereby directed; and unless the Bankrupt make Oath in Writing that such Certificate and Consent were obtained without Fraud; and unless such Certificate shall, after such Oath, be allowed by the Lord Chancellor, against which Allowance any of the Creditors of the Bankrupt may be heard before the Lord Chancellor.

Allowance by Lord Chancellor.

CXIX. Pro-

In Cases of Bankruptcy before passing of this Act, Certificates signed by Three-fifths in Number and Value, allowed.

After Six Months from the last Examination, what Number necessary.

CXIX. Provided always, and be it enacted, That Certificates of Conformity which now have been or shall be signed by Three-fifths in Number and Value of such Creditors as aforesaid, of any Bankrupt against whom any Commission shall have issued before the Time of passing this Act, may be signed by the Commissioners and allowed by the Lord Chancellor: Provided also, that after Six Calendar Months from the last Examination of any Bankrupt under any Commission issued after the passing of this Act such Certificate may be signed by the Commissioners, and allowed in manner aforesaid, and shall be such Discharge as aforesaid, if it shall have been signed by Three-fifths in Number and Value of Creditors as aforesaid, or by Nine-tenths in Number of such Creditors.

After 18 Months from the last Examination, if signed by Three-fifths with the Exception of one whose Signature is necessary either in Number or Value, or Nine-tenths in Number with such Exception, Certificate allowed.

CXX. Provided also, and be it further enacted, That after Eighteen Calendar Months from the last Examination of any Bankrupt under a Commission issued, either previously to or after the passing of this Act, if Three-fifths in Number and Value of such Creditors, with the Exception of One whose Signature is necessary in respect of Number or Value, or if Nine-tenths in Number with the Exception of One whose Signature is necessary to make up that Proportion, shall have signed the Certificate, the Commissioners may sign the same, and the Bankrupt may thereupon petition the Lord Chancellor for the Allowance thereof, having first caused every Creditor who shall not have signed, and whose Signature shall be so necessary as aforesaid, to be served with a Copy of such Petition, who may be heard against such Allowance; and every such Certificate, if allowed by the Lord Chancellor, shall be a valid Discharge as aforesaid.

Proof of Signature of Creditors.

CXXI. And be it enacted, That the Commissioners shall not sign any Certificate unless they shall have Proof by Affidavit in Writing of the Signature of the Creditors thereto, and of any Person thereto authorized by any Creditor, and of the Authority by which such Person shall have so signed the same; and if any Creditor reside Abroad, the Authority of such Creditor shall be attested by a Notary Public; and every such Affidavit, Authority, and Attestation shall be laid before the Lord Chancellor, with the Certificate, previous to the Allowance thereof.

Contracts and Securities to induce Creditors to sign, void.

CXXII. And be it enacted, That any Contract or Security made or given by any Bankrupt or other Person unto or in Trust for any Creditor, or for securing the Payment of any Money due by such Bankrupt at his Bankruptcy, as a Consideration or with Intent to persuade such Creditor to consent to or sign such Certificate, shall be void, and the Money thereby secured or agreed to be paid shall not be recoverable, and the Party sued on such Contract or Security may plead the General Issue, and give this Act and the Special Matter in Evidence.

Bankrupt having obtained his Certificate, free from Arrest.

CXXIII. And be it enacted, That any Bankrupt who shall, after his Certificate shall have been allowed, be arrested or have any Action brought against him for any Debt due by him before his Bankruptcy, shall be discharged upon Common Bail, and may plead in general that the Cause of Action accrued before he became Bankrupt, and may

may give this Act and the Special Matter in Evidence; and such Bankrupt's Certificate, and the Allowance thereof, shall be sufficient Evidence of the Trading, Bankruptcy, Commission, and other Proceedings precedent to the obtaining such Certificate; and if any such Bankrupt shall be taken in Execution or detained in Prison for any Debt owing before he became Bankrupt, where Judgment has been obtained before the Allowance of his Certificate, any Judge of the Court wherein Judgment has been so obtained may, on such Bankrupt's producing his Certificate, order any Officer who shall have such Bankrupt in Custody by virtue of such Execution, to discharge such Bankrupt without exacting any Fee, and such Officer shall be hereby indemnified for so doing.

Certificate Evidence of the Proceedings under the Commission.

Bankrupt in Execution may be ordered to be discharged.

CXXIV. And be it enacted, That if any Person who shall have been so discharged by such Certificate as aforesaid, or who shall have compounded with his Creditors, or who shall have been discharged by any Insolvent Act, shall become Bankrupt and obtain such Certificate as aforesaid, unless his Estate shall produce, after all Charges, sufficient to pay every Creditor under the Commission Fifteen Shillings in the Pound, such Certificate shall only protect his Person from Arrest and Imprisonment, but his future Estate and Effects (except his Tools of Trade and necessary Household Furniture, and the Wearing Apparel of himself, his Wife and Children) shall vest in the Assignees under the said Commission, who shall be entitled to seize the same in like Manner as they might have seized Property of which such Bankrupt was possessed at the issuing the Commission.

Future Effects liable where Bankrupt has been Bankrupt before, or compounded or taken the Benefit of the Insolvent Act, unless 15*s.* in the Pound is paid.

CXXV. And be it enacted, That every Bankrupt who shall have obtained his Certificate, if the net Produce of his Estate shall pay the Creditors who have proved under the Commission Ten Shillings in the Pound, shall be allowed Five *per Cent.* out of such Produce, to be paid him by the Assignees, provided such Allowance shall not exceed Four hundred Pounds; and every such Bankrupt, if such Produce shall pay such Creditors Twelve Shillings and Sixpence in the Pound, shall be allowed and paid as aforesaid Seven Pounds Ten Shillings *per Cent.*, provided such Allowance shall not exceed Five hundred Pounds; and every such Bankrupt, if such Produce shall pay such Creditors Fifteen Shillings in the Pound, shall be allowed and paid as aforesaid Ten Pounds *per Cent.*, provided such Allowance shall not exceed Six hundred Pounds; but if such Produce shall not pay such Creditors Ten Shillings in the Pound, such Bankrupt shall only be allowed and paid so much as the Assignees and Commissioners shall think fit, not exceeding Three Pounds *per Cent.*

Allowance to Bankrupt.

5 per Cent. if 10*s.* paid in the Pound;

7½ if 12*s.* 6*d.*

10 per Cent. if 15*s.*;

if under 10*s.* not exceeding 3 per Cent.

CXXVI. And be it enacted, That in all joint Commissions under which any Partner shall have obtained his Certificate, if a sufficient Dividend shall have been paid upon the joint Estate, and upon the separate Estate of such Partner, he shall be entitled to his Allowance, although his other Partner or Partners may not be entitled to any Allowance.

Partner may receive Allowance though the others are not entitled.

CXXVII. And be it enacted, That no Bankrupt shall be entitled to his Certificate, or to be paid any such Allowance, and that any Certificate,

Bankrupt not entitled to Certificate or Allowance,

and Certificate obtained void, if he has lost 20*l.* in one Day, or 200*l.* within 12 Months; or 200*l.* by Stock-jobbing; or destroyed Books, &c.; or made fraudulent Entries; or concealed Property to the Value of 10*l.*; or permitted fictitious Debts to be proved.

ficate, if obtained, shall be void, if such Bankrupt shall have lost by any Sort of Gaming or Wagering, in One Day, Twenty Pounds, or within One Year next preceding his Bankruptcy, Two hundred Pounds; or if he shall within One Year next preceding his Bankruptcy have lost Two hundred Pounds by any Contract for the Purchase or Sale of any Government or other Stock, where such Contract was not to be performed within One Week after the Contract, or where the Stock bought or sold was not actually transferred or delivered in pursuance of such Contract; or shall, after an Act of Bankruptcy committed, have destroyed, altered, mutilated, or falsified, or caused to be destroyed, altered, mutilated, or falsified, any of his Books, Papers, Writings, or Securities, or made or been privy to the making of any false or fraudulent Entries in any Book of Account or other Document, with Intent to defraud his Creditors, or shall have concealed Property to the Value of Ten Pounds or upwards; or, if any Person having proved a false Debt under the Commission, such Bankrupt being privy thereto, or if he shall afterwards know the same, not disclosing the same to his Assignees within One Month after such Knowledge.

Bankrupt not liable upon any Promise to pay Debt discharged by Certificate, unless it be in Writing.

CXXVIII. And be it enacted, That no Bankrupt after his Certificate of Conformity shall have been allowed under any Commission of Bankrupt already issued, or hereafter to be issued, shall be liable to pay nor satisfy any Debt, Claim, or Demand from which he shall have been discharged by virtue of such Certificate, or any Part of such Debt, Claim, or Demand, upon any Contract, Promise, or Agreement made or to be made after the suing out of the Commission, unless such Promise, Contract, or Agreement be made in Writing, signed by the Bankrupt, or by some Person thereto lawfully authorized, in Writing, by such Bankrupt.

Assignees, in case of Surplus, shall account and pay it to the Bankrupt.

CXXIX. And be it enacted, That the Assignees shall, upon Request made to them by the Bankrupt, declare to him how they have disposed of his Real and Personal Estate, and pay the Surplus, if any, to such Bankrupt, his Executors, Administrators, or Assigns; and every such Bankrupt, after the Creditors who have proved under the Commission shall have been paid, may recover the Remainder of the Debts due to him; but the Assignees shall not pay such Surplus, until all Creditors who have proved under the Commission shall have received Interest upon their Debts, to be calculated and paid at the Rate and in the Order following; (that is to say), all Creditors whose Debts are now by Law entitled to carry Interest in the Event of a Surplus, shall first receive Interest on such Debts at the Rate of Interest reserved or by Law payable thereon, to be calculated from the Proof thereof; and after such Interest shall have been paid, all other Creditors who have proved under the Commission shall receive Interest on their Debts from the Proof at the Rate of Four *per Cent.*

In case of a Surplus all Debts to carry Interest.

Nine-tenths in Number and Value of Creditors may accept a

CXXX. And be it enacted, That at any Meeting of Creditors after the Bankrupt shall have passed his last Examination, whereof and of the Purport of which Twenty-one Days Notice shall have been given in the *London Gazette*, if the Bankrupt or his Friends shall make an Offer

Offer of Composition, or Security for such Composition, which Nine-tenths in Number and Value of the Creditors assembled at such Meeting shall agree to accept, another Meeting for the Purpose of deciding upon such Offer shall be appointed, whereof such Notice as aforesaid shall be given; and if at such Second Meeting Nine-tenths in Number and Value of the Creditors then present shall also agree to accept such Offer, the Lord Chancellor may, upon such Acceptance being testified by them in Writing, supersede the same. Composition, which shall bind the rest.

CXXXI. And be it enacted, That in deciding upon such Offer as aforesaid, any Creditor whose Debt is below Twenty Pounds shall not be reckoned in Number, but the Debt due to such Creditor shall be computed in Value; and that any Creditor to the Amount of Fifty Pounds and upwards, residing out of *England*, shall be personally served with a Copy of the Notice of the Meeting to decide upon such Offer as aforesaid, and of the Purpose for which the same is called, so long before such Meeting as that he may have Time to vote thereat, and such Creditor may vote by Letter of Attorney executed and attested in Manner hereby required for such Creditors voting in the Choice of Assignees; and if any Creditor shall agree to accept any Gratuity or higher Composition for assenting to such Offer, he shall forfeit the Debt due to him, together with such Gratuity or Composition; and the Bankrupt shall, if thereto required, make Oath before the Commissioners that there has been no such Transaction between him, or any Person with his Privity, and any of the Creditors, and that he has not used any undue Means or Influence with any of them to attain such Assent as aforesaid. Mode of voting in deciding upon such Composition.

CXXXII. And be it enacted, That this Act shall be construed beneficially for Creditors, and that nothing herein contained shall alter the present Practice in Bankruptcy, except where any such Alteration is expressly declared; and that it shall extend to Aliens, Denizens, and Women, both to make them subject thereto, and to entitle them to all the Benefits given thereby; and that all Powers hereby given to or Duties directed to be performed by the Lord Chancellor, shall and may be exercised or performed by a Lord Keeper or Lords Commissioners of the Great Seal; and all Powers given to or Duties directed to be performed by the Commissioners or Assignees, may be exercised or performed respectively by the major Part of the Commissioners, or by One Assignee where only One shall have been chosen; that nothing herein contained shall render invalid any Commission of Bankruptcy now subsisting, or which shall be subsisting at the Time this Act shall take Effect, or any Proceedings which may have been had, or affect or lessen any Right, Claim, Demand, or Remedy which any Person now has thereunder, or upon or against any Bankrupt against whom any Commission has or shall have issued, except as is herein specifically enacted; and that this Act shall not extend either to *Scotland* or *Ireland*, except where the same are expressly mentioned. Construction of the Act. Subsisting Commissions declared valid. Act not to extend to Scotland or Ireland.

CXXXIII. And be it enacted, That this Act shall not, as to any Enactments therein contained, take Effect before the First Day of *May* Commencement of Act.

May One thousand eight hundred and twenty-five; save that so many of such Enactments as relate to the Certificates of Persons becoming Bankrupts before this Act passed, or who shall become Bankrupts before the said First Day of *May*, shall take effect upon the passing of this Act.

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