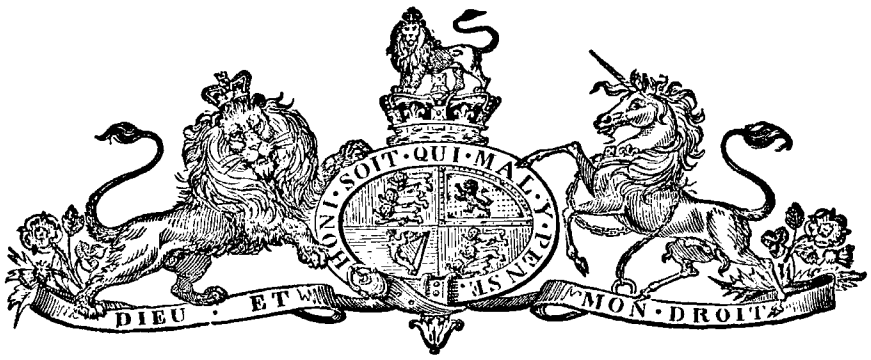


ANNO VICESIMO QUARTO & VICESIMO QUINTO

VICTORIÆ REGINÆ.

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CAP. CXXXIV.

An Act to amend the Law relating to Bankruptcy and Insolvency in *England*. [6th *August* 1861.]

WHEREAS it is expedient to amend the Laws relating to Bankruptcy and Insolvency in *England*: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

As to the Court of Bankruptcy and the Commissioners thereof, their Powers and Jurisdiction:

As to the Powers and Jurisdiction of the Court of Bankruptcy.

1. The Court of Bankruptcy shall have and exercise, for the Purposes of this Act, all the Powers and Authorities of the Superior Courts of Law and Equity, and all the Jurisdiction, Powers, and Authorities now possessed by the Court for the Relief of Insolvent Debtors in *England*.

Present and future Commissioners of the Court in London.

2. The present Commissioners of the Court of Bankruptcy shall continue to be Commissioners of the Court. Upon any Vacancy in the Office of Commissioner of the Court of Bankruptcy in *London*, such Vacancy shall not be filled up until the Number of Commissioners

sioners of the Court of Bankruptcy in *London* shall, by reason of such Vacancy, be reduced to less than Three, whereupon it shall be lawful for Her Majesty, by Commission under the Great Seal of the United Kingdom, to appoint a Person, being a Serjeant-at-Law, or Barrister-at-Law, of not less than Twelve Years standing at the Bar in *England*, to fill such Vacancy.

Jurisdiction of County Courts under this Act.

3. The Judge of every County Court (except of the Metropolitan County Courts) shall have and exercise within his respective District the like Jurisdiction, Powers, and Authorities, and perform the same Duties for and in respect of all Matters and Things coming before such County Court by virtue of this Act, as are vested in the Commissioners of the District Courts of Bankruptcy.

Power to transfer Jurisdiction, &c., of Commissioners to County Courts in case of Vacancies.

4. If upon any Vacancy in the Office of Commissioner of any Country District Court there shall no longer be a Commissioner for such District, Her Majesty shall have Power, by Order in Council, to transfer all the Jurisdiction, Powers, and Authorities held by the Commissioner to the Judges of the County Courts, or any of them, exercising Jurisdiction within such District or any Part thereof, and the Lord Chancellor shall have Power and Authority, by Order, from Time to Time to provide in all respects for the Exercise of Jurisdiction in Bankruptcy by such County Court Judges or Judge, and for the Continuance of the Exercise of their respective Duties in the whole or any Part of the District by the Official Assignees, Registrar, and other Officers attached to the Court of the Commissioner making such Vacancy.

Power to create additional County Courts, and to invest the Judges thereof with Jurisdiction in Bankruptcy, and to make new Arrangement of Districts.

5. In case it shall on any Occasion appear to Her Majesty in Council to be expedient to establish an additional County Court or Courts within any One or more of the Country Districts, and to invest the Judge or Judges thereof with the Jurisdiction, Powers, and Authorities of a Commissioner in Bankruptcy within the District or Districts that may be assigned to such Court or Courts, it shall be lawful for Her Majesty, by Order in Council, so to do, and also to make a new Arrangement of the Districts of the Bankruptcy and County Courts respectively, so as to assign a convenient District or Districts to such new Court or Courts, and to give from Time to Time all necessary Directions for the Establishment thereof, and such Order shall be laid before Parliament, and shall not come into Operation until Three Months afterwards.

Appointment, Qualifications,

6. The Judge of any such new Court shall be appointed by the Lord Chancellor, and shall be either a Serjeant-at-Law or a Barrister-at-Law, who shall be of Seven Years standing at the Bar in *England*,

or

or who shall have practised as a Barrister and Special Pleader for at least Seven Years; and every such Judge, in addition to the Jurisdiction of a County Court Judge, shall have and exercise within the District assigned to him all the Jurisdiction, Powers, and Authorities of the Commissioners of the Country District Courts of Bankruptcy. and Jurisdiction of Judges of such Courts.

7. Every Judge of a County Court shall, before acting in Bankruptcy, take at any Quarter Sessions the following Oath: Oath to be taken by County Court Judges before acting in Bankruptcy.

'I *A. B.* do solemnly and sincerely promise and swear, That I will duly and faithfully, and to the best of my Skill and Power, execute the Office of County Court Judge acting in Bankruptcy. So help me GOD.'

And such Oath shall be recorded in the Court of the Judge taking the same.

As to the Officers of the Court:

8. The Persons now discharging the Duties of Chief Registrar, Registrars, Taxing Master, and Official Assignees of the Court of Bankruptcy in *London*, and in the several District Courts of Bankruptcy, shall retain and hold Office during good Behaviour, subject to Dismissal by the Lord Chancellor, by Order, for some sufficient Reason to be set forth in such Order. Upon any Vacancy in the Office of Registrar, such Vacancy shall be filled up by the Lord Chancellor. Chief Registrar, &c. to hold Office during good Behaviour, and Vacancies to be filled up by Lord Chancellor.

9. If the Lord Chancellor shall at any Time, by Order, declare that, having regard to the State of the Business of the Court of Bankruptcy and the Duties of the Registrars, he is of opinion that additional Registrars ought to be appointed, either in *London* or in any Country District, it shall be lawful for the Lord Chancellor to appoint such additional Registrars. Power to appoint additional Registrars.

10. The Registrars of the several County Courts exercising Jurisdiction under this Act shall discharge the Duties of Registrar and Official Assignee in all Matters under this Act within their several Districts in such Manner, and shall give such Security in respect of such Office of Official Assignee, and shall receive such Remuneration in respect of such Services, as General Orders shall direct; and all the Enactments herein contained with respect to Official Assignees shall apply to the Registrars of the County Courts as to all Matters under this Act prosecuted therein. As to Duties of County Court Registrars.

11. The High Bailiffs of the several County Courts exercising Jurisdiction under this Act shall discharge the Duties of Messenger in As to Duties of High Bailiffs of County Courts.

in all Matters of Bankruptcy within their several Districts in such Manner, and shall give such Security in respect of such Duties, and shall receive such Remuneration in respect of such Services, as General Orders shall direct.

Abolition of Office of Accountant in Bankruptcy upon the First Vacancy.

12. Upon the First Vacancy in the Office of Accountant in Bankruptcy the Office shall be abolished, and the Duties thereof shall thereafter be discharged by the Chief Registrar, and the several Funds standing in the Books of the Bank of *England* to the Credit of such Accountant shall be transferred to such Account or Accounts in the Name of the Chief Registrar, and in such Manner, as General Orders shall direct.

Taxing Master.

13. All Bills of Costs, Charges, Fees, and Disbursements of Solicitors and Attorneys in Matters under this Act before the Court of Appeal in Chancery sitting in Bankruptcy and the Court in *London*, and such taxable Bills as may be specially referred to the Master by any District Court or any County Court, shall be taxed by the Master, subject to the Review of the Court in *London*.

Registrar in Country Districts to be Taxing Officers.

14. In every Country District Court, and in every County Court exercising Jurisdiction under this Act, all Bills of Costs, Charges, Fees, and Disbursements aforesaid shall (unless where such Court shall otherwise direct) be taxed and settled by the Registrar of such Court, subject to Appeal to the Court of which he is Registrar. It shall be lawful for the Commissioner of any District Court, or Judge of any County Court, to refer any such Bills, or any Question thereon, to the Taxing Master in *London*.

As to the Settlement of Charges of Auctioneers, Appraisers, Valuers, and Accountants.

15. All Charges, Fees, and Disbursements of any Auctioneer, Appraiser, Broker, Valuer, or Accountant, or any other Person, not being an Attorney or Solicitor, in any Matter under this Act or any other Act in force relating to Bankrupts, shall be settled by the Master, except such Charges, Fees, or Disbursements as shall be incurred in any District Court or County Court, and in such Cases shall be settled by the Registrars of the Court in which they arise, in such Manner as General Orders shall direct, and subject to the Review of the Court; and the Amount of the Bills so settled, and no more, shall be recoverable.

Reduction in the Number of Official Assignees.

16. Upon any Vacancy in the Office of Official Assignee of the Court in *London* the same shall not be filled up unless the Number of Official Assignees in the *London* District shall by reason of such Vacancy be reduced to less than Five. Any Vacancy in the Office of Official Assignee in a Country District shall not be filled up if there be another Official Assignee within such District.

17. The

Messengers.

17. The Persons now discharging the Duty of Messenger in the Court of Bankruptcy in *London*, and in the several District Courts of Bankruptcy in the Country, shall continue to act as such Messengers, in such Manner, and subject to such Regulations, and shall give such Security, as General Orders shall direct, and shall be subject to Dismissal by the Lord Chancellor by Order, for some sufficient Reason to be set forth in such Order. Upon any Vacancy in the said Office, such Office shall not be filled up until the Number of Messengers in the Court in *London* shall have been reduced to Two, and in any District Court of Bankruptcy in the Country to One. Any Vacancy thereafter occurring may, if necessary, be filled up by the Lord Chancellor by the Appointment of some fit Person.

As to filling up Vacancies:

Vacancies need not be filled up.

18. Upon any future Vacancy in the Office of Commissioner or Registrar (other than of Chief Registrar), or in any other Office in the Court of Bankruptcy, the Lord Chancellor may, if, having regard to the then State of the Business of the Court, he shall so think fit, by Order declare that such Vacancy shall not be filled up until further Order, and thereupon the same shall not be filled up, unless and until the Lord Chancellor shall by Order declare that, having regard to the then State of Business of the Court, he is of opinion that such Vacancy ought to be then filled up, and thereupon the same may be filled up as if such first-mentioned Order had not been made.

As to the Court for the Relief of Insolvent Debtors in *England*:

Commissioners of Insolvent Debtors Court released.

19. The Jurisdiction, Authorities, and Functions of the Chief Commissioner and Commissioner of the Court for Relief of Insolvent Debtors in *England* shall cease and be discontinued, and the said Chief Commissioner and Commissioner shall be released from their Duties as such, subject nevertheless to the Obligation of performing such Duties and Services as are herein-after provided.

Insolvent Jurisdiction of County Courts discontinued.

20. The Jurisdiction of the County Courts in the Relief of Insolvent Debtors shall cease; provided that all Matters of Insolvency pending at the Commencement of this Act in any of the said Courts shall proceed and be completed therein as if this Act had not been passed.

As to Provisional Assignees.

21. The Person now exercising the Office of Provisional Assignee of the Court for the Relief of Insolvent Debtors in *England* shall be an Official Assignee of the Court of Bankruptcy, and shall act as such Official Assignee in the Court in *London*, and shall hold Office during good Behaviour, subject to Dismissal by the Lord Chancellor by Order, for some sufficient Reason to be

set forth in such Order, and he shall perform the same Duties, and receive the same Salary, Remuneration, and Allowances, as the other Official Assignees.

As to Duties of other Officers of the Insolvent Debtors Court.

22. The Persons now discharging the Duties of Chief Clerk, Clerks, and Taxing Officer of the Court for the Relief of Insolvent Debtors in *England* shall be transferred to, and shall act in such Manner as General Orders shall direct, in the *London* Court. They shall hold Office during good Behaviour, subject to Dismissal by the Lord Chancellor by Order, for some sufficient Reason to be set forth in such Order. No Vacancy in such Offices shall be filled up. Provided that nothing herein contained shall be deemed to deprive any Person now holding Office in the Insolvent Debtors Court of any Benefit to which he may now be or may hereafter become entitled by virtue of the Acts passed in the Fourth and Fifth Years of King *William* the Fourth, Chapter Twenty-four, and the Fifth and Sixth Years of King *William* the Fourth, Chapter Forty-two, relative to Superannuation Allowances; and Service by any such Persons in the Court of Bankruptcy shall for the Purpose of the said Acts be deemed to be equivalent to Service in the Insolvent Debtors Court.

Nothing to deprive Officers of Superannuation Allowances under 4 & 5 W. 4. c. 24. and 5 & 6 W. 4. c. 42.

Chief Clerk of Court to make Returns of pending Business to Lord Chancellor.

23. The Chief Clerk of the Court for the Relief of Insolvent Debtors in *England* shall, on such Day before the Time appointed for the Commencement of this Act as the Lord Chancellor shall direct, make a Return to the Lord Chancellor of all Business then pending or remaining incomplete in such Court; and the Lord Chancellor may, if he shall think fit, direct such unfinished Matters to be proceeded with and completed before and by the Commissioners of such Court, who for such Purposes shall retain and exercise all the Jurisdiction, Powers, and Authorities now possessed by them respectively.

Power of Courts to proceed summarily in winding up Matters depending.

24. For the Purpose of winding up as expeditiously and conveniently as may be all Petitions, Matters, and Things which shall have been presented to or be depending in the said Court for the Relief of Insolvent Debtors, or any of the County Courts, by virtue of any Act for the Relief of Insolvent Debtors, it shall be lawful for the Commissioners or Judges of such Courts respectively, at any Time after the passing of this Act, to summon, as they shall deem fit, all or any of the Parties to such Petitions, Matters, or Things, or their Solicitors, and thereupon to give such Directions and make such Orders as may be necessary for the Purpose of settling and winding up the same, and to proceed for the Purposes aforesaid in the Absence of the Parties or Solicitors neglecting or refusing to attend such Summons.

25. Every

Recognizances of Sureties entered into under 1 & 2 Vict. c. 110., for enforcing Attendance of Insolvents, extended.

25. Every Recognizance which may at the Time of the passing of this Act have been entered into by any Person as Surety to the Provisional Assignee of the Court for the Relief of Insolvent Debtors, with Condition that the Insolvent therein mentioned shall duly appear at the Time and Place therein mentioned, shall extend to bind the Person who may have entered into the same, in case the Insolvent Debtor therein mentioned shall not at the Time appointed in such Recognizance duly appear before the Court by which the Petition or Matter of such Insolvent is heard in pursuance of this Act, and on every adjourned Hearing, or shall not abide by the final Judgment of such Court.

Insolvency Fund.

26. All Monies and Government Securities which shall at the Commencement of this Act stand in the Bank of *England* to the Credit of the Account of the Commissioners of the Court for the Relief of Insolvent Debtors in *England*, shall be carried by the Bank of *England*, in such Manner as General Orders shall direct, to the Account of the Accountant in Bankruptcy; and, subject to the Orders of the Court for the Payment thereout of any Dividend, or for the Distribution of any Part thereof, in the Matter to which the same originally belonged, shall be applicable in like Manner as at present, or in such Manner as the Lord Chancellor shall by Order direct, towards defraying the Salaries of the Clerks and other Persons hereby transferred from the Insolvent Debtors Court to the Court of Bankruptcy, and towards defraying the Expenses of and incidental to the Discharge of Pauper Prisoners herein-after provided, and also for indemnifying the Provisional Assignee of the Insolvent Debtors Court against all Costs and Expenses incurred or to be incurred by him in any Suit, Action, or other Proceeding.

Records of Court of Insolvency.

27. The Records and Proceedings of every Kind in the Insolvent Debtors Court shall be Records and Proceedings of the Court of Bankruptcy, and shall be kept in such Manner as they now are, subject to Alteration by any General Orders.

As to Salaries:

Chief Commissioner's Salary continued.

28. The Chief Commissioner of the Court for the Relief of Insolvent Debtors shall continue entitled, subject as herein provided, to receive during his Life the full Amount of his Salary as such Chief Commissioner, payable out of the same Fund, on the same Days, and in the same Manner in all respects as if this present Act had not passed.

29. There

Salaries of Officers of the Court of Bankruptcy.

29. There shall be paid to the Registrars and other Officers of the Court the several Salaries set opposite to their respective Titles in Schedule (A.) to this Act annexed, and such Salaries shall be payable out of the Chief Registrar's Account, and shall be paid quarterly, free and clear from all Taxes and Deductions whatsoever, except the Tax on Income, on the Eleventh Day of *January*, the Eleventh Day of *April*, the Eleventh Day of *July*, and the Eleventh Day of *October* in every Year, by equal Portions; and when any Person for the Time being holding any of the said Offices shall die, resign, or be removed from the same, the Executor or Administrator of the Person so dying, or the Person so resigning or being removed, shall be entitled to receive such proportionate Part of his Salary as shall have accrued during the Time that such Person shall have executed his Office since the last Payment.

Salaries to present Officers of Insolvent Debtors Court.

30. The Chief Clerk, Clerks, Taxing Officer, and other Officers of the Court for the Relief of the Insolvent Debtors in *England* shall, upon being in manner herein provided transferred to the Court of Bankruptcy, severally continue to receive the full Amount of the Salary, Remuneration, Allowances and Compensations, which they now respectively receive, as nearly as may be out of the same Funds and payable in the same Manner in all respects as if this Act had not been passed; and for such Purpose the annual Sums now payable out of Monies voted by Parliament for the Use and Purposes of the Court for Relief of Insolvent Debtors and the Officers thereof shall be paid in future into the Bank of *England*, to the Credit of the Chief Registrar's Account in Bankruptcy.

Fees to be taken by Official Assignees.

31. The Fees to be taken by Official Assignees in respect of the Duties performed by them shall be defined by General Orders. Each Official Assignee shall make a Return half-yearly to the Chief Registrar, in such Manner as General Orders shall direct, of the Amount of Fees received by him during the Six Months preceding the Date of such Return.

Salaries of Official Assignees.

Each of the present Official Assignees in the *London* District shall receive an annual Salary of Twelve hundred Pounds. Each of the present Official Assignees in the Country Districts shall receive an annual Salary of One thousand Pounds. Every future Official Assignee in the *London* District shall receive an annual Salary of One thousand Pounds. And every future Official Assignee in the Country Districts shall receive an annual Salary of Eight hundred Pounds. All such Salaries shall be paid quarterly out of the Monies standing to the Chief Registrar's Account, and shall be exclusive of such proper Remuneration actually paid to necessary Clerks,

Clerks, and of such reasonable Office Expenses as shall respectively be allowed by the Court. The Official Assignees shall not be entitled to any further Remuneration in respect of any Duties performed by them.

Remuneration of Messengers.

32. The Messengers shall receive such Remuneration by way of Fees as General Orders shall direct and allow; provided that the total net annual Remuneration to be received by any Messenger in the *London* District shall amount to but not exceed the Sum of Five hundred Pounds, and of any Messenger in the Country Districts the Sum of Four hundred Pounds. Any Surplus of such Fees upon the Aggregate of the Receipts of each Year, after deducting the aforesaid Salaries, and reasonable Payments by the Messengers for Assistance, to be allowed by the Court, shall be paid over by the several Messengers in such Manner and at such Times as General Orders shall direct, to the Credit of the Chief Registrar's Account.

Surplus Fees to be paid over.

As to Retiring Annuities, Compensations, and incidental Expenses:

Retiring Pensions to Officers.

33. The Lord Chancellor may, on a Petition presented to him for that Purpose, order that an Annuity be paid to any Commissioner or Registrar, or to the Accountant in Bankruptcy, or Taxing Master, or other Officer of the Court of Bankruptcy, not exceeding Two Thirds of his Salary, to be paid out of the Chief Registrar's Account, when such Person shall have served in such Office for the full Period of Twenty Years, and shall be above Sixty-five Years of Age, or shall have been appointed to such Office in or previous to the Year One thousand eight hundred and thirty-two, and shall be desirous of retiring, or if such Person shall, before the Period of Twenty Years Service is completed, be afflicted with any permanent Infirmity disabling him from the due Execution of his Office. The Time during which such Person shall have held Office in the Court for Relief of Insolvent Debtors shall be reckoned as Part of such Service of Twenty Years.

Provision as to Annuitants accepting other Public Offices.

34. If any Person to whom an Annuity shall be granted under this Act shall be appointed to and accept any Public Office of an annual Value less than the Amount of such Annuity, such Person, during the Time he may continue in such Office, shall be entitled to receive only so much of his Annuity as shall, together with the Salary of such new Office, be equal to such Annuity. If the Salary attached to such Public Office shall equal or exceed in Amount such Annuity, then during the Time of his Continuance in such Office such Annuity shall altogether cease.

35. The

Compensations.

35. The Compensations now payable to the following Holders of abolished Offices,—

Patentee of Bankrupts,

The former Commissioners of Bankrupt,

The Clerk of the Hanaper and other Officers of the Lord Chancellor and the Court of Chancery,

and the retiring Annuities now respectively payable out of the Funds standing to the Credit of the Chief Registrar's Account, shall continue to be paid out of the same Funds; but the annual Amount of the said Compensations and retiring Annuities shall be paid into the Bank of *England* to the Credit of the Chief Registrar's Account, by the Commissioners of the Treasury, out of Monies to be from Year to Year voted for that Purpose by Parliament.

Incidental Expenses.

36. The Funds standing to the Account intituled The Chief Registrar's Account shall be subject to all such Orders as have been heretofore duly made, or as shall from Time to Time be made by the Lord Chancellor for Payments thereout in respect of the Salaries of Clerks and other Persons employed in the various Offices of the several Courts of Bankruptcy, and for Stationery, Coals, and Candles for the Use of the same, and for Rent and Repairs of the Buildings, and in respect of all Expenses incidental to carrying this Act into effect; and all Accounts for such Expenses shall be audited and allowed by the Commissioner of the Court in which they have been incurred before any Order for Payment shall be made.

As to Fees and Stamps:

Court Fee abolished.

37. The Court Fee heretofore payable in respect of public and private Sittings in Bankruptcy is abolished.

Per-centage upon Estates abolished.

38. The Per-centage heretofore payable by the Fifty-fourth Section of "The Bankrupt Law Consolidation Act, 1849," to the Chief Registrar's Account, on the gross Produce of Estates in the Court of Bankruptcy, is abolished.

General Orders to direct what Fees to be paid.

Fees to be received in Stamps.

39. General Orders may from Time to Time direct what Fees, other than those herein directed, shall be paid in respect of any Matters of Bankruptcy or Proceedings under this Act: Provided that all Fees shall be received and taken by means of Stamps having the Word "Bankruptcy" impressed or affixed thereon, in manner hereinafter provided.

Fees may be altered by General Order.

40. The Fees by this Act made payable, or any of them, may from Time to Time be varied or abolished by General Orders; and other Fees, but not of an Amount higher than that by this Act prescribed,

prescribed, may be fixed and imposed by such Orders; and the Provisions of this Act respecting Stamps are hereby extended and applied to such Stamps as may be required by General Orders.

Certain Documents to be on stamped Vellum, &c. in lieu of Fees.

41. Every Document enumerated in the Schedule (B.) to this Act annexed shall, in lieu of all Fees thereupon, be printed or written upon Vellum, Parchment, or Paper bearing the Stamp Duty set opposite to such Documents respectively in such Schedule, and having the Word "Bankruptcy" impressed on every such Stamp: Provided that the Commissioners of Inland Revenue, besides such impressed Documents denoting Fees, shall provide like Stamps on adhesive Paper; and all Stamp Duties and Fees directed to be paid under this Act may be paid by means of such Stamps on adhesive Paper affixed to Documents requiring a Stamp Duty: Where any such Document shall consist of more than One Sheet, only the First Sheet thereof shall have such Stamp impressed or affixed thereon.

Documents not to be received without a Stamp.

42. No Document which by this Act or by any General Order is or shall be required to have a Stamp impressed thereon shall be received or filed or be used in relation to any Proceeding in the Courts, or be of any Validity for any Purpose whatever, unless or until the same shall have the proper Stamp impressed or affixed thereon: Provided always, that if at any Time it shall appear that any Document which ought to have had such Stamp has, through Mistake or Inadvertence, been received or filed or used without having such Stamp, the Courts may order that such Stamp shall be impressed or affixed thereon; and when a Stamp shall have been so impressed or affixed on such Document, such Document, and every Proceeding in reference thereto, shall be as valid and effectual as if such Stamp had been impressed or affixed thereon in the first instance: Provided also, that nothing herein contained shall affect the Provisions contained in the Twenty-seventh Section of the Act of the Session of Parliament of the Seventeenth and Eighteenth Years of the Reign of Her present Majesty, Chapter Eighty-three, or the Provisions of "The Common Law Procedure Act, 1854," and that every Stamp on adhesive Paper affixed to a Document shall be deemed a Stamp impressed thereon.

Proviso where so received through Mistake.

Officers, &c. taking Fees improperly.

43. If any Judge, Commissioner, Registrar, Accountant, Master, Official Assignee, Clerk, or any other Officer of the Courts of Bankruptcy, or of any County Court acting in Matters under this Act, shall, for anything done or pretended to be done under this Act, or under colour of doing anything thereunder, fraudulently and wilfully demand or take, or appoint or allow any Person whatsoever to take, for him or on his Account, or for or on account

account of any Person by him named, or in trust for him or for any other Person by him named, any Fee, Emolument, Gratuity, Sum of Money, or any Thing of Value whatsoever, other than is allowed by this Act, such Person, when convicted thereof, shall forfeit and pay the Sum of Five hundred Pounds, and be rendered incapable and is hereby rendered incapable of holding any Office or Place under Her Majesty.

Officers of the Court may be dismissed for Fraud or wilful Neglect in relation to Stamps.

44. If any such Judge, Commissioner, Officer, or Person shall fraudulently do, commit, or connive at any fraudulent Act or Practice in relation to any Stamp used or required to be used in any Matter under this Act, or to any Fee or Sum of Money collected or which ought to be collected by means of any such Stamp or otherwise, or shall be guilty of any fraudulent Act, Neglect, or Omission, whereby any Fee which ought to be collected by means of such Stamp or otherwise shall be lost or the Payment thereof evaded, such Judge, Commissioner, Officer, or Person so offending shall be liable to be dismissed from his Office or Employment.

As to General Orders:

Purposes for which General Orders are to be framed.

45. The Lord Chancellor shall, with the Assistance of Two Commissioners, and subject to the Provisions of this Act, frame General Orders for the following Purposes:

For regulating the Practice and Procedure of the Courts of Bankruptcy, and the several Forms of Petitions, Orders, and other Proceedings to be used in the said Courts, in all Matters under this Act;

For regulating the Duties of the various Officers of such Courts;

For regulating the Fees payable and the Charges and Costs to be allowed with respect to all Proceedings before such Courts, and before the County Courts acting in Bankruptcy;

For regulating the Practice and Procedure upon Appeals;

For regulating the Filing, Custody, and Inspection of Records;

And, generally, for carrying the Provisions of this Act into effect.

General Orders in County Courts.

46. For regulating the Practice and Procedure of the County Courts and the Place and Times of sitting thereof in Matters under this Act, General Orders shall be framed in conformity with the Provisions of this Act, and subject to the Sanction of the Lord Chancellor, by such Judges of the said Courts as the Lord Chancellor shall from Time to Time nominate for that Purpose.

Alteration of General Orders.

47. After such General Orders shall have been so framed they or any of them may be rescinded or varied, and other General Orders may be framed in manner aforesaid; and all General Orders so framed from

from Time to Time shall be laid before both Houses of Parliament within One Month after the Approval thereof by the Lord Chancellor, if Parliament be then sitting, or if Parliament be not then sitting, within One Month from the Commencement of the then next Session of Parliament. All General Orders to be laid before Parliament.

As to the Sittings of the Court:

48. The *London* and District Courts of Bankruptcy shall sit for the Despatch of Business daily throughout the Year, *Sunday*, *Christmas Day*, *Good Friday*, *Monday* and *Tuesday* in *Easter* Week, and Days appointed for Public Fast or Thanksgiving, excepted. Sittings of the Court.

49. During the Time appointed by Order for Vacations in the High Court of Chancery the Lord Chancellor shall have full Power and Authority to regulate the Sittings of the Court, and appoint the Attendance of such Commissioner or Commissioners as shall appear necessary for the due Administration of Justice in the said Court. Lord Chancellor to regulate Sittings in Vacation.

As to the Practice and Procedure of the Court:

50. The several Courts exercising Jurisdiction under this Act may, in all Matters within their respective Jurisdictions, take the whole or any Part of the Evidence either *vivâ voce* on Oath, or by Interrogatories in Writing, or upon Affidavit, or by Commission abroad. Evidence, how to be taken.

51. The Commissioners may sit at Chambers for the Despatch of such Part of the Business of their Courts as can, without Detriment to the Public Advantage arising from the Discussion of Questions in open Court, be heard in Chambers; and when sitting at Chambers they shall have in all respects like Power and Jurisdiction as when sitting in Court. Judges may sit at Chambers.

52. The Registrars of the Court of Bankruptcy shall have Power to make Adjudication of Bankruptcy, to receive the Surrender of any Bankrupt, to grant Protection, to pass the last Examination of any Bankrupt in Cases wherein the Assignees and Creditors do not oppose, to hold and preside at Meetings of Creditors, to audit and pass Accounts of Assignees, and to sit in Chambers, and despatch there such Part of the administrative Business of the Court, and such uncontested Matters as shall be defined in General Orders, or as the Commissioner in any particular Matter shall direct; but nothing herein contained shall empower a Registrar to commit, or to hear a disputed Adjudication, or any Question of the Allowance or Suspension of an Order of Discharge. The Registrar may adjourn any Matter coming before him for the Consideration of the Commissioner. Registrars, their Powers and Jurisdiction.

Registrars to sit in Chambers.

County Court Registrars.

missioner. The Lord Chancellor may, by Order, from Time to Time authorize the Registrar of any County Court to exercise any of the Powers hereby given to the Registrars of the Court of Bankruptcy.

Parties may take Opinion of the Commissioner. Certificates of Registrars at Chambers to be binding.

53. Any Party shall, during the Proceedings before a Registrar, be at liberty to take the Opinion of the Commissioner upon any Point or Matter arising in the Course of such Proceedings, or upon the Result of such Proceedings, which shall be stated by the Registrar in the Shape of a short Certificate to the Commissioner, who shall sign the same, if he approve thereof; and such Certificate, so signed, shall be binding on all the Parties to the Proceeding; but every such Certificate may be discharged or varied by the Commissioner, at Chambers or in open Court.

Penalties upon Parties and Witnesses not attending, or wilfully swearing falsely, before Registrar.

54. Parties and Witnesses summoned before a Registrar shall be bound to attend in pursuance of such Summons, and shall be liable to Process of Contempt in like Manner as Parties and Witnesses are now liable thereto in case of Default in Attendance under any Writ of Subpœna; and all Persons wilfully and corruptly swearing or affirming falsely before a Registrar shall be liable to all the Penalties, Punishments, and Consequences of Perjury.

Persons refusing to answer may be ordered to pay Costs.

55. If any Person examined before a Registrar shall refuse or decline to answer or to swear to or sign his Examination when taken, the Registrar shall refer the Matter to the Commissioner, who shall have Power to order the Person so acting to pay the Costs thereby occasioned, if such Person be compellable by Law to answer such Question, or to sign such Examination.

Special Case.

56. In any Bankruptcy or any other Proceeding within the Jurisdiction of the Court the Parties concerned or submitting to such Jurisdiction may, at any Stage of the Proceedings, by Consent, state any Question or Questions in a Special Case for the Opinion of the Court, and the Judgment of the Court shall be final, unless it be agreed and stated in such Special Case that either Party may appeal.

Payment of Money by Party on Judgment being given.

57. The Parties may, if they think fit, agree that, upon the Question or Questions raised by such Special Case being finally decided, a Sum of Money, fixed by the Parties, or to be ascertained by the Court, or in such Manner as the Court may direct, or any Property, or the Amount of any disputed Debt or Claim, shall be paid, delivered, or transferred by one of such Parties to the other of them, either with or without Costs.

58. The

Courts may direct Registrar to hold Meetings, &c.

Expenses of such Registrar, &c.

Powers of Registrar so acting.

58. The Courts of Bankruptcy may direct a Registrar to attend at any Place within the District of the Court to which he is attached, for the Purpose of holding any Meeting of Creditors, of receiving Proof of Debts, and generally for the Prosecution of any Bankruptcy or other Proceeding under this Act; and the travelling and incidental Expenses of such Registrar, and of any Clerk or other Officer attending him, incurred in so acting, shall be settled by such Court, and paid out of the Assets of the Estate in respect of which such Registrar has so acted, or if there be no such Assets, or if the Assets be insufficient, then out of the Chief Registrar's Account; and such Registrar so acting shall have and exercise all Powers, except the Power of Commitment, vested in such Court for the summoning and Examination of Persons or Witnesses, and for requiring the Production of Books, Papers, and Documents: Provided always, that all Depositions and Examinations of Persons and Witnesses taken before such Registrar, and all Acts done by him, shall be reduced to Writing, and be signed by such Registrar, and shall be annexed to and form Part of the Proceedings.

Questions of Fact may be tried by a Jury.

59. It shall be lawful for the Judges of the Court of Appeal in Chancery to direct any Question of Fact to be tried and determined before themselves by the Verdict of a Special or Common Jury. The Judges of the said Court of Appeal in Chancery may make all such Rules and Orders upon the Sheriff or any other Person for procuring the Attendance of a Special or Common Jury for the Trial of such Question as may now be made by any of the Superior Courts of Common Law at *Westminster*, and also may make any other Orders which may be requisite for the Purpose of such Trial; and every such Jury shall consist of Persons possessing the like Qualifications, and shall be struck, summoned, and balloted for and called, in like Manner as if such Jury were a Jury for the Trial of any Cause in any of the said Superior Courts; and every Juryman so summoned shall be entitled to the same Rights, and be subject to the same Duties and Liabilities, as if he had been duly summoned for the Trial of a Civil Action in any of the said Superior Courts; and every Party to any such Proceeding shall be entitled to the same Rights, as to Challenge and otherwise, as if he were a Party to a Cause in any of the said Superior Courts; and at the Trial the Jury shall be sworn to try the said Question of Fact, and a true Verdict to give thereon, according to the Evidence; and upon every such Trial such Court shall have the same Powers, Jurisdiction, and Authority as any Judge of the Superior Courts of Common Law sitting at Nisi Prius.

60. It

Issues may be directed.

60. It shall be lawful for the Judges of the Court of Appeal in Chancery respectively to direct One or more Issue or Issues to be tried in any Court of Common Law, and either before a Judge of Assize in any County, or if required by Circumstances, at the Sittings for the Trial of Causes in *London* or *Middlesex*, and either by a Special or Common Jury, in like Manner as is now done by the Court of Chancery.

Appointment of Shorthand Writers.

61. In order to facilitate the Business of the Courts of Bankruptcy in taking Examinations, or the Evidence of Parties examined *vivâ voce*, the Court may, in any Matter of Bankruptcy or other Proceeding within the Jurisdiction of Courts, direct the Employment of a Shorthand Writer; and General Orders shall direct under what Regulations such Shorthand Writer shall be employed, and the Amount of the Remuneration to be allowed him, and the Parties by whom such Remuneration shall be paid.

Declaration to be made by Shorthand Writer.

62. Every Shorthand Writer so employed by the Court shall in every Case make in Court the following Declaration:

'I *A. B.* do solemnly and sincerely declare, That I will faithfully and truly take down the Questions and Answers put to and given by Persons to be examined in this Matter, and will deliver true and faithful Transcripts thereof, as the Court shall direct.'

Sealing and Signature of Warrants.

63. Every Warrant issued by any Court under this Act shall be under the Seal of the Court, and the Hand of the Commissioner; and every Summons shall be under the Hand of the Registrar, and under the Seal of the Court.

Records and Proceedings to be sealed.

64. The Courts shall cause to be sealed with the Seal of the Courts all such Records, Proceedings, Documents, and Copies of the same as are by this Act or shall be by General Orders required to be so sealed, and such other Records, Proceedings, Documents, and Copies of the same as the Courts shall at any Time direct.

Want of Form, where not to invalidate Proceedings.

65. No Rule, Order, Warrant, or other Proceeding or Document required by this Act to be in a Form given in the Schedules to this Act, or to be given by any General Order, shall be invalidated by reason of any Want of Form or Omission therein, if such Want of Form or Omission shall not in the Opinion of the Court before which the same shall be brought be calculated to mislead or prejudicially affect any Party.

Appeal from County Courts.

66. Every Decision or Order of the Judge of any County Court acting in Bankruptcy under this Act shall be subject to Appeal

to

to the Court of Appeal in Chancery, in like Manner and under the same Rules and Regulations as are now directed with respect to Appeals from the *London* and District Courts of Bankruptcy to the said Court of Appeal, or as may hereafter be directed by General Orders.

Returns to Parliaments.

67. The Registrars, Accountant in Bankruptcy, Master, Official Assignees, and Messengers of the Court in *London* and of the District Courts of Bankruptcy, and the Registrars of the County Courts acting in Bankruptcy, shall make to the Chief Registrar, in such Manner and Form as General Orders shall direct, annual Returns of the Business of their respective Offices, and from such Returns the Chief Registrar shall frame a general Return, judicial and financial, as to all Matters within this Act, and such general Return shall be laid before Parliament by the Lord Chancellor as early as may be after the Completion thereof; and the Returns to the Chief Registrar shall be kept by him of Record, and shall be open to the Inspection of Persons desirous of inspecting the same, on Payment of the Fee for Inspection of Proceedings set forth in Schedule (B.) to this Act.

As to the Buildings occupied for the Purposes of the Courts:

Buildings.

68. The Building in *Basinghall Street* in the City of *London* called the Court of Bankruptcy, and the Building in *Portugal Street, Lincoln's Inn Fields*, called the Court for the Relief of Insolvent Debtors in *England*, together with the Pieces or Parcels of Ground on which the same are severally erected, shall vest in the Commissioners of Her Majesty's Works and Public Buildings, and shall be appropriated to such Purposes as the Lord Chancellor shall direct.

As to the Persons subject to this Act:

Abolition of Distinction between Trader and Non-trader.

69. All Debtors, whether Traders or not, shall be subject to the Provisions of this Act; but no Debtor who is not a Trader shall be adjudged bankrupt except in respect of some one of the Acts of Bankruptcy herein-after described as applicable to a Non-trader.

As to Acts of Bankruptcy:

Non-trader going, or remaining abroad, or making fraudulent Conveyance, with Intent to defeat or delay his Creditors.

70. If any Person, not being a Trader, shall, with Intent to defeat or delay his Creditors, depart this Realm, or being out of this Realm shall with such Intent remain abroad, or shall with such Intent make any fraudulent Conveyance, Gift, Delivery, or Transfer of his Real or Personal Estate, or any Part thereof respectively, such Person shall be deemed to have thereby committed an Act of Bankruptcy: Provided always, that before any Adjudication in Bankruptcy shall be

be made against the Debtor under this Section the following Rules shall be observed:

Rules to be observed before Adjudication under this Section.

1. A Copy of the Petition for Adjudication shall be served personally on the Debtor, either within the Jurisdiction, or in such Place or Country, or within such Limits abroad, as the Court shall, upon Application for that Purpose, direct:
2. Such Copy Petition shall have endorsed thereon a Memorandum, in a Form to be settled by a General Order, specifying the Time within which the Debtor is to appear on such Petition; and such Time shall, when the Service is to be made abroad, be the Time which the Court shall think reasonable, having regard to the Place or Country where the Service is to be made:
3. In no Case shall the Time for Appearance be less than Thirty Days after Service:
4. If such personal Service has not been effected, the Court must be satisfied that every reasonable Effort was made to effect the same, and that the Attempts to serve such Petition came to the Knowledge of the Debtor and were defeated by his Conduct:
5. If at the Expiration of the Time limited for Appearance the Court shall on the Hearing of such Petition be satisfied that an Act of Bankruptcy has been committed within the Meaning of this Section, it may adjudge such Debtor to be a Bankrupt:

Proviso. Provided always, that no Non-trader, who shall be abroad at the Time of the passing of this Act, shall be deemed to remain abroad with Intent to defeat or delay his Creditors until the Expiration of Six Months after the passing of this Act.

Trader or Non-trader lying in Prison, or escaping out of Prison.

71. If any Debtor, whether a Trader or not, having been arrested or committed to Prison for Debt, or on any Attachment for Nonpayment 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, being a Trader, for Fourteen Days, or, not being a Trader, for Two Calendar Months, or, having been arrested for any Cause, shall lie in Prison as aforesaid, after any Detainer for Debt lodged against him, and not discharged, every such Debtor shall thereby be deemed to have committed an Act of Bankruptcy; or if any such Debtor, having been arrested, committed, or detained for Debt, shall escape out of Prison or Custody, every such Debtor shall be deemed to have thereby committed an Act of Bankruptcy from the Time of such Arrest, Commitment, or Detention: But no Debtor shall be adjudged bankrupt on the Ground of having lain in Prison as aforesaid, unless having been summoned he shall not offer

offer such Security for the Debt or Debts in respect of which he is imprisoned or detained, as the Commissioner or Registrar whose Duty it would otherwise be to adjudicate, shall deem reasonably sufficient.

Trader or Non-trader filing a Declaration that he is unable to meet his Engagements.

72. If any Debtor, whether a Trader or not, shall file in the Office of the Chief Registrar, or with the Registrar of a District Court of Bankruptcy, or of a County Court having Jurisdiction in Bankruptcy, a Declaration in Writing, in such Form as General Orders shall direct, signed by such Debtor, and attested by a Registrar of the Court, or by an Attorney or Solicitor, that he is unable to meet his Engagements, every such Debtor shall be deemed thereby to have committed an Act of Bankruptcy at the Time of filing such Declaration, provided a Petition for Adjudication of Bankruptcy shall be filed by or against him within Two Months from the filing of such Declaration.

Trader Debtor suffering Execution to be levied.

73. If any Execution shall be levied by Seizure and Sale of any of the Goods and Chattels of any Trader Debtor, upon any Judgment recovered in any Action Personal for the Recovery of any Debt or Money Demand exceeding Fifty Pounds, every such Debtor shall be deemed to have committed an Act of Bankruptcy from the Date of the Seizure of such Goods and Chattels: Provided always, that, unless in the meantime a Petition for Adjudication of Bankruptcy against the Debtor be presented, the Sheriff or other Officer making the Levy shall proceed with the Execution, and shall at the End of Seven Days after the Sale pay over the Proceeds, or so much as ought to be paid, to the Execution Creditor, who shall be entitled thereto notwithstanding such Act of Bankruptcy, unless the Debtor be adjudged a Bankrupt within Fourteen Days from the Day of the Sale, in which Case the Money so received by the Creditor shall be paid by him to the Assignee under the Bankruptcy, but the Sheriff or other Officer shall not incur any Liability by reason of anything done by him as aforesaid: Provided also, that, in case of Bankruptcy, the Costs and Expenses of such Action and Execution shall be retained and paid out of the Proceeds of the Sale, and the Balance only, after such Payment, be paid to the Assignees.

Goods, &c. taken in Execution to be sold by Auction.

74. Wherever the Goods and Chattels of a Debtor are sold under an Execution upon any Judgment recovered in any Action or Suit brought for the Recovery of a Debt, Money Demand, or Damages against any Debtor, exceeding Fifty Pounds, such Goods and Chattels shall in all Cases, unless the Court shall otherwise direct, be sold by the Sheriff by Public Auction, and not by Bill of Sale or Private Contract, and such Sale shall be publicly advertised by the Sheriff on and during Three Days next preceding the Day of Sale.

75. The

As to Petition by or against Trader or Non-trader, followed by Adjudication, in the Foreign Dominions of the Crown.

75. The filing of a Petition by or against a Debtor, whether a Trader or not, in any Court having Jurisdiction for the Relief of Insolvent Debtors in Insolvency or Bankruptcy in any of Her Majesty's Dominions, Colonies, or Dependencies, and the Adjudication of an Act of Insolvency or Bankruptcy on such Petition, shall, for the Purposes of this Act, be accounted and adjudged conclusive Evidence of an Act of Bankruptcy committed by such Debtor at the Time of filing such Petition, or of the filing the Petition on which the Adjudication of an Act of Insolvency or of Bankruptcy shall have been made; and any Creditor or Creditors of such Debtor whose Debt or Debts shall be of sufficient Amount to enable him or them to petition for Adjudication of Bankruptcy under this Act may, at any Time within Two Months after Notice of such Adjudication shall have been given in the *London Gazette*, petition for Adjudication of Bankruptcy under this Act against such Debtor, and under such Petition all such Proceedings may be had and taken as are authorized and directed by this Act.

As to an Act of Bankruptcy by Nonpayment after Judgment Debtor Summons, and the Proceedings thereupon:

Judgment Debtor Summons against Traders and Non-traders; who may sue them out, and when.

76. Every Judgment Creditor who is or shall be entitled to sue out against a Debtor a Writ of Capias ad satisfaciendum, or to charge the Debtor in Execution, in respect of any Debt amounting to Fifty Pounds, exclusive of Costs, shall be entitled, at the End of One Week from the signing of Judgment, to sue out against the Debtor if a Trader, or not being a Trader at the End of One Calendar Month, and whether he be in Custody or not, a Summons, to be called a Judgment Debtor Summons, requiring him to appear and be examined respecting his Ability to satisfy the Debt.

The like, in Cases of Disobedience to Decree in Equity, or Order in Bankruptcy, Insolvency, or Lunacy.

77. Where, after the Commencement of this Act, a Decree or Order of a Court of Equity, or an Order in Bankruptcy or Insolvency or Lunacy, directing the Payment of Money, is disobeyed by the Debtor, the same having been duly served on him, and the Person entitled to receive the Money or interested in enforcing Payment of it has obtained a peremptory Order of the competent Jurisdiction, fixing a Day for Payment, and the Debtor does not, being a Trader, within Seven Days, or, not being a Trader, within Two Calendar Months, after Service on him of the peremptory Order, or, such Order having been duly served, within Seven Days after the Day fixed by the peremptory Order for Payment, (which shall last happen,) pay the Money, or secure, or tender or compound for it, to the Satisfaction of the Creditor, the Creditor shall be entitled at the End of those Seven Days to sue out against the Debtor a Judgment Debtor Summons.

78. The

Court out of which such Summons shall issue.

78. The Judgment Debtor Summons shall, unless the Court shall in any Case otherwise direct, issue according to the following Rules:

Where the Debtor is in *England*, then out of the Court of Bankruptcy for the District in which the Debtor usually lives, or at the Time of the issuing of the Summons happens to be:

Where the Debtor is not in *England*, then out of the Court of Bankruptcy for the District in which is the Debtor's usual or last known Place of Abode in *England*.

Service of Summons

79. Where the Debtor is in *England* the Summons shall be served personally, unless the Court issuing the same shall in any Case direct that Service in some other Manner shall be good Service: Where the Debtor is not in *England*, the Court, upon such Evidence as shall satisfy it that the Service will be effectual to give Notice to the Debtor, may order Service to be made in such Manner and Form as it shall deem fit, and shall appoint a Time by such Order for the Appearance of the Debtor.

Duplicate of Summons.

80. Where the Debtor is in Custody a Duplicate of the Summons shall be delivered to the Sheriff or other Person in whose Custody he is, who shall bring him up according to the Summons, at the Costs of the summoning Creditor.

Where Service cannot be effected, &c., Court may order Notice in London Gazette, &c.

81. If Service of the Summons be not effected, and the Court is satisfied that the Debtor is keeping out of the Way to avoid Service, it may order that One or more Notices be inserted in the *London Gazette* and in One or more Newspapers published in the District in which is the Debtor's usual or last known Place of Abode, requiring him to appear on a Day named, being not less than Fourteen Days after the Publication of the first Notice.

Procedure upon Appearance of Debtor.

82. Upon the Appearance of the Debtor he may be examined on Oath, by or on behalf of the Creditor and by the Court, respecting his Ability to satisfy the Debt, and for the Discovery of Property applicable in that Behalf, and shall be bound to produce, on Oath or otherwise, such Books, Papers, and Documents in his Possession or Power relating to Property applicable or alleged to be applicable to the Satisfaction of the Debt, as the Court shall think fit, and to sign his Examination when reduced into Writing; and any Debtor refusing to be sworn, or who shall upon Examination refuse or wilfully fail to discover fully and truly, to the best of his Knowledge and Belief, all his Property, Real and Personal, inclusive of his Rights and Credits, and to produce all Books, Papers,

and Documents in his Possession or Power relating thereto, shall be liable to be committed by the Court as in the Case of a Bankrupt.

Adjudication upon Summons, and Non-payment for Failure to secure or compound.

83. If, after Service of such Summons, or due Notice thereof, as aforesaid, the Debtor shall not pay the Debt and Costs, or secure or compound for the same to the Satisfaction of the Creditor, the Court may, on the Appearance of the Debtor, or if he shall not appear, having no lawful Impediment allowed by the Court, adjudge him bankrupt, without the Presentation of a Petition for Adjudication or other Proceeding; and where the Debtor has not appeared, Notice of such Adjudication shall be served upon him in like Manner as herein provided with respect to Service of the Summons.

Time to show Cause against Adjudication.

Adjudication, when to become absolute.

Stamp Duty thereupon.

84. The Debtor shall be allowed Seven Days from such Notice, or such further Time as the Court shall think fit, for appearing to show Cause against the Adjudication; and if he appear within the Time allowed, and show sufficient Cause, the Adjudication may be annulled; otherwise, at the End of the Time allowed, or on the Judgment of the Court against the Sufficiency of the Cause shown, the Adjudication shall become absolute, and Notice thereof shall be forthwith given in the *London Gazette;* and the Adjudication shall have relation back to the Service of the Summons, or the Insertion of the first Notice in the *London Gazette,* as the Case may be; and the Stamp Duty payable upon the Presentation of a Petition for Adjudication of Bankruptcy shall be paid in respect of Adjudication under this Section or under the last preceding Section by the Official Assignee or Creditors Assignee, as the Case may be, out of the first Monies that shall be received under the Estate of the Bankrupt.

Debtor refusing to conform may be committed.

85. The Provisions contained in Section Two hundred and sixty of "The Bankrupt Law Consolidation Act, 1849," relating to the Committal of a Person refusing to be sworn, or doing or omitting the other Acts or Things therein mentioned, shall apply to a Debtor appearing on a Judgment Debtor Summons.

As to Petitions for Adjudication of Bankruptcy, and the Proceedings thereupon:

Debtor may petition for Adjudication against himself.

86. Any Debtor may petition for Adjudication of Bankruptcy against himself, and the filing of such Petition shall be an Act of Bankruptcy, without any previous Declaration of Insolvency by such Debtor.

Proceedings to obtain Adjudica-

87. Proceedings to obtain Adjudication of Bankruptcy shall be by Petition, on the Oath of the Petitioner. Every such Petition shall

shall be filed of Record, and prosecuted as directed by this Act; and from and after the filing of such Petition, in the Case of a Debtor petitioning against himself, and from and after Adjudication, in the Case of a Petition filed against a Debtor who shall be adjudged bankrupt, the Bankrupt personally and all his Estate and Effects, of what Nature or Kind soever, shall be subject to the Law of Bankruptcy.

tion of Bankruptcy to be by Petition upon Oath.

Proceedings, &c. upon filing Petition.

88. Every Petition for Adjudication of Bankruptcy, except as herein-after provided, shall be filed and prosecuted in the Court of Bankruptcy within the District of which such Debtor shall have resided or carried on Business for the Six Months next immediately preceding the Time of filing such Petition, or for the longest Period during such Six Months; but the Court in *London* may order any such Petition to be prosecuted in any District, with or without reference to the District in which the Debtor shall have so resided or carried on Business, or may consolidate the Proceedings or any Part thereof under Two or more Petitions for Adjudication of Bankruptcy, or may impound any Petition for Adjudication of Bankruptcy, or Judgment Debtor Summons, and the Proceedings thereunder, or any Part thereof, upon such Terms as the Court shall think fit, or may transfer any Petition for Adjudication of Bankruptcy, or Judgment Debtor Summons, and the Proceedings thereunder, and the Prosecution or further Prosecution thereof, from the Court in any one District to the Court in any other District, or to a County Court having Jurisdiction in Bankruptcy; and the Court to which any such Transfer shall be made may remove the Official Assignee, and appoint a new Official Assignee to any such Bankruptcy.

Where Petition shall be filed and prosecuted.

Powers to consolidate, impound, and transfer Proceedings upon Petitions.

89. The Amount of the Debt of any Creditor petitioning for Adjudication of Bankruptcy against a Debtor, whether a Trader or not, shall be as follows; that is to say,

Amount of Petitioning Creditor's Debt.

The Debt of a single Creditor, or of Two or more Persons being Partners, shall amount to Fifty Pounds or upwards:

The Debt of Two Creditors shall amount to Seventy Pounds or upwards:

The Debt of Three or more Creditors shall amount to One hundred Pounds or upwards:

Every Person who has given Credit to any Debtor upon valuable Consideration for any Sum payable at a certain Time, which Time shall not have arrived when such Debtor committed an Act of Bankruptcy, may so petition or join in petitioning, whether he shall have any Security for such Sum or not.

90. The

Debt of Petitioning Creditor of a Non-trader must be contracted after passing of Act, &c.

90. The Debt of the Petitioning Creditor of any Debtor not being a Trader, and not being at the Time a Prisoner against whom such Creditor would have been entitled to obtain a Vesting Order in Insolvency if this Act had not passed, must be a Debt contracted after the passing of this Act; and the Judgment Debtor Summons must be a Summons in respect of a Debt contracted or of a Liability incurred after the passing of this Act.

Petition fraudulently or maliciously filed, Court may order Satisfaction.

91. If the Debt stated by the Petitioning Creditor in his Affidavit, or in his Petition for Adjudication, to be due to him from any Debtor, shall not be really due, or if, after a Petition for Adjudication of Bankruptcy filed, it shall not have been proved that the Person against whom such Petition has been filed was liable to an Adjudication of Bankruptcy at the Time of the filing of such Petition, and it shall also appear that such Petition was filed fraudulently or maliciously, the Courts shall and may, upon Petition of any Person aggrieved by such Petition, examine into the same, and order Satisfaction to be made to him for the Damages by him sustained.

Petition by the public Officer of Copartnership.

92. A Petition for Adjudication of Bankruptcy or Judgment Debtor Summons against any Debtor indebted in the Amount aforesaid to any Copartnership duly authorized to sue and be sued in the Name of a public Officer or Agent of such Copartnership may be filed or sued out by such public Officer or Agent as the nominal Petitioner for and on behalf of such Copartnership; provided such public Officer or Agent shall, in a Declaration signed by him, in such Form as General Orders shall direct, declare that he is such public Officer or Agent, and that he is authorized to sue.

Debtor petitioning against himself to file Statement of Debts.

93. Every Debtor petitioning against himself shall file in Court a full, true, and accurate Statement, verified by the Oath of the Petitioner, of his Debts and Liabilities of every Kind, and of the Names and Residences of his Creditors, and of the Causes of his Inability to meet his Engagements, within such Time after filing his Petition, and in such Form, as General Orders shall direct.

Debtors residing in the Metropolitan District to file Petition in London Court; not residing in Metropolitan District, in County Court.

94. Where a Debtor petitions for Adjudication against himself, and knows or verily believes the Debts justly due and proveable under the Bankruptcy to amount in the whole to a Sum not exceeding Three hundred Pounds, such Fact shall be stated on Oath, and if he be resident within the Metropolitan District as herein defined, he shall file his Petition in the *London* Court of Bankruptcy, and where such Debts shall not exceed Three hundred Pounds, and the Debtor shall not be resident in the Metropolitan District, he shall file his Petition in the County Court for the District in which he shall have resided for

for the Six Months next before the filing of his Petition, or for the longest Period during those Six Months, unless he is in Custody, and then in the County Court for the District in which he is in Custody; but such Court, if it make Adjudication, shall transfer the Proceedings to the County Court in which the Debtor, if not in Custody, would have been required to petition.

Notice to Gaoler.

95. Every Debtor who shall present a Petition for Adjudication whilst a Prisoner in any Prison or Gaol shall by Writing give Notice to the Keeper of such Gaol or Prison of his Intention so to do, and shall in his Petition state that such Notice has been given.

Where Petitioner does not proceed, Power for Court to adjudicate.

96. If the Petitioning Creditor shall not proceed and obtain Adjudication within Three Days after his Petition shall have been filed, or within such extended Time as shall be allowed by the Court, the Court may, at any Time on the Expiration of such Three Days, or of such extended Time, as the Case may be, upon the Petition of any other Creditor to the Amount required to constitute a Petitioning Creditor, proceed to adjudicate on such last-mentioned Petition. If a Debtor petitioning against himself does not obtain Adjudication within Twenty-four Hours after filing such Petition, the Court may proceed to adjudge the Debtor a Bankrupt on the Petition of any competent Creditor.

What shall be reckoned as Debts, for the Purposes of a Petition under this Act.

97. In the Computation of Debts for the Purposes of any Petition under this Act there shall be reckoned as Debts,—

1. Sums due to Creditors holding Mortgages or other available Securities or Liens; after deducting the Value of the Property comprised in such Mortgages, Securities, or Liens:
2. Such Interest and Costs as shall be due in respect of any of the Debts:

But there shall not be reckoned,—

1. The Amount of the Debts in respect of which the Petitioner has already taken the Benefit of Insolvency, Protection, or Bankruptcy:
2. Debts barred by any Statute of Limitations.

As to Adjudication of Bankruptcy against Pauper and other Prisoners for Debt:

Power for Prisoners for Debt to petition in formâ pauperis.

98. If any Debtor, whether a Trader or not, now being or who shall be imprisoned for any Debt or Demand, shall through Poverty be unable to petition the proper Court for an Adjudication of Bankruptcy against himself, he shall be at liberty to petition *in formâ pauperis*, upon making an Affidavit that he has not the

Means of paying the Fees and Expenses usually payable in respect of a Petition by a Debtor for an Adjudication of Bankruptcy. Such Affidavit may be sworn before the Gaoler of the Prison where such Debtor is confined, and such Gaoler is hereby empowered and required to take such Affidavit, and swear the Deponent thereto, without Fee or Reward.

Proceedings upon such Petition.

99. Every Person so petitioning *in formâ pauperis* as aforesaid shall, if not previously discharged by a Registrar, be brought up to the County Court of the District at its next Sitting after the Presentation of such Petition, and shall be examined by the Court touching his Estate and Effects, Debts, Dealings, and Transactions; and if the Court shall be satisfied with such Examination it shall make an Order of Adjudication of Bankruptcy against the Petitioner, and, if it think fit, grant an Order of Protection to the Petitioner.

Gaoler to make monthly Return of all Prisoners for Debt.

100. The Gaoler of every Prison in *England* or *Wales* within the Walls, Rules, or Liberties whereof any Person shall be in Custody upon any Process whatsoever, for or by reason of any Debt, Claim, or Demand whatsoever, shall on the First Day of every Month, or if such Day shall happen to be *Sunday*, then on the Day next following, make a Return under his Hand of the Name of every such Person, and the Date of his or her Imprisonment, and the Nature and Amount of the Debt or Demand, Debts or Demands, for which he or she is imprisoned or in Custody, and whether he or she is willing or refuses to petition the Court of Bankruptcy, or is unable to do so by reason of Poverty, or in such other Form and Manner and with such Particulars as any General Orders shall direct. Such Return shall also include the Names and Addresses of every Creditor at whose Suit each such Prisoner is imprisoned or detained, and shall be made by Gaolers of Prisons situate within the *London* District to the *London* Court, and by the Gaolers of Prisons within the Country Districts to the District Court of Bankruptcy, or the County Court having Jurisdiction in Bankruptcy, within the Jurisdiction of which the Gaol is situate, as the Case may be.

Registrar to attend at the Gaol, and examine every Prisoner in such Return.

101. The Commissioner or County Court Judge, as the Case may be, shall in every Case, on receiving such Return, make an Order that a Registrar of the Court of Bankruptcy or of the County Court of the District in which the Gaol is situate shall attend at the Gaol on a Day to be named, being at least Seven and not more than Twenty-one Days from the Date of such Return. Notice of such Order shall be forthwith given to the Gaoler and also to the Execution and detaining Creditors of every Prisoner included in such Return. On the Day named in the Order the Registrar shall attend at the Prison, and examine every Prisoner

Prisoner included in such Return who shall have been in Prison, being a Trader, for Fourteen Days, or, not being a Trader, for Two Calendar Months, touching his Estate and Effects, Debts, Dealings, and Transactions: The Registrar shall also ascertain the last Place of Abode and Business of each such Prisoner within the Six Months next prior to his Imprisonment. The Registrar shall have Power to make an Order of Adjudication in Bankruptcy against every such Prisoner, and to grant him Protection, and to make an Order for his Release from Prison, and shall also direct in what Court such Adjudication shall be prosecuted, having regard to the Amount of Debts and the Place of Trade or Residence of the Prisoner within the Six Months next preceding his Imprisonment. The Registrar shall certify the Particulars of each Case to the Court of which he is Registrar.

Power for Registrar to make Order of Adjudication.

102. If the Prisoner shall refuse to appear or to be sworn, or to answer all lawful Questions of such Registrar or of the Execution or detaining Creditor, or of any other Creditor who shall be present, respecting his Debts, Liabilities, Dealings, and Transactions, or to make a full Discovery of his Estate and Effects, and of all his Books of Account, or to produce the same, or to sign his Examination when taken, the Registrar shall report the same to the Court, and the Court may, by Warrant under the Hand and Seal of the Judge or Commissioner, commit him to the Common Gaol of the County, there to be kept, with or without Hard Labour, for any Time not exceeding One Month, and the Court may at the same Time adjudge such Prisoner bankrupt; provided that if after such Adjudication the Bankrupt shall, before the Period of such Commitment has expired, submit to be examined, and in all things conform to the Jurisdiction of the Court, he shall have in all respects the same Benefit as if he had submitted to the Court in the first instance.

Where such Prisoner refuses to conform, the Court may commit him.

103. Every Adjudication against any Prisoner for Debt so brought up as aforesaid shall, unless the Court shall otherwise direct, have relation back to the Date of his Commitment or Detention, as the Case may be, and shall be as valid and effectual for all Purposes as if it had been made under any other of the Provisions of this Act.

Effect of Adjudication against Prisoner for Debt.

104. No Person who is in Custody solely under or by reason of any Warrant or Order made or issued by or by the Authority of a Judge, under the Provisions of the Act of the Eighth and Ninth Years of Her present Majesty, Chapter One hundred and twenty-seven, or of the Act of the Ninth and Tenth Years of Her present Majesty, Chapter Ninety-five, or by the Authority of any Court having the Power to commit any Person to Prison upon or by reason of any Order or Judgment wherever there shall have been recovered a Sum

Persons imprisoned under 8 & 9 Vict. c. 127. and 9 & 10 Vict. c. 95., &c., not to be included in the Return.

Sum for Debt not exceeding Twenty Pounds exclusive of Costs, shall be included in the Return so directed to be made by Gaolers as aforesaid, or released from such Imprisonment by virtue of any Order to be made by the Registrar as aforesaid, or be entitled to petition *in formâ pauperis* under this Act.

Discretion of County Court Judge under 8 & 9 Vict. c. 127. and 9 & 10 Vict. c. 95.

105. Every Judge in acting under the last-mentioned Statutes, and in deciding whether the Party summoned before him has then or has had since the Judgment obtained against him sufficient Means and Ability to pay the Debt or Damages, or Costs, so recovered against him, either altogether or by any Instalment or Instalments as ordered, shall take into consideration all the Debts and Liabilities of the Party so summoned, and his Conduct in disposing of his Money or Property since the Judgment was given.

As to Lunatic Prisoners for Debt:

Adjudication in case of Lunatic Prisoners for Debt.

106. If any Person being or alleged to be of unsound Mind shall be in Prison for Debt, the Gaoler shall forthwith require a Justice of the Peace for the County or Place wherein such Prison shall be to visit such Debtor, and to inquire into his State of Mind; and such Justice shall call to his Assistance Two duly qualified Medical Practitioners, each of whom shall be a Physician, Surgeon, or Apothecary, and each of whom shall separately examine such Debtor; and if such Two Medical Practitioners shall each sign a Certificate with respect to such Debtor, according to the Form in Schedule H. to this Act annexed, and such Justice shall be satisfied from his own View that such Debtor is of unsound Mind, he shall certify the same to the proper Court, and thereupon the Court may appoint some Person to represent such Debtor, and direct such Proceedings to be taken for Adjudication in Bankruptcy against him as the Court shall think fit; and all Proceedings under such Adjudication shall be had and carried on in the same Manner and with the like Effect as if such Prisoner had been of sound Mind, and had presented a Petition to the Court for Adjudication of Bankruptcy, or as near thereto as the Difference of Circumstances will permit.

Power thereupon for Justice of the Peace to remove such Prisoners to County Asylum.

107. Any Justice of the Peace of the County or Place aforesaid may thereupon remove such Prisoner from such Gaol, and may cause him to be sent to the Asylum of the County in which such Gaol shall be situate, in order that he may be placed under Care and Treatment as a Lunatic; and such Removal shall not be considered as an Escape or final Discharge from such Gaol, and such Prisoner shall thereafter be dealt with in all respects as a Pauper Lunatic, and shall be subject to the Acts of Parliament for the Time being in force respecting Pauper

Pauper Lunatics, or as near thereto as Circumstances will permit: Provided nevertheless, that in the event of his Recovery from his Lunacy, he shall, if still liable to be detained in Custody as a Debtor, be remitted to the Gaol from whence he was received.

As to Procedure after Adjudication:

Official Assignee to take possession.

108. Immediately on Adjudication it shall be the Duty of the Official Assignee to take possession of the Bankrupt's Estate, and to retain Possession thereof until the Appointment of a Creditors Assignee; but if such Official Assignee, or if the Court, upon the Representation of any Creditor, shall be of opinion that the keeping Possession of the Bankrupt's Property is not requisite for the due Protection of the Creditors, such Possession shall not be continued.

Meeting of Creditors.

Proof of Debts.

Transfer to County Court.

109. As soon as conveniently may be after Adjudication shall have become absolute, the Court shall appoint a Meeting of the Creditors, of which Ten Days Notice shall be given in the *London Gazette*, and which Meeting shall be held at such Time and Place as the Court shall appoint; and at such Meeting a Registrar, or such other Person as the Court shall appoint for that Purpose, shall preside, and receive the Proofs of the Debts of the Creditors. The Official Assignee shall attend and give to the Meeting the fullest Information in his Power of the Estate and Effects of the Bankrupt, and of the Debts due from his Estate; and it shall be lawful for the Majority in Number and Value of the Creditors present at such Meeting or at any Adjournment thereof to resolve and determine that the Proceedings in the Bankruptcy shall be transferred to and thenceforth prosecuted in the County Court of any District, other than the Metropolitan District, and the Court shall order the same accordingly, upon being satisfied that such Resolution was duly made. At this Meeting a Majority in Value of the Creditors present shall determine whether any or what Allowance for Support shall be made to the Bankrupt up to the Time of passing his last Examination.

Option to Creditors.

110. In case at such Meeting or at any other Meeting of Creditors any Proposal shall be made by or on behalf of the Bankrupt which it shall appear to the major Part in Value of the Creditors then present ought to be accepted, or if it shall appear to the Majority in Value of the Creditors present at any Meeting to be desirable on any Ground to resolve, and such Majority shall resolve, that no further Proceedings be taken in Bankruptcy, the Meeting shall be adjourned for Fourteen Days, in order that Notice of such Resolution may be given to every Creditor by the Official or Creditors Assignee, which shall be done accordingly; and if at such adjourned Meeting a

Majority in Number representing Three Fourths in Value of the Creditors present shall so resolve, the Proceedings in Bankruptcy shall be suspended, and the Estate and Effects of the Bankrupt shall be wound up and administered in such Manner as such Majority shall direct, and the Bankrupt having made a full Discovery of his Estate shall be entitled to apply for an Order of Discharge.

Amendment of 12 & 13 Vict. c. 106. s. 123. as to Attestations to Admissions of Debt.

111. From and after the passing of this Act no Attestation shall be required to give effect to the Admission referred to in the One hundred and twenty-third Section of "The Bankrupt Law Consolidation Act, 1849;" but such Admission shall be signed in the Presence of some Officer of such Court, who shall attest such Signature thereto.

Form of Warrant for Commitment of Bankrupt.

112. In any Warrant of Commitment issued by any Court under this Act it shall not be necessary to set forth or specify any Question or any Part of the Examination of the Person so committed, but it shall be sufficient to refer in the Warrant to the Examination or Deposition of the Person as remaining on the File of Proceedings, and to specify in the said Warrant the precise Date of the Examination or Deposition so referred to; and such Warrant shall be in the Form contained in Schedule (C.) to this Act; provided, however, that in every Case in which any Person shall be so committed for refusing to answer or for not fully answering any Question put to him, every such Question shall be specified in the Examination or Deposition of the Person committed remaining on the File of Proceedings, and so referred to as aforesaid; and provided also, that a Copy of the said Examination or Deposition so referred to shall be delivered personally to the Person committed within Twenty-four Hours next after his actual Committal to Prison; and in default of the said Copy being delivered the Person committed shall be discharged from Custody, either by the Court or by the Judge before whom such Person may be brought by Habeas corpus, with such Costs, if any, as the said Court or Judge may deem just.

Copy of his Examination to be delivered to Person committed.

Discharge of Person committed.

113. If any Person so committed shall sue forth any Writ of Habeas corpus in order to be discharged from such Commitment, he shall not be discharged by reason of any mere Matter of Form, but if the Court or Judge before whom he shall be brought, upon Inspection and Consideration of the whole of the Examination or Deposition of such Person, shall be of opinion, that the Answer or Answers of such Person is or are satisfactory, the Court or Judge may order the Person so committed to be discharged.

As to Copyholds and Custom-

114. The Court shall have Power to dispose, for the Benefit of the Creditors, of any Estate or Interest at Law or in Equity which at

Adjudication

Adjudication or afterwards, before Order of Discharge, a Bankrupt has in any Copyhold or Customary Land, and to make an Order vesting the Land or such Estate or Interest as the Bankrupt has therein in such Person and in such Manner as the Court shall think fit. ary Lands of Bankrupt.

115. Where, under any Settlement or Will, a Bankrupt Non-trader shall be entitled to a Life Estate, in Remainder expectant upon the Death or Deaths of any previous Tenant or Tenants for Life, with any Remainder over to the Bankrupt's Issue, or the Heirs of his Body or any of them as Purchasers, the Life Estate of such Bankrupt Non-trader shall not be sold before it falls into possession without an express Direction of the Court. Life Estate in Remainder, &c.

As to the Choice of a Creditors Assignee:

116. At the First Meeting of Creditors, or any Adjournment thereof, it shall be competent to the Majority in Value of the Creditors who have proved Debts to choose an Assignee or Assignees of the Bankrupt's Estate and Effects, and to be called the Creditors Assignee; provided that the Court shall have Power to reject any Person so chosen who shall appear to such Court unfit to be such Assignee, and upon such Rejection a new Choice of Creditors Assignee shall be made. Creditors Assignee when and how to be chosen.

117. Upon the Appointment of the Creditors Assignee, all the Estate, both Real and Personal, of the Bankrupt, shall be devested out of the Official Assignee, and vested in the Creditors Assignee. On Appointment of Creditors Assignee Bankrupt's Estate vested in the same.

118. The Official Assignee shall forthwith render to the Creditors Assignee a full and particular Account or Balance Sheet of the Bankrupt's Estate, and of all Receipts, Payments, and other Transactions of such Official Assignee, and also a List of all the Creditors of the Bankrupt who have proved their Debts against the Estate. Official Assignee to render Account to the Creditors Assignee.

119. The Creditors Assignee shall, in the Presence of a Registrar, audit such Account, and may call for such Information from the Official Assignee as he possesses concerning the Estate. The Account shall be audited in the Presence of the Judge of the Court, in Cases where the Registrar of such Court is also the Official Assignee. A printed Copy of such Account of the Official Assignee, when audited, shall, unless the Registrar or the Judge, as the Case may be, shall otherwise direct, be sent by Post by the Creditors Assignee to every Creditor who has proved. Creditors Assignee shall audit Accounts of Official Assignee.

120. The

Custody of Bankrupt's Books.

120. The Court shall give such Directions as it may deem expedient with respect to the Custody and Inspection of the Books, Papers, Writings, and Documents relating to the Estate, and may authorize the Official Assignee to have the Custody thereof or of any Part thereof.

Bankrupt's Books not subject to Lien.

121. No Person shall be entitled, as against the Official or Creditors Assignee, to withhold Possession of the Books of Account of the Bankrupt, or to claim any Lien thereon.

Security by Creditors Assignee.

122. The Majority in Value of the Creditors present at the Meeting for Choice of a Creditors Assignee shall determine whether any Security shall be given by such Assignee, and if so, the Amount and Nature thereof, and such Security may, if the Creditors so determine, be by way of Bond given to any Registrar of the Court or his Successors, who are hereby authorized to sue thereon. At the same Meeting, or at any other Meeting called for the Purpose, the Majority in Value of the Creditors present may also determine whether a Manager shall be appointed to collect and wind up the Estate, under the Inspection of the Creditors Assignee, or of a Committee of Creditors, and may appoint such Person, with such Remuneration out of the Estate, and generally upon such Terms, for such Period, and with such Directions as the Majority shall think fit.

Certificate of Appointment of Assignee.

123. When the Election of an Assignee shall have been accepted by the Person elected and confirmed by the Court, the Court shall, by Certificate under the Hand of the Commissioner and the Seal of the Court (to be called the Certificate of Appointment), declare such Creditors Assignee to have been duly elected, and appoint him to the said Office accordingly. Such Appointment shall be final, and shall not be subject to Review or Appeal, except as herein-after provided.

Removal of Creditors Assignee or Manager.

124. A Majority in Number and Value of the Creditors may, at any Meeting duly called for the Purpose, remove the Creditors Assignee or Manager or accept of his Resignation; and One Fourth in Value of the Creditors who have proved may at any Time apply to the Court, by Petition, for the Removal of the Creditors Assignee or Manager, and if on the Hearing of such Petition the Court shall be of opinion that sufficient Reason has been shown, it may remove such Creditors Assignee or Manager, and appoint a Meeting of the Creditors to be held for electing a new Creditors Assignee; and if the Assignee shall die, resign, or be removed, or remain abroad for Three Months at any One Time, any Creditor may apply to the Court to appoint a Meeting for electing a new

new Creditors Assignee, and the Court may accordingly appoint a Meeting, whereof at least Seven Days previous Notice shall be given in the *London Gazette*, and such Meeting may elect a new Creditors Assignee accordingly.

Mode of electing new Creditors Assignee; his Powers and Duties.

125. In all Cases of the Election of a new Creditors Assignee the Proceedings shall take place in the like Manner as is hereinbefore provided in the Case of the First Election, and the new Creditors Assignee shall have the same Powers and perform the same Duties as the Creditors Assignee first chosen, and shall call to account such Creditors Assignee, his Heirs, Executors, Administrators, or Assigns, as the Case may require.

As to Valuation of Bankrupt's Property.

126. No Valuation of a Bankrupt's Property shall be made, unless the Court shall so direct; and any Valuation required by the Creditors shall be made in such Manner and upon such Terms as General Orders shall from Time to Time direct.

As to the Rights and Duties of the Creditors Assignee:

Duties of Creditors Assignee.

127. The Creditors Assignee shall manage, and, except as herein provided, realize and recover the Estate belonging to the Bankrupt, wherever situated, and convert the same into Money, and he shall pay all Monies not necessarily retained for current Expenses, all Exchequer Bills, *India* Bonds, and all other Public Securities, and all Bills, Notes, and negotiable Instruments belonging to the Estate, forthwith upon Receipt thereof, into the Bank of *England*, to the Account of the Accountant in Bankruptcy, unless in the Case of any Adjudication in a Country District there shall be no Branch of the Bank of *England* in the Locality, and then into such Bank as the Court shall direct, to the Credit of an Account to be opened in such Bank by such Assignee in his official Character.

The Official Assignee to collect Debts under 10*l.*

128. The Official Assignee shall collect, realize, and recover every Debt due to the Estate the Amount of which shall not exceed the Sum of Ten Pounds, and shall pay all Sums so collected, realized, and recovered forthwith into the Bank of *England*, or otherwise in manner in the next preceding Clause provided; and as to all such Sums of Money he shall be and shall be deemed sole Assignee of the Estate, notwithstanding the Appointment of a Creditors Assignee.

Creditors Assignee to render Accounts to Official Assignee every Three Months.

129. The Creditors Assignee shall, at the End of Three Months from and after his Appointment, and thenceforth at the Expiration of every succeeding Three Months, render to the Official Assignee, in the Presence of the Registrar, a Debtor and Creditor Account of all Sums

Sums received and paid on account of the Bankrupt or his Estate, verified on Oath as a full, true, and faithful Account of his Receipts and Payments as such Creditors Assignee; and the Vouchers for such Account, and all Books of Account in his Possession or Power, together with his Banker's Pass Book, shall be produced by him to the Official Assignee, who shall examine the same, and if he shall be dissatisfied with such Account, the same, or any Part thereof, or any Matter arising thereon, shall be inquired into and considered by the Registrar, in the Presence of the Official and Creditors Assignee; and if no Creditors Assignee be appointed, the Official Assignee shall in like Manner render the Account herein required to the Registrar, who shall examine the same: Provided, that in the Case of County Court Registrars their Accounts, as Official Assignees, shall be in like Manner rendered to and examined and passed by the Judges of their respective Courts.

If no Creditors Assignee appointed, Official Assignee to render Accounts.

130. Forthwith after the passing of each such Account of the Creditors Assignee, a Copy thereof, or a Statement showing the Nature and Result of the Transactions and Accounts of the Assignee, shall be made out by the Official Assignee, and sent by him in a printed Form through the General Post to every Creditor who has proved under the Bankruptcy.

Accounts to be printed and circulated.

131. In every Case of a Lease or an Agreement for a Lease it shall be lawful for the Assignees to elect to take the same and the Benefit thereof, and to keep possession of the Premises up to some Quarter or Half-yearly Day on which Rent is made payable by the same Lease or Agreement, such Day not being more than Six Months from the Adjudication of Bankruptcy, and upon such Day to decline such Lease or Agreement for a Lease.

Assignees may elect to take Lease for limited Period.

132. Any Mortgagee, with the Leave of the Court first obtained, may bid at any Sale of the mortgaged Property.

Mortgagee may bid at Sale.

133. If it shall appear to any Meeting of the Creditors summoned by the Assignees, by Notice stating the Object of the Meeting, and at which Three Fourths in Value of the Creditors shall be present or represented, that the Debts of any Bankrupt can be discharged by means of Money raised by way of Mortgage or Pledge of any of his Property, and such Meeting shall pass a Resolution accordingly, it shall be lawful for the Assignees, when thereunto authorized by Order of the Court, to execute such Mortgage or Pledge, with or without Powers of Sale and other Powers, and in such Manner in all respects as shall be specified in such Order; and the Court may order the Execution of such Mortgage or Pledge by any other necessary Parties,

Power to mortgage or pledge Bankrupt's Property.

Parties, and give all necessary Directions for the Purpose of carrying into effect the Resolution of the Creditors.

Portion of Pay, Half Pay, Salary, or Pension of Bankrupt to be applicable for Creditors.

134. The Court may order such Portion of the Pay, Half Pay, Salary, Emolument, or Pension of any Bankrupt as, on Communication from the Court, the Secretary of State for War, or the Secretary of State for *India*, or the Lords Commissioners of the Admiralty, or the Commissioners of the Customs or Excise, or the Chief Officer of the Department to which such Bankrupt may belong or may have belonged, or under which such Pay, Half Pay, Salary, Emolument, or Pension may be enjoyed by such Bankrupt, may officially sanction to be paid to the Assignees, to be applied in Payment of the Debts of such Bankrupt; and such Order and Sanction being lodged in the Office of Her Majesty's Paymaster General, or of the Secretary of State for *India*, or of any other Officer or Person appointed to pay or paying any such Pay, Half Pay, Salary, Emolument, or Pension, such Portion of the said Pay, Half Pay, Salary, Emolument, or Pension as shall be specified in such Order and Sanction shall be paid to such Assignees until the Court shall make Order to the contrary.

Sequestration of Profits of Benefice of Bankrupt Clergyman may be obtained.

135. If any Bankrupt be a beneficed Clergyman the Assignees may apply for and obtain a Sequestration of the Profits of the Benefice of such Bankrupt, which Profits shall form Part of the Bankrupt's Estate, and be applied accordingly; and the Certificate of Appointment of such Assignees shall be a sufficient Authority for the granting of such Sequestration, without any Writ or other Proceeding to authorize the same, and such Sequestration shall accordingly be issued as the same might have been issued upon any Writ of Levari facias founded upon any Judgment against such Bankrupt: Provided always, that the Sequestrator shall allow out of the Benefice to the Bankrupt whilst he performs the Duties of the Parish or Place such an annual Sum, payable quarterly, as the Bishop of the Diocese in which the Benefice is situated shall direct; and it shall be lawful for the Bishop to appoint to such Bankrupt such or the like Stipend as by Law he might have appointed to a Curate duly licensed to serve such Benefice in case the Bankrupt had been non-resident.

Court may determine on all Differences between Assignees and Creditors, or between Parties

136. In case of any Claim, Dispute, or Difference between the Official Assignee, the Creditors Assignee, and the Creditors, or any of such Persons, or between any Persons claiming under a Trust Deed, Deed of Composition or Arrangement, relating to any Bankrupt's or Debtor's Estate, or to any Money or Property claimed as Part of the Estate of any Bankrupt or Debtor, either Party may apply to the Court having Jurisdiction in the Bankruptcy, and in other Cases

claiming under Trust Deeds.

Cases to the Court in *London;* and it shall be lawful for the Court to determine the same, and to summon and examine upon Oath the Official or Creditors Assignee, Trustee, or any other Person whomsoever, as to any Matters and Things concerning the Bankruptcy or Trust Estate, and to direct such Inquiries, and to give such Directions, and make such Orders relative thereto, as shall to the Court seem just and expedient, and to award Costs, personally or in any other Manner, against the Official or Creditors Assignee, Trustee, or any other Person; provided that in all Cases in which a Resolution has been come to by a Majority in Number and Value of the Creditors assembled in a Meeting, regard shall be had by the Court to such Resolution, and the same shall not be varied or set aside by the Court, unless such Resolution shall, in the Opinion of the Court, be unjust or inequitable, and not fit to be binding and conclusive under this Act.

Power for Assignees to sell Bankrupt's Book Debts, Goodwill, &c.

137. At any Time after the Expiration of Twelve Months from Adjudication, or at any earlier Period with the Approbation of the Court, the Assignees may sell by Auction or Tender, or, with the Sanction of the Court, by private Contract, all or any of the Book Debts due or growing due to the Bankrupt, and the Books relating thereto, and the Goodwill of his Trade or Business, and assign the same to the Purchaser; and such Purchaser shall, by virtue of the Assignment, have Power to sue in his own Name for the Debts assigned to him, as effectually, and with the same Privileges concerning Proof of the Requisites of Bankruptcy and other Matters, as the Assignee himself.

Disposal or Custody of Bankrupt's Books and Papers after his Affairs are wound up.

138. When the Affairs of the Bankrupt are fully wound up, the Court may, subject to the Directions of any General Order make from Time to Time such Orders as in each Case seem fit respecting the Disposal or Custody of any Books, Papers, or Documents relating to Property or Affairs in the Possession or under the Control of the Official Assignee, the Creditors Assignee, or any other Person.

Removal of Creditors Assignee.

139. If the Creditors Assignee shall wilfully fail to observe any of the Directions herein contained, or shall be guilty of any Neglect in the Performance of his Duty, or it shall be made to appear to the Court, on the Application of any Two or more Creditors, that it would be for the Benefit of the Estate that such Creditors Assignee should not continue to have the Management and Administration of the Bankrupt's Estate, it shall be lawful for the Court either to appoint an Official Assignee to act jointly with such Creditors Assignee, or to remove such Creditors Assignee, and

and direct a Choice of another Creditors Assignee, or to appoint an Official Assignee alone to wind up and administer the Estate under the Bankruptcy.

As to the last Examination:

Court to appoint Sitting for last Examination and Application for Discharge.

140. The Court shall, forthwith after the Meeting for the Choice of an Assignee by the Creditors, appoint a public Sitting on a Day not later than Sixty Days from the Date of such Meeting, and shall give Notice of such Sitting in the *London Gazette*, and in such Newspapers as the Court shall direct, for the Bankrupt to pass his last Examination, and also, unless the Court shall in any Case otherwise direct, to make Application for his Discharge; but the Court shall have Power to enlarge the Time appointed for such Sitting, or to adjourn the same.

The Bankrupt to prepare and file a Statement of Accounts.

141. The Bankrupt shall prepare such Statement of his Accounts and in such Form as General Orders or as the Court in any Case shall direct, and shall subscribe such Statement, and file the same in Court Ten Days at least before the Day appointed for the last Examination, or Adjournment thereof; and such Statement may before such last Examination be amended from Time to Time as Occasion shall require and the Court shall direct; and the Bankrupt shall make Oath of the Truth of such Statement, whenever he shall be duly required by the Court so to do; and the last Examination of the Bankrupt shall in no Case be passed unless his Statement shall have been duly filed as aforesaid.

Statement of Accounts to be open to Creditors.

142. The Statement of Accounts, when filed in Court, shall be open to the Inspection of all Creditors, who may take Copies of and Extracts from the same, subject to such Regulations as General Orders shall direct; and an Abstract thereof shall be printed, and a printed Copy of such Abstract shall be sent by Post within a Week from the filing thereof, by the Official Assignee, to each Creditor who has proved.

Official Assignee to assist in preparing such Statement; and to file therewith a Report upon the State of Bankrupt's Affairs.

Power to grant Assistance to Bankrupt to make out

143. In the Preparation of such Statement of his Accounts the Bankrupt shall be assisted by the Official Assignee, who shall prepare and file in Court, together with such Statement, a Report upon the State of the Affairs of the Bankrupt, setting forth such Facts and Particulars as may be required by the Court, or as it shall in the Opinion of such Assignee be important for the Court to be informed of: Provided that if it shall in any Case appear to the Court that there are special Circumstances rendering it necessary that the Bankrupt should be assisted in the Preparation of such Statement of Accounts by some Person other than such Official Assignee, the Court may nominate some such Person to assist the Bankrupt in that Behalf,

Statement under special Circumstances.

and may allow to such Person, out of the Bankrupt's Estate, such Remuneration as to the Court, upon the Taxation of such Person's Bill of Costs, shall seem just; and in such Case the Statement so prepared shall have appended thereto a Certificate signed by the Person appointed to assist the Bankrupt in the Preparation thereof, expressing his Approval or Disapproval thereof, and the Particulars and Reasons of such Disapproval.

As to Proof of Debts:

When and how Debts may be proved.

144. Every Creditor of the Bankrupt may, after Adjudication, prove his Debt, by delivering or sending through the General Post, before the Appointment of the Creditors Assignee, to the Official Assignee, and after such Appointment to the Creditors Assignee, a Statement of such Debt, and of the Account, if any, between the Creditor and the Bankrupt, together with a Declaration, signed by the Creditor, appended thereto, that such Statement is a full, true, and complete Statement of Account between the Creditor and the Bankrupt, and that the Debt thereby appearing to be due from the Estate of the Bankrupt to the Creditor is justly due; and all Bodies Politic and Public Companies incorporated, or authorized to sue or bring Actions, may prove by an Agent, provided such Agent shall in his Declaration declare that he is such Agent, and that he is authorized to make such Proof; and such Declaration, signed by such Creditor and Agent respectively as aforesaid, shall be in such Form as General Orders shall direct.

Declaration for Proof of Debt.

False Declaration a Misdemeanor.

145. Any Person who shall wilfully and corruptly make any Declaration for Proof of Debt as aforesaid, knowing the same, or the Statement of Account to which the same shall be appended, to be untrue in any material Particular, shall be deemed guilty of a Misdemeanor, and shall be liable to undergo the Pains and Penalties imposed upon Persons guilty of wilful and corrupt Perjury.

Proof in Court or in Chambers, or before a Registrar, or by Affidavit.

146. Every Creditor of the Bankrupt may also after Adjudication prove his Debt, by Deposition in Court or in Chambers, or before a Registrar at any Meeting of Creditors elsewhere than in Court, or by Affidavit, upon his own Oath, or upon that of any Clerk or other Person in his Employment; provided that where such Deposition or Affidavit shall be made by any other Person than the Creditor, the Deponent shall, in his Deposition or Affidavit, set forth that he is duly authorized by his Principal to make the Deposition or Affidavit, and that it is within his own Knowledge that the Debt was incurred, and for the Consideration stated, and that to the best of his Knowledge and Belief the Debt still remains unpaid and unsatisfied.

147. The

Official Assignee to examine all Statements of Account; and make out List of Creditors who have proved.

147. The Official or Creditors Assignee, as the Case may be, shall examine all the Statements of Account aforesaid, and compare the same with the Books, Accounts, and other Documents of the Bankrupt, and shall from Time to Time make out a List of the Creditors who have proved their Debts, stating the Amount and Nature of such Debts, which List shall be open to the Inspection of any Creditor who has proved under the Estate.

Power to examine upon Oath alleged Creditors, &c.

148. The Court may, on the Application of the Assignee, or of any Creditor, or of the Bankrupt, or without any Application, examine upon Oath or otherwise any Person tendering or who has made a Proof, and may summon any Person capable of giving Evidence concerning such Proof; and, in like Manner, where the Debt is tendered on Affidavit or Statement, as herein-before provided, may summon and examine on Oath or otherwise the Person who has made the Affidavit or Statement, and any other Person capable of giving Evidence concerning the Debt sought to be proved.

Proof for Money, Costs, &c. of which Payment may be enforced by Process of Contempt.

149. A Person entitled to enforce against the Bankrupt Payment of any Money, Costs, or Expenses by Process of Contempt issuing out of any Court, shall be entitled to come in as a Creditor under the Bankruptcy, and prove for the Amount payable under the Process, subject to such ascertaining of the Amount as may be properly had by Taxation or otherwise.

Proof for proportionate Part of Rent and other Payments falling due at fixed Periods.

150. In all Cases in which the Bankrupt is liable to pay any Rent or other Payment falling due at fixed or stated Periods, and the Adjudication of Bankruptcy shall happen at any Time other than One of such fixed or stated Periods, it shall be lawful for the Person entitled to such Rent or other Payment to prove for a proportionate Part thereof up to the Day of the Adjudication of Bankruptcy, in such Manner as if the said Rent or Payment grew due from Day to Day, and not at such fixed or stated Periods as aforesaid.

Proof in case of Debt payable by Instalments.

151. If any Bankrupt shall have contracted, before the filing of a Petition for Adjudication, any Debt payable by way of Instalments, the Creditor may prove for the Amount of such Instalments remaining unpaid at the Time of such Petition.

Proof in respect of distinct Contracts.

152. If any Debtor shall, at the Time of Adjudication, be liable upon any Bill of Exchange or Promissory Note in respect of distinct Contracts as Member of Two or more Firms carrying on separate and distinct Trades, and having distinct Estates to be wound-up in Bankruptcy, or as a sole Trader and also as the Member of a Firm, the Circumstance that such Firms are in whole or in part composed

composed of the same Individuals, or that the sole Contractor is also One of the joint Contractors, shall not prevent Proof and Receipt of Dividend in respect of such distinct Contracts against the Estates respectively liable upon such Contracts.

Proof in respect of unliquidated Damages.

153. If any Bankrupt shall at the Time of Adjudication be liable, by reason of any Contract or Promise, to a Demand in the Nature of Damages which have not been and cannot be otherwise liquidated or ascertained, it shall be lawful for the Court acting in prosecution of such Bankruptcy to direct such Damages to be assessed by a Jury, either before itself or in a Court of Law, and to give all necessary Directions for such Purpose; and the Amount of Damage, when assessed, shall be proveable as if a Debt due at the Time of the Bankruptcy: Provided that in case all necessary Parties agree, the Court shall have Power to assess such Damages without the Intervention of a Jury or a Reference to a Court of Law.

Proof for Premiums upon Policies of Insurance.

154. If any Bankrupt shall at the Time of Adjudication be liable by reason of any Contract or Promise to pay Premiums upon any Policy of Insurance, or any other Sums of Money, whether yearly or otherwise, or to repay to or indemnify any Person against any such Payments, the Person entitled to the Benefit of such Contract or Promise may, if he think fit, apply to the Court to set a Value upon his Interest under such Contract or Promise, and the Court is hereby required to ascertain the Value thereof, and to admit such Person to prove the Amount so ascertained, and to receive Dividends thereon.

How Proof may be expunged or reduced.

155. The Court may at any Time expunge or reduce a Proof of Debt, on such Application and such Evidence as it shall think sufficient, and for that Purpose may summon and examine upon Oath or otherwise the Person who has proved, and every Person capable of giving Evidence concerning the alleged Debt, and may make such Order as to the Costs of any Application as shall seem just.

One Year's Parochial Rates may be paid in full.

156. The Court, out of the Estate and Effects of the Bankrupt shall order Payment of all such Parochial Rates as may be due from him at the Time of his being adjudicated a Bankrupt; provided such Rates have become due during the Twelve Months immediately preceding the Bankruptcy.

As to the Discharge of the Bankrupt:

Classification of Certificates abolished.

157. From and after the Commencement of this Act all Classification of Certificates shall be abolished; and in every Case where the Discharge of a Bankrupt shall be suspended, such Discharge,

charge, when allowed, shall simply state the Period for which it was suspended, and the Reasons for such Suspension; and if the Bankrupt shall have been sentenced to Imprisonment by any Court under the Provisions of this Act the Discharge shall also set forth the Fact of such Sentence and the Period of such Imprisonment.

Form of Discharge where suspended, or Bankrupt sentenced to Imprisonment.

158. After the Bankrupt has passed his last Examination, unless an Order of Discharge shall have been previously made as hereinbefore provided, the Court shall appoint a Sitting for the Purpose of considering the Question of granting to the Bankrupt such Order. Fourteen Days Notice of such Sitting shall be given in the *London Gazette* and such Newspapers as the Court shall direct. The Assignees or any Creditor who has proved may be heard against such Discharge.

Appointment of Sitting for considering Question of granting Order of Discharge.

159. In granting Orders of Discharge the following Rules shall be observed:

Rules as to granting Orders of Discharge.

1. If on the Hearing of any Application for an Order of Discharge the Assignees or any Creditor shall allege, and if with or without such Allegation the Court shall be of opinion, that there is Ground for charging the Bankrupt with Acts or Conduct amounting to a Misdemeanor under this Act, the Court shall, if the Bankrupt consent thereto, direct a clear Statement in Writing of the Charge to be delivered to the Bankrupt, and shall appoint a Day for trying the Bankrupt on such Charge, and, if the Bankrupt require it, shall summon a Jury for such Purpose, and may direct the Creditors Assignee, or the Official Assignee, or any of the Creditors of the Bankrupt, to act as Prosecutor on such Trial: Provided always, that in every Case of Accusation against a Bankrupt of Acts amounting to a Misdemeanor, it shall be competent to the Court to direct that the Bankrupt be indicted and prosecuted in one of the ordinary Courts of Criminal Justice; and in all other Cases the Order of Discharge shall take effect immediately from its Date, subject to the Appeal herein provided:
2. If on such Trial by a Jury or by the Commissioner alone the Bankrupt shall be convicted of any Offence by this Act made a Misdemeanor, the Commissioner shall, in addition to the Punishment awarded for the Offence, have Power to direct that the Order of Discharge be either wholly refused or suspended during such Time and upon such Conditions as he shall think fit:
3. If the Bankrupt shall not be accused of Acts amounting to Misdemeanor, or if he shall have been accused and acquitted,

but in either Case there shall be made, or shall appear to the Court to exist, Objection to the granting of an immediate Discharge, the Court shall proceed to consider the Conduct of the Bankrupt before and after Adjudication, and the Manner and Circumstances in and under which his Debts have been contracted; and if the Court shall be of opinion that the Bankrupt has carried on Trade by means of fictitious Capital, or that he could not have had at the Time when any of his Debts were contracted any reasonable or probable Ground of Expectation of being able to pay the same, or that, if a Trader, he has, with Intent to conceal the true State of his Affairs, wilfully omitted to keep proper Books of Account, or, whether Trader or not, that his Insolvency is attributable to rash and hazardous Speculation, or unjustifiable Extravagance in living, or that he has put any of his Creditors to unnecessary Expense by frivolous or vexatious Defence to any Action or Suit to recover any Debt or Money due from him, the Court may either refuse an Order of Discharge, or may suspend the same from taking effect for such Time as the Court may think fit, or may grant an Order of Discharge subject to any Condition or Conditions touching any Salary, Pay, Emoluments, Profits, Wages, Earnings, or Income which may afterwards become due to the Bankrupt, and touching after-acquired Property of the Bankrupt, or may sentence the Bankrupt to be imprisoned for any Period of Time not exceeding One Year from the Date of such Sentence:

Provided always, that no Person shall be liable by virtue of this Act to any Criminal Proceeding or Penalty in respect of any Matter which may have occurred before the passing of this Act to which he would not have been liable if this Act had not passed.

Application for Order of Discharge where Certificate of Conformity has been refused.

160. With respect to all Persons heretofore bankrupt, and whose Certificates of Conformity shall have been refused, it shall be lawful for the Court, at any Time after the Expiration of Three Years from the Time of, and notwithstanding such Refusal, to hear and determine the Application of any such Bankrupt for an Order of Discharge, and thereupon, if the Court shall think fit, to grant an Order of Discharge, either absolute or subject to any Condition or Conditions, in the same Manner as if the Bankruptcy of such Applicant had taken place after the Commencement of this Act.

Effect of Order of Discharge.

161. The Order of Discharge shall, upon taking effect, discharge the Bankrupt from all Debts, Claims, or Demands proveable under his Bankruptcy, save as herein otherwise provided; and if thereafter he shall be arrested, or any Action shall be brought against him for

for any such Debt, Claim, or Demand, he shall be discharged upon entering an Appearance, and may plead in general that the Cause of Action accrued before he became bankrupt, and may give this Act and the special Matter in Evidence; and the Order of Discharge shall be sufficient Evidence of the Bankruptcy, and the Proceedings precedent to the Order of Discharge.

Release of Bankrupt when arrested after Discharge.

162. If a Bankrupt, after the Order of Discharge takes effect, be arrested or detained in Custody for a Debt, Claim, or Demand proveable under his Bankruptcy, where Judgment has been obtained before the Order of Discharge takes effect, the Court, or a Judge of a Superior Court of Law, shall, on Proof of the Order of Discharge, and unless there appear good Reason to the contrary, direct the Officer who has the Bankrupt in Custody to discharge him, which shall be done accordingly, without Fee.

Effect of Order in case of Partners, &c.

163. The Order of Discharge shall not release or discharge any Person who was a Partner with the Bankrupt at the Time of the Bankruptcy, or was then jointly bound, or had made any joint Contract with him.

Contract, &c. pending Proceedings in Bankruptcy, not binding on Bankrupt.

164. After the Order of Discharge takes effect, the Bankrupt shall not be liable to pay or satisfy any Debt, Claim, or Demand proveable under the Bankruptcy, or any Part thereof, on any Contract, Promise, or Agreement, verbal or written, made after Adjudication; and if he be sued on any such Contract, Promise, or Agreement he may plead in general that the Cause of Action accrued pending Proceedings in Bankruptcy, and may give this Act and the special Matter in Evidence.

Order to operate as a Discharge from Effects of Process for Contempt.

165. The Order of Discharge shall discharge the Bankrupt from the Effects of any Process issuing out of any Court for Contempt of any Court for Nonpayment of Money or of Costs or Expenses in any Court, and from all Costs which he would be liable to pay in consequence of or on purging his Contempt; and a Bankrupt in Custody under any such Process as aforesaid shall, on obtaining an Order of Discharge, be entitled to be discharged from such Custody forthwith.

Contract or Security with Intent to induce Creditor to forbear Opposition, void.

166. Any Contract, Covenant, or Security made or given by a Bankrupt or other Person, with, to, or in trust for any Creditor, for securing the Payment of any Money as a Consideration or with Intent to persuade the Creditor to forbear opposing the Order for Discharge, or to forbear to petition for a Rehearing of or to appeal against the same, shall be void, and any Money thereby

thereby secured or agreed to be paid shall not be recoverable, and the Party sued on any such Contract or Security may plead in general that the Cause of Action accrued pending Proceedings in Bankruptcy, and may give this Act and the special Matter in Evidence: Provided always, that no such Security, if a negotiable Security, shall be void as against a *bonâ fide* Holder thereof for Value without Notice of the Consideration for which it was given.

Proviso.

Obtaining Money, Goods, &c. as an Inducement to forbear Opposition, or to consent to Allowance of Discharge, Penalty for.

167. If any Creditor of a Bankrupt shall obtain any Sum of Money, or any Goods, Chattels, or Security for Money, from any Person, as an Inducement for forbearing to oppose, or for consenting to the Allowance of the Discharge of such Bankrupt, or to forbear to petition for the Recal of the same, every such Creditor so offending shall forfeit and lose for every such Offence the treble Value or Amount of such Money, Goods, Chattels, or Security so obtained.

Rehearing of Order of Discharge.

168. The Order of Discharge, whether suspended or not; shall not be reviewed by the Court, unless the Court see good Cause to believe that the Order was obtained on false Evidence, or by reason of the Suppression of Evidence, or otherwise fraudulently; in any of which Cases the Court may, if it think fit, upon the Application of the Bankrupt or of a Creditor who has proved, and subject to such Deposit for Costs, and to such Notices, by Advertisement or otherwise, as the Court shall think fit, grant a Rehearing of the Matter, and rehear it accordingly; and upon Rehearing the Court shall make such Order as shall seem just, in like Manner as it might upon an original Hearing.

If Order suspended on Rehearing, subsequent Creditors to prove first against subsequent Property.

169. If on such Rehearing the Court shall annul or suspend the Order of Discharge, all Persons having *bonâ fide* become Creditors of the Bankrupt between the Time of the Order originally taking effect and the Time of its being annulled or suspended on Rehearing shall, as against any Property acquired by the Bankrupt during the same Period, and in priority to the original Creditors, be admitted to prove and have Dividends under the Bankruptcy.

Order, when to be drawn up.

170. The Order of Discharge shall not be drawn up until after the Expiration of the Time allowed for Appeal, or, if an Appeal be brought, until after the Decision of the Court of Appeal upon such Appeal, and shall bear Date either the Day after the Expiration of the Time allowed for Appeal, or the Day of the Decision of the Court of Appeal, as the Case may require.

Appeal against Decision,

171. At any Time within Thirty Days after any Order of Discharge shall have been allowed or refused, and subject to such Order

as to Deposit of Costs as General Orders shall direct, any Creditor of the Bankrupt, or any Creditors Assignee, or the Bankrupt, may, if the Order of Discharge has been made or refused by any Commissioner or County Court Judge, apply to the Court of Appeal in Chancery that such Order of Discharge may be granted, or recalled and delivered up to be cancelled; and such Court may, on good Cause shown, order such Order of Discharge to be granted, or to be recalled and cancelled. whether granting or refusing an Order of Discharge.

172. The Order of Discharge shall be in such Form as General Orders shall direct, and shall be under the Hand of the Commissioner and the Seal of the Court; and Notice of the granting thereof shall be advertised in the *London Gazette* and in Two local Papers. Form of Order. Notice to be advertised.

As to Audit:

173. No public Sittings of the Courts shall be held for the sole Purpose of auditing the Accounts of the Assignees, but such Accounts shall be audited in such Manner as is herein provided, or as General Orders shall direct. No public Sitting for Audit.

As to Dividend:

174. At the Expiration of Four Months from the Date of the Adjudication of Bankruptcy, or as much earlier as the Court shall appoint, the Creditors Assignee shall submit to a Meeting of Creditors to be called for that Purpose, and to be held before the Registrar, of which Meeting Ten Days Notice shall be given in the *London Gazette* and in Two local Newspapers, a Statement of the whole Estate of the Bankrupt as then ascertained, of the Property recovered, and of the Property outstanding, specifying the Cause of its being so outstanding, and of all the Receipts, and of all Payments thereout, made or to be made; and the Official Assignee shall, and any Creditor who has proved may, attend and examine such Statement, and compare the Receipts with the Payments; and upon ascertaining what Balance is then in the Bank of *England* or other Bank to the Credit of the Estate, the Meeting shall, by Resolution, declare whether any and what Part of the net Produce of the Estate, after making a reasonable Deduction for future Contingencies, shall be divided amongst the Creditors. At the same Meeting the Majority in Value of the Creditors present shall determine whether any and what Allowance shall be made to the Bankrupt out of his Estate, if he has obtained or shall obtain a Discharge. Dividend.

175. If upon such Examination it shall appear that the Creditors Assignee has kept in his Hands at any Time during the Space of One Week more than the Sum of Fifty Pounds belonging to the Assignee not to keep Money in his Hands.

Estate, the Creditors may, upon establishing such Fact to the Satisfaction of the Court, and if the Assignee shall not show Cause to the contrary, debit such Assignee with Interest for the Amount so kept, at any Rate not exceeding Twenty Pounds *per Centum* by the Year, for the Time such Monies were kept in his Hands.

Provision to be made for Creditors residing at a Distance; and for pending Claims.

176. In the Calculation of a Dividend it shall be imperative to make Provision for Debts which shall appear from the Bankrupt's Balance Sheet to be due to Persons resident in Places so distant from the Court that in the ordinary Course of Communication they have not had sufficient Time to tender their Proofs, or to establish them if disputed; and also for Debts, the Subject of Claims not yet determined by the Court.

Joint and separate Dividend Sittings.

177. In every Case where joint and separate Estates have to be administered, and where the Court shall not otherwise direct, Dividends of the joint and separate Estates shall be declared at One and the same Sitting, and Notice of the Time appointed for such Dividends, when advertised, shall be given in One and the same Advertisement; and the Costs, Charges, and Expenses of and incident to the Sitting shall be apportioned by the Assignee between the joint and separate Estates as may appear to be fair and reasonable, having regard to the Work done for and the Benefit received by each Estate; and a single Fee, and no more, shall be payable to the Solicitor to the Estate in respect of the Sitting.

Dividend List to be prepared by Official Assignee.

178. Within Ten Days after such Meeting, or within such further Time as the Court may allow, the Official Assignee shall prepare Lists of Creditors entitled to Dividend, and shall calculate and set opposite to the Name of each Creditor who has proved under the Estate (subject to the Provision herein contained as to Dividends reserved) the Dividend to which he is entitled, out of the net Produce of the Estate so set apart for a Dividend, and shall forward by Post to every such Creditor a Statement of the Dividend to which he is so entitled, and such Dividends shall be paid at the Bank of *England* or otherwise in such Manner as General Orders shall direct.

Like Proceedings at successive Periods of Four Months.

179. The like Proceedings for the making up and auditing of the Accounts of the Estate, and the Declaration and Payment of a Dividend, which are herein directed to be had at the Expiration of Four Months from the Adjudication of Bankruptcy, shall be had at the successive Expirations of every Period of Four Months, or earlier, as the Case may be, until the whole of the Estate is divided amongst the Creditors, and a Dividend is declared to be final; provided that it shall be lawful for the Majority in Value of the Creditors

ditors at any such Meeting as aforesaid to postpone the Period of declaring a Dividend, or at any Time, in declaring a Second Dividend, to declare also that 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 Assignee, in which Case he shall, as soon as may be, convert such Estate and Effects into Money, and within Two Months after the same shall be so converted the same shall also be divided in manner aforesaid.

As to the Discharge of the Creditors Assignee:

Effect of Discharge.

180. The Order for Discharge shall operate to release the Creditors Assignee from all Claims and Demands of the Creditors, or of any Person who might have proved under the Bankruptcy, subject nevertheless to such Conditions, if any, as shall be expressed in such Order of Discharge.

Unclaimed Dividends, &c. to be paid into the Bank.

181. Every Creditors Assignee shall, before his Discharge, transmit to the Official Assignee a List of unclaimed Dividends on the Estate, and of all Debts remaining due to the Estate, under his Hand, and shall pay all Monies and other Estate of the Bankrupt then in his Hands into the Bank of *England*, to the Account of the Accountant in Bankruptcy, to the Credit of the Estate.

Official Assignee to act after Discharge of Creditors Assignee.

182. Where the Creditors Assignee has obtained an Order of Discharge, the Official Assignee first appointed in the Matter of the Bankruptcy shall, as to any Estate and Effects of the Bankrupt not realized at the Time of such Order of Discharge, and as to all Debts then remaining uncollected, and which shall not have been sold in manner herein provided, and as to any future acquired Property of the Bankrupt, if made liable to the Creditors under the Conditions of Discharge, represent the Estate in all respects as the sole Assignee thereof, and shall have and exercise all the Rights, Duties, Powers, and Authorities conferred by this Act upon Official and Creditors Assignees.

Bank of England to receive from Assignee and give a Receipt for any Sum mentioned in a Certificate of the Accountant in Bankruptcy.

183. The Accountant in Bankruptcy shall, on the Application of any Assignee, give to him a Certificate stating the Amount and Description of any Sum of Money, Notes, Bills, or other negotiable Instruments which he may be desirous of paying into the Bank of *England* under the Provisions herein contained; and on the Production of such Certificate the Governor and Company of the Bank of *England* shall receive the Sum therein mentioned, and such Bills, Notes, or other negotiable Instruments, and give a Receipt for the

the same, and shall forthwith carry the same to the Credit of the Accountant in Bankruptcy; and every such Certificate and Receipt shall be given without Fee or Reward.

Unclaimed Dividends.

184. All unclaimed Dividends, save Dividends declared before the passing of this Act, and all Monies unclaimed, the Produce of any Bankrupt's Estate, shall, after the Expiration of the Period of Twelve Months from the Dividend having been declared, or from the Time at which any other Monies unclaimed shall have come to the Hands of the Assignee, be transferred to the Credit of "The Unclaimed Dividend Account," subject to the Order of the Court for the Payment thereout of any Dividend due to any Creditor, or for the Distribution of any such other unclaimed Money; and the Interest and Profit arising from the said Account shall from Time to Time be paid over to the Account of the Chief Registrar.

As to Change from Bankruptcy to Arrangement:

Power for Creditors to resolve that Estate ought to be wound up under Deed of Arrangement, &c.; and Proceedings stayed.

185. At the First Meeting of Creditors held after Adjudication in manner herein provided, or at any Meeting to be called for the Purpose, and of which Ten Days Notice shall have been given in the *London Gazette*, Three Fourths in Number and Value of the Creditors present or represented at such Meeting may resolve that the Estate ought to be wound up under a Deed of Arrangement, Composition, or otherwise, and that an Application shall be made to the Court to stay Proceedings in the Bankruptcy for such Period as the Court shall think fit.

Resolution to be reported to the Court.

186. The Registrar shall report such Resolution to the Court within Four Days from the Date of such Resolution; and the Bankrupt, or any Creditor nominated in that Behalf by the Meeting, may then apply to the Court that the Proceedings in Bankruptcy may be

Power for Court to confirm.

stayed in the Terms of such Resolution; and the Court, after hearing the Bankrupt, and such Creditors as may desire to be heard for or against the Resolution, and if it shall find that the Resolution was duly carried, and that its Terms are reasonable, and calculated to benefit the general Body of the Creditors under the Estate, shall confirm the same, and make Order accordingly, and in such Order shall give such Directions as to the interim Management of the Estate as it shall deem expedient.

Power for Court to make a Declaration of complete Execution of Deed of

187. If the Proceedings in Bankruptcy be stayed as herein provided, the Bankrupt, or any Creditor nominated in that Behalf by the Meeting aforesaid, may, at any Time within the Period during which the Proceedings are so stayed, produce to the Court a Deed of Arrangement, signed by or on behalf of Three Fourths in Number and

and Value of all the Creditors of the Bankrupt; and the Court may consider the same, and may examine on Oath the Bankrupt and any of the Creditors who may desire to be heard in support of or in opposition to the Deed, and may make such other Inquiry as it may think necessary; and if the Court shall be satisfied that the Deed has been duly entered into and executed, and that its Terms are reasonable and calculated to benefit the general Body of the Creditors under the Estate, it shall by Order make a Declaration of the complete Execution of the Deed, and shall direct the same to be registered with the Chief Registrar, and shall also, if it thinks fit, annul the Bankruptcy; and such Deed shall thereafter be as binding in all respects on any Creditor who has not executed the Deed as if he had executed it, provided such Deed be registered with the Chief Registrar in manner directed by the Order.

Arrangement; and to direct it to be registered; and to annul Bankruptcy.

Deed, if so registered, to be binding on Creditors not executing.

188. Either before or after such Order, the Court shall have Jurisdiction to entertain any Application of the Bankrupt, or of any Party to the Deed, or of any Creditor or Person claiming to be a Creditor, respecting the Disclosure, Distribution, Inspection, Conduct, Management, or winding-up of the Bankrupt's Estate and Affairs, or any Act or Thing relating thereto, or respecting the Execution of any of the Trusts or Provisions of the Deed, or the Audit or Examination of the Accounts of a Trustee or Inspector, or the Taxation or Examination of the Costs or Charges of any Attorney, Solicitor, Accountant, Auctioneer, Broker, or other Person acting or employed under the Deed, or generally for the Decision of any Dispute or Question, and shall also have Jurisdiction to entertain any Application of any such Person as aforesaid, respecting any Matter for the Submission whereof to the Court Provision is made by the Deed, or any Matter arising between any of the said Persons, and any other Person appearing and submitting to the Jurisdiction of the Court; and the Court shall determine all Questions arising under the Deed according to the Law and Practice in Bankruptcy, so far as they may be applicable, and on entertaining any such Application shall have Power to make all such Orders as shall seem just, and to enforce all such Orders as in Bankruptcy.

Court to have Jurisdiction to entertain Applications of Bankrupt or any Party to the Deed respecting Bankrupt's Estate and Affairs.

Questions under the Deed to be decided according to Law of Bankruptcy.

189. The Court shall have Power, for the Purpose of any Application under these Provisions, or for the better Execution of any Powers given to the Court thereby, to summon, and to examine, upon Oath or otherwise, the Bankrupt, and any Party to the Deed, and any Creditor or Person claiming to be a Creditor, and any Person known or suspected to have any of the Estate in his Possession, or any Person supposed to be indebted to the Estate, or whom the Court may deem capable of giving any Information material to the full

Power of the Court to summon and examine Bankrupt, &c.

Disclosure of the Debtor's Transactions and Affairs, or to the carrying into effect the Provisions of the Deed; and the Court may exercise, as to the Examination of such Persons, and the Production by them of such Books, Papers, Deeds, or Documents as it shall deem requisite, the same Powers that are vested in the Court with relation to the Examination of Persons and Witnesses, and the Production of Books, Papers, Deeds, and Documents, in Matters of Bankruptcy.

Where Bankruptcy to proceed as if no Resolution had been passed.

190. If the Resolution aforesaid shall not be duly reported, or if the Court shall refuse the Application to stay Proceedings, or if the Deed of Arrangement shall not be duly produced, or if upon its Production the Court shall not think fit to approve thereof, the Bankruptcy shall proceed as though no such Resolution had been passed; and the Court may make all necessary Orders for resuming the Proceedings in Bankruptcy, and the Period of Time which shall have elapsed between the Date of such Resolution and the Date of the Order for resuming Proceedings shall not be reckoned in calculating Periods of Time prescribed by this Act.

Where Bankruptcy annulled.

191. If the Bankruptcy be annulled, as herein provided, the Order annulling the same shall be filed with the Proceedings, and Notice thereof shall be given in the *London Gazette*.

As to Trust Deeds for Benefit of Creditors, Composition and Inspectorship Deeds executed by a Debtor:

What Deeds to be valid; and upon what Conditions.

192. Every Deed or Instrument made or entered into between a Debtor and his Creditors, or any of them, or a Trustee on their Behalf, relating to the Debts or Liabilities of the Debtor, and his Release therefrom, or the Distribution, Inspection, Management, and winding-up of his Estate, or any of such Matters, shall be as valid and effectual and binding on all the Creditors of such Debtor as if they were Parties to and had duly executed the same, provided the following Conditions be observed; that is to say,

1. A Majority in Number representing Three Fourths in Value of the Creditors of such Debtor whose Debts shall respectively amount to Ten Pounds and upwards shall, before or after the Execution thereof by the Debtor, in Writing assent to or approve of such Deed or Instrument:
2. If a Trustee or Trustees be appointed by such Deed or Instrument, such Trustee or Trustees shall execute the same:
3. The Execution of such Deed or Instrument by the Debtor shall be attested by an Attorney or Solicitor:
4. Within Twenty-eight Days from the Day of the Execution of such Deed or Instrument by the Debtor the same shall be produced

produced and left (having been first duly stamped) at the Office of the Chief Registrar, for the Purpose of being registered:

5. Together with such Deed or Instrument there shall be delivered to the Chief Registrar an Affidavit by the Debtor or some Person able to depose thereto, or a Certificate by the Trustee or Trustees, that a Majority in Number, representing Three Fourths in Value, of the Creditors of the Debtor whose Debts amount to Ten Pounds or upwards have in Writing assented to or approved of such Deed or Instrument, and also stating the Amount in Value of the Property and Credits of the Debtor comprised in such Deed:
6. Such Deed or Instrument shall, before Registration, bear such ordinary and *ad valorem* Stamp Duties as are herein-after provided:
7. Immediately on the Execution thereof by the Debtor, Possession of all the Property comprised therein, of which the Debtor can give or order Possession, shall be given to the Trustees.

Particulars of Deed to be entered by the Chief Registrar.

193. The Date, Names, and Descriptions of the Parties to every such Deed or Instrument, not including the Creditors, together with a short Statement of the Nature and Effect thereof, shall be entered by the Chief Registrar in a Book to be kept exclusively for the Purposes of such Registration. Such Entry shall be made within Forty-eight Hours after the Deed shall have been left with the Registrar as aforesaid, and a Copy of such Entry shall be published in the *London Gazette* within Four Days after the making of such Entry.

Copy of Entry to be published in the Gazette.

Deed to be registered in the Court of Bankruptcy, and in default, not to be received in Evidence.

194. Every Deed, Instrument, or Agreement whatsoever, by which a Debtor, not being a Bankrupt, conveys or covenants or agrees to convey his Estate and Effects, or the principal Part thereof, for the Benefit of his Creditors, or makes any Arrangement or Agreement with his Creditors, or any Person on their Behalf, for the Distribution, Inspection, Conduct, Management, or Winding-up of his Affairs or Estate, or the Release or Discharge of such Debtor from his Debts or Liabilities, shall, within Twenty-eight Days from and after the Execution thereof by such Debtor, or within such further Time as the Court in *London* shall allow, be registered in the Court of Bankruptcy; and in default thereof shall not be received in Evidence.

Stamp Duties on Deeds.

195. No Deed or Instrument whatever required to be registered as aforesaid shall be registered unless in addition to the ordinary Stamp Duty it also be impressed with or have affixed to it a Stamp denoting

No Deed to be registered unless so stamped.

denoting a Duty computed at the Rate of Five Shillings upon every Hundred Pounds, or Fraction of an Hundred Pounds, of the sworn or certified Value of the Estate or Effects comprised in, or to be collected or distributed under, such Deed or Instrument: Provided, that the Maximum of *ad valorem* Duty payable in respect of any such Deed or Instrument shall be Two hundred Pounds.

Memorandum of Registration.

196. Every such Deed, on being so registered as aforesaid, shall have a Memorandum thereof written on the Face of such Deed, stating the Day and the Hour of the Day at which the same was brought into the Office of the Chief Registrar for Registration.

Jurisdiction of the Court, and Rights and Liabilities of the Parties, after Registration of Deed.

197. From and after the Registration of every such Deed or Instrument in manner aforesaid, the Debtor and Creditors, and Trustees, Parties to such Deed, or who have assented thereto or are bound thereby, shall in all Matters relating to the Estate and Effects of such Debtor be subject to the Jurisdiction of the Court of Bankruptcy, and shall respectively have the Benefit of and be liable to all the Provisions of this Act, in the same or like Manner as if the Debtor had been adjudged a Bankrupt, and the Creditors had proved, and the Trustees had been appointed Creditors Assignees under such Bankruptcy; and the existing or future Trustees of any such Deed or Instrument, and the Creditors under the same, shall as between themselves respectively, and as between themselves and the Debtor and against Third Persons, have the same Powers, Rights, and Remedies, with respect to the Debtor and his Estate and Effects, and the Collection and Recovery of the same, as are possessed or may be used or exercised by Assignees or Creditors with respect to the Bankrupt, or his Acts, Estate and Effects in Bankruptcy; and, except where the Deed shall expressly provide otherwise, the Court shall determine all Questions arising under the Deed according to the Law and Practice in Bankruptcy, so far as they may be applicable, and shall have Power to make and enforce all such Orders as it would be authorized to do if the Debtor in such Deed had been adjudged bankrupt, and his Estate were administered in Bankruptcy.

Protection to Debtor after Notice of filing, &c. of Deed.

198. After Notice of the filing and Registration of such Deed has been given as aforesaid, no Execution, Sequestration, or other Process against the Debtor's Property in respect of any Debt, and no Process against his Person in respect of any Debt, other than such Process by Writ or Warrant as may be had against a Debtor about to depart out of *England*, shall be available to any Creditor or Claimant, without Leave of the Court; and a Certificate of the filing and Registration of such Deed under the Hand of the Chief Registrar and

and the Seal of the Court shall be available to the Debtor for all Purposes as a Protection in Bankruptcy.

Stay of Proceedings in Bankruptcy after Execution of Deed, pending Time allowed for its Registration.

199. In case any Petition shall be presented for an Adjudication in Bankruptcy against a Debtor after his Execution of such Deed or Instrument as is herein-before described, and pending the Time allowed for the Registration of such Deed or Instrument, all Proceedings under such Petition may be stayed, if the Court shall think fit; and in case such Deed or Instrument shall be duly registered as aforesaid, the Petition shall be dismissed.

Provision in case Debtor cannot obtain Assent of requisite Majority of Creditors.

200. If a Debtor cannot obtain the Assent of a Majority in Number representing Three Fourths in Value of his Creditors, by reason of his being unable to ascertain by whom Bills of Exchange, Promissory Notes, or other negotiable Securities accepted, drawn, made, or endorsed by him are holden, or by reason of the Absence of Creditors in a Foreign Country, or other similar Circumstances, it shall be sufficient if he obtain the Consent of a Majority in Number representing Three Fourths in Value of all his other Creditors to such Deed or Instrument as aforesaid; provided that Notice shall have been inserted by or on behalf of the Debtor in One or more Newspapers published in the County or Place at which he shall have carried on Business immediately prior to the Date of such Deed or Instrument, requiring his Creditors to signify their Assent to or Dissent from such Deed or Instrument by Notice in Writing addressed to the Trustee or Trustees thereof within Fourteen Days from the Insertion of such Notice, and that the Affidavit or Certificate of the Trustee or Trustees shall state the Circumstances of the Case, and the same shall be allowed by the Court, and provided the Deed or Instrument be in such Form as is expressed in Schedule (D.) to this Act annexed, which shall vest all the Estate and Effects of the Debtor in the Trustees of such Deed, and provided that all such other Conditions as are herein-before required be duly complied with.

As to Notices and Advertisements:

What Notices to be sent by Post.

201. All Notices by this Act or by General Order required to be served on any Person shall be sent by Post addressed to the last known Place of Business or Abode of such Person, subject to such Regulations as to Registration and otherwise as such General Orders shall direct; provided that this present Clause shall not apply to or affect Notices by this Act or by any General Order required to be personally served.

Proviso.

General Orders as to Advertisements.

202. General Orders respecting the Form and Contents of Notices in the *London Gazette* and otherwise may provide for

Notices concerning more Bankruptcies than One being comprised in One Advertisement, and may fix the Price to be paid to the Printer of the *London Gazette* for Advertisements, which Price the said Printer is hereby required to receive as such Payment.

As to Evidence:

Petitions and other Proceedings in Bankruptcy, and Copies, purporting to be sealed with the Seal of the Court, admissible in Evidence.

203. Any Petition for Adjudication, or Arrangement, Adjudication of Bankruptcy, Assignment, Appointment of Official or Creditors Assignee, Certificate, Deposition, or other Proceeding or Order in Bankruptcy, or under any of the Provisions of this Act, appearing to be sealed with the Seal of any Court under this Act, or any Writing purporting to be a Copy of any such Document, and purporting to be so sealed, shall at all Times, and on behalf of all Persons, and whether for the Purposes of this Act or otherwise, be admitted in all Courts whatever as Evidence of such Documents respectively, and of such Proceedings and Orders having respectively taken place or been made, and be deemed respectively Records of such Court, without any further Proof thereof; and no such Copy shall be receivable in Evidence unless the same appear to be so sealed, except where otherwise in this Act specially provided.

Judicial Notice to be taken of Signature of Commissioner or Registrar and Seal of Court.

204. All Courts, Judges, Justices, and Persons judicially acting, and other Officers, shall take judicial Notice of the Signature of any Commissioner or Registrar of the Courts, and of the Seal of the Courts, subscribed or attached to any judicial or official Proceeding or Document to be made or signed under the Provisions of this Act.

Forging Signature of Commissioner or Officer, or Seal of Court, &c., Felony.

205. If any Person shall forge the Signature of any Commissioner, Registrar, or of the Master or other Officer of the Court, or shall forge or counterfeit the Seal of the Courts, or knowingly concur in using any such forged or counterfeit Signature or Seal, for the Purpose of authenticating any Proceeding or Document, or shall tender in Evidence any such Proceeding or Document with a false or counterfeit Signature of any such Commissioner, Registrar, Master, or other Officer, or a false or counterfeit Seal of the Court, subscribed or attached thereto, knowing such Signature or Seal to be false or counterfeit, every such Person shall be guilty of Felony, and shall be liable to the same Punishment as any Offender under the Act of the Session of Parliament of the Eighth and Ninth Years of the Reign of Her present Majesty, Chapter One hundred and thirteen.

Evidence as to Insolvency.

206. A Copy of any Petition filed in the Court for the Relief of Insolvent Debtors in *England*, or in any Court having Jurisdiction

tion for the Relief of Insolvent Debtors, or in Bankruptcy, in any of Her Majesty's Dominions, Colonies, or Dependencies, and of any Vesting Order, Schedule, Order of Adjudication, or other Proceedings, purporting to be signed by the Officer in whose Custody the same shall be or his Deputy, certifying the same to be a true Copy of such Petition, Vesting Order, Schedule, Order of Adjudication, or other Order or Proceedings, and appearing to be sealed with the Seal of such Court, shall at all Times be admitted under this Act as sufficient Evidence of the same, and of such Proceedings respectively having taken place, without any other Proof whatever given of the same.

As to Affidavits, Declarations, and Affirmations:

Affidavits, Declarations, &c. before whom to be sworn.

207. Any Affidavit, Declaration, or Affirmation required to be sworn or made in relation to any Matter under this Act may be lawfully sworn—

1. In *England*, *Scotland*, and *Ireland*, before any Court acting in Matters of Bankruptcy, or before any Registrar or Taxing Master thereof, or before any Commissioner for administering Oaths in Chancery or any of the Superior Courts of Common Law at *Westminster*, or before any Officer of the High Court of Chancery, duly authorized to administer Oaths in such Court, or before a Magistrate of the County, City, Town, or Place where any such Affidavit shall be sworn:
2. In any Colony, Island, Plantation, or Place under the Dominion of Her Majesty, before any Court, Judge, or Person lawfully authorized to take and receive Affidavits, Affirmations, or Declarations:
3. In any Foreign Parts out of Her Majesty's Dominions, before a Judge or Magistrate, his Signature being authenticated by the Official Seal of the Court to which he is attached, or by a Public Notary, or before a *British* Minister, Consul or Vice Consul:

Judicial Notice of Seal or Signature thereto.

And every such Court, Judge, Officer, or other Person is hereby authorized and required to administer the Oath upon any such Affidavit, or to take such Affirmation or Declaration; and all Courts, Judges, Justices, Commissioners, and Persons acting judicially shall take judicial Notice of the Seal or Signature (as the Case may be) of any such Court, Judge, Officer, or other Person, attached, appended, or subscribed to any such Affidavit or Declaration, or to any other Document to be used for the Purposes of this Act, or of other Acts in relation hereto.

The Courts of Bankruptcy in England to be auxiliary

208. The Court of Bankruptcy in *London*, and the District Courts of Bankruptcy in *England*, are in like Manner authorized and required to administer Oaths, or to receive Affirmations

for the Purpose of taking Affidavits, &c. to be used elsewhere.

mations or Declarations, upon any Affidavit or Declaration or Affirmation to be used in any Matter of Bankruptcy or Insolvency under Prosecution or hereafter to be prosecuted in any Court in *Scotland*, *Ireland*, or in any Colony, Island, Plantation, or Place under the Dominion of Her Majesty; and all such Courts shall take judicial Notice of any Affidavit, Declaration, or Affirmation so sworn or made.

As to Fees on taking Oaths, or making Declarations, in Bankruptcy.

209. No Fee shall be payable on the swearing of any Oath, or the making of any Affirmation or Declaration, taken or made in the *London* Court, or in any District Court of Bankruptcy, in any Matter of Bankruptcy, Arrangement, or Insolvency within the United Kingdom, or in any of Her Majesty's Dominions, Colonies, or Dependencies, and no Fee or Reward whatever shall be taken or received by any Court or Magistrate for or in respect of the taking of such Oath, or the making of such Affirmation or Declaration, other than such Fee or Reward as General Orders shall allow.

Affidavits by Prisoners.

210. Any Affidavit of any Prisoner in any of Her Majesty's Prisons or Gaols in *England*, to be used in any Matter under this Act, may be sworn before the Visiting or other Justices, or if within Twelve Hours none shall attend then before the Gaoler of such Prison or Gaol, and every such Justice or Gaoler is hereby required and authorized to administer the Oath upon any such Affidavit without Fee or Reward.

Bankrupts and Bankrupts Wives to sign Declaration in Sched. (E.); not to exempt from Examination upon Oath.

211. All Bankrupts shall, and the Wives of such Bankrupts shall, when so required by the Court, make and sign the Declaration contained in the Schedule (E.) to this Act annexed, but such Declaration shall not in any Case exempt such Bankrupt or Bankrupt's Wife from being examined upon Oath, if the Court or any Creditor shall so require.

As to Solicitors:

Solicitors of the Court of Bankruptcy may practise as such, and appear and plead without Counsel.

212. Every Solicitor of the High Court of Chancery, now or hereafter admitted as a Solicitor of the Court of Bankruptcy, may practise as such Solicitor in the said Court or in any District Court, and as to all Matters before the Commissioners or in Chambers may appear and plead without being required to employ Counsel; and in case any Person not being such Solicitor shall practise in the Court as a Solicitor he shall be deemed guilty of a Contempt of Court and be liable to all the Penalties incident thereto.

As to Costs:

Power to award Costs.

213. Any Court acting under this Act may in all Matters before it award such Costs as shall seem fit and just; and all Costs so awarded

awarded shall be recoverable in the same Manner as Costs awarded by a Rule of any of the Superior Courts at *Westminster* may be recovered, and the like Remedies may be had, upon an Order of such Court, for Costs, as upon a Rule of any of the said Superior Courts for Costs; but no such Order shall affect any Lands, Tenements, or Hereditaments, as to Purchasers, Mortgagees, or Creditors, unless and until it shall be registered, and, if necessary, re-registered, pursuant to the Provisions of the Act of the Session of Parliament of the Twenty-third and Twenty-fourth Years of the Reign of Her Majesty, Chapter Thirty-eight, any Notice of any such Order to any such Purchaser, Mortgagee, or Creditor in anywise notwithstanding.

Remedies for recovering Costs.

Order for Costs must be registered under 23 & 24 Vict. c. 38.

As to Orders of the Lord Chancellor and of the Court of Appeal in Chancery:

214. The Provisions of the Act of the Session of Parliament of the First and Second Years of the Reign of Her Majesty, Chapter One hundred and ten, so far as the same relate to Orders of the Lord Chancellor, or of the Court of Review, therein referred to, in Matters of Bankruptcy, and the Powers given by the same Act to the Lord Chancellor and the said Court of Review in Matters of Bankruptcy, shall extend to and be applicable to Orders of the Lord Chancellor and of the Court of Appeal in Chancery sitting in Bankruptcy under this Act.

Provisions of 1 & 2 Vict. c. 110. to be applicable to Orders of the Lord Chancellor and Court of Appeal.

As to the Attendance of Witnesses out of the Jurisdiction:

215. The Provisions of an Act passed in the Seventeenth and Eighteenth Years of the Reign of Her present Majesty, Chapter Thirty-four, intituled *An Act to enable the Courts of Law in* England, Ireland, *and* Scotland *to issue Process to compel the Attendance of Witnesses out of their Jurisdiction, and to give Effect to the Service of such Process in any Part of the United Kingdom*, shall extend to and the Powers thereof shall be exercised by the Commissioners of the Court of Bankruptcy.

Provisions of 17 & 18 Vict. c. 34. as to Attendance of Witnesses out of Jurisdiction, extended to Court of Bankruptcy.

As to the Powers for mutual Aid of the Courts in *England* and elsewhere:

216. The Court may direct the Examination in *Scotland* of any Person for the Time being in *Scotland*, being a Person believed to be capable of giving Information in any Matter in regard to the Acts, Estate, or Dealings of any Bankrupt or Petitioner within the Provisions of this Act, and the Order for such Examination may be directed in *Scotland* to the Sheriff of the County in which the Person to be examined is residing or happens to be for the Time; and such Sheriff may, in like Manner as in Examinations in any Matter in Bankruptcy before such Sheriff, summon such Person to appear before

Courts in Scotland to be auxiliary to the Court in England in the Examination of Witnesses, &c.

Proceedings for that Purpose.

before him, at a Time and Place to be specified in the Summons, for Examination upon Oath, as Witness or Haver, and to produce any Books, Papers, Deeds, or Documents called for which may be in his Possession or Power; and the Sheriff may take such Examination either orally or upon written Interrogatories, and shall report the same in Writing in the usual Form to the Court, and shall transmit with such Report either the original Books, Papers, Deeds, or Documents produced, or otherwise such Copies thereof or Extracts therefrom, authenticated by the Sheriff, as he shall think fit or deem necessary; and in case any Person so summoned shall fail to appear at the Time and Place specified, or appearing shall refuse to be examined or to make the Production required, the Sheriff shall proceed against such Person, as a Witness or Haver duly cited, and failing to appear or refusing to give Evidence, or make Production, may be proceeded against by the Law of *Scotland*; and the Sheriff shall be entitled to such and the like Fees, and the Witness shall be entitled to such and the like Allowances, as are allowed to Commissioners under Appointment from the Court of Session, and as Witnesses and Havers are entitled to in the like Cases according to the Law and Practice of *Scotland*. If any Objection be stated to the Sheriff by the Witness, either on the Ground of his Incompetency as a Witness, or as to the Production required to be made, or on any other Ground whatever, the Sheriff may dispose of such Objection, or, if he think fit, report such Objection to the Court, and suspend the Examination of such Witness until such Objection has been disposed of by the Court.

Courts in Ireland to be auxiliary in like Manner.

217. The Court may, in like Manner, direct any such Examination, in *Ireland*, of any Person for the Time being in *Ireland*, being a Person believed to be capable of giving such Information in any such Matter under this Act; and such Examination in *Ireland* may be directed to the Court of Bankruptcy in *Ireland*, which, for the Purpose of such Examination, and for the Production of Books, Papers, Deeds, or Documents, shall have the like Powers and Authorities in all respects as relates to Matters within this Act as are in the next preceding Section given to Sheriffs in *Scotland*, or as might be exercised by such Court in the Case of a Matter within its own Jurisdiction.

Where Debtor who has been adjudged bankrupt, &c. in India or the Colonies resides, or has Property, in

218. If any Person who shall have been duly adjudged or declared bankrupt or insolvent in *India*, or any of the Foreign Dominions, Plantations, or Colonies of Her Majesty, shall be resident or shall be possessed of Property in *England*, *Ireland*, or *Scotland*, or in any Colony, Plantation, or Foreign Possession of the Crown, it shall be lawful for the Assignee, Trustee, or other Representative of the Creditors

Creditors of such Bankrupt or Insolvent to apply for and obtain an Adjudication of Bankruptcy, Sequestration, or Insolvency against such Person in the Court of Bankruptcy in *England*, and in the proper Court in *Scotland*, *Ireland*, and such Colony, Plantation, or Foreign Possession of the Crown respectively, and by virtue thereof the same Order and Disposition shall be had and taken with respect to the Person and Property of the Bankrupt or Insolvent, as would have been if he had been originally adjudged bankrupt or insolvent by the Court or Tribunal so applied to. Upon such Application it shall not be necessary for the Assignee, Trustee, or other Representative of the Creditors of the Person so declared bankrupt or insolvent as aforesaid to give Proof of any Act of Bankruptcy or Petitioning Creditor's Debt, or to produce any other Evidence than a duly certified Copy, under the Seal of the Court, of the Order or Adjudication by which such Person was found or adjudged bankrupt or insolvent.

England, &c., Power to obtain Adjudication in England, &c., and Proceedings thereupon.

219. Any Order made by the Court, or by any Court in *England*, acting under this Act, in the Course of the Prosecution of any Matter under this Act, shall be enforced in *Scotland* and *Ireland* in the Courts that would respectively have had Jurisdiction in respect of such Matter if the Residence or Place of Business of the Debtor had been situate in *Scotland* or *Ireland*, and in the same Manner in all respects as if such Order had been made by the Courts that are hereby required to enforce the same; and in like Manner Orders, Interlocutors, and Decrees made by any Court in *Scotland* for or in the Course of any Bankruptcy or Insolvency shall be enforced in *England* and *Ireland*; and Orders made by the Court in *Ireland* for or in the Course of any such Proceedings shall be enforced in *England* and *Scotland* by the Courts of Bankruptcy which would respectively have had Jurisdiction in any such Matter, and in the same Manner in all respects as if such Order had been made by the Court required to enforce the same in the Case of a Matter within its own Jurisdiction.

Orders in England to be enforced in Scotland and Ireland; and conversely.

220. The Court and the District Court in *London*, and the District Courts in the Country, shall in like Manner be auxiliary, for all Purposes of Proof of Debt, and for the Examination of Persons and Witnesses upon Oath, or for other like Purposes, to the Courts acting in Matters of Bankruptcy or Insolvency in *Scotland* and in *Ireland*, and also to any Court acting in such Matters in any Colony, Island, Plantation, or Place under the Dominion of Her Majesty, or to any *British* Judge elsewhere so acting.

Courts in England to be in like Manner auxiliary to Courts in Scotland, Ireland, and elsewhere.

As to Misdemeanors under this Act:

Penalty on Persons guilty of Misdemeanors herein named.

221. From and after the Commencement of this Act, any Bankrupt who shall do any of the Acts or Things following, with Intent to defraud or defeat the Rights of his Creditors, shall be guilty of a Misdemeanor, and shall be liable, at the Discretion of the Court before which he shall be convicted, to Punishment by Imprisonment for not more than Three Years, or to any greater Punishment attached to the Offence by any existing Statute:

1. If he shall not upon the Day limited for his Surrender, and before Three of the Clock of such Day, or at the Hour and upon the Day allowed him for finishing his Examination, after Notice thereof in Writing, to be served upon him personally or left at his usual or last known Place of Abode or Business, and after the Notice herein directed in the *London Gazette*, surrender himself to the Court (having no lawful Impediment allowed by the Court), and sign or subscribe such Surrender, and submit to be examined before such Court from Time to Time:
2. If he shall not upon his Examination fully and truly discover, to the best of his Knowledge and Belief, all his Property, Real and Personal, inclusive of his Rights and Credits, and how and to whom, and for what Consideration, and when he disposed of, assigned, or transferred any Part thereof, except such Part as has been really and *bonâ fide* before sold or disposed of in the Way of his Trade or Business, if any, or laid out in the ordinary Expense of his Family, or shall not deliver up to the Court, or dispose as the Court directs of all such Part thereof as is in his Possession, Custody, or Power, except the necessary Wearing Apparel of himself, his Wife and Children; and deliver up to the Court all Books, Papers, and Writings in his Possession, Custody, or Power relating to his Property or Affairs:
3. If he shall, after Adjudication, or within Sixty Days prior to Adjudication, with Intent to defraud his Creditors, remove, conceal, or embezzle any Part of his Property to the Value of Ten Pounds or upwards:
4. If, in case of any Person having to his Knowledge or Belief proved a false Debt under his Bankruptcy, he shall fail to disclose the same to his Assignees within One Month after coming to the Knowledge or Belief thereof:
5. If he shall, with Intent to defraud, wilfully and fraudulently omit from his Schedule any Effects or Property whatsoever:
6. If he shall, after the filing of the Petition for Adjudication, with Intent to conceal the State of his Affairs, or to defeat the Object of the Law of Bankruptcy, conceal, prevent or withhold

hold the Production of any Book, Deed, Paper, or Writing relating to his Property, Dealings, or Affairs:

7. If he shall, after the filing of the Petition for Adjudication, or within Three Months next before Adjudication, with Intent to conceal the State of his Affairs, or to defeat the Objects of the Law of Bankruptcy, part with, conceal, destroy, alter, mutilate, or falsify, or cause to be concealed, destroyed, altered, mutilated, or falsified, any Book, Paper, Writing, or Security, or Document relating to his Property, Trade, Dealings, or Affairs, or make or be privy to the making of any false or fraudulent Entry or Statement in or Omission from any Book, Paper, Document, or Writing relating thereto:
8. If, within the like Time, he shall, knowing that he is at the Time unable to meet his Engagements, fraudulently and with Intent to diminish the Sum to be divided amongst the general Body of his Creditors, have made away with, mortgaged, encumbered, or charged any Part of his Property, of what Kind soever, or if after Adjudication he shall conceal from the Court or his Assignee any Debt due to or from him:
9. If, being a Trader, he shall, under his Bankruptcy, or at any Meeting of his Creditors within Three Months next preceding the filing of the Petition for Adjudication, have attempted to account for any of his Property by fictitious Losses or Expenses:
10. If, being a Trader, he shall, within Three Months next before the filing of the Petition for Adjudication, under the false Colour and Pretence of carrying on Business and dealing in the ordinary Course of Trade, have obtained on Credit from any Person any Goods or Chattels with Intent to defraud:
11. If, being a Trader, he shall, with Intent to defraud his Creditors, within Three Months next before the filing of the Petition for Adjudication, pawn, pledge, or dispose of, otherwise than by *bonâ fide* Transactions in the ordinary Way of his Trade, any of his Goods or Chattels which have been obtained on Credit and remain unpaid for.

Jurisdiction and Powers of Commissioners in proceeding in respect of Bankrupt guilty of any of Offences hereinbefore named.

222. If it shall at any Time appear to any Court under this Act that the Bankrupt has been guilty of any of the Offences in the next preceding Section set forth, such Court shall have and may exercise such Jurisdiction, Rights, Powers, and Privileges, for the summoning, apprehending, committing, remanding, bailing, and otherwise proceeding in respect of such Bankrupt, as are exercised by and vested in Her Majesty's Justices of the Peace in respect of Persons against whom a Charge or Complaint shall have been made before any One or more of the said Justices in respect of any Felony or indictable Misdemeanor committed within the Limits of the Jurisdiction of such

Provisions of 11 & 12 Vict. c. 42. extended to this Act.

Justice or Justices; and all the Provisions of the Act of the Session of Parliament of the Eleventh and Twelfth Years of the Reign of Her present Majesty, Chapter Forty-two, shall, with such Variations as the Nature of the Case may require, extend and apply to the Court, and to the Commissioners of the *London* and other District Courts of Bankruptcy, and to the Judges of the County Courts acting in Matters under this Act, and their Proceedings, as well as to Justices of the Peace and their Proceedings.

Court may appoint Prosecutor.

223. The Court may direct that the Creditors Assignee, or, if there be no Creditors Assignee, the Official Assignee, or any of the Creditors of the Bankrupt, shall act as the Prosecutor in respect of such Offence, and shall give to such Assignee or Creditor a Certificate of the Court having so directed, which Certificate shall be deemed sufficient Proof of such Prosecution having been directed as aforesaid; and upon the Production of such Certificate the Costs of such Prosecution shall be allowed by the Court before which any Person shall be prosecuted or tried in pursuance of such Direction, unless such last-mentioned Court shall specially otherwise direct, and when allowed by any such Court such Sum so allowed shall be ordered by the said Court to be paid and borne in all respects in the same Manner as the Expenses of Prosecutions for Felonies are now paid and borne, and the same shall be paid and borne accordingly; and any Expenses incurred by such Prosecutor, other than those so defrayed in accordance with the next following Clause, shall be paid out of the Account intituled "The Chief Registrar's Account."

Costs of Prosecution.

Power to Court to direct Reference to Attorney General.

224. The Court may direct the Assignees to lay the Papers before the Attorney General (or the Solicitor General during a Vacancy in the Office of Attorney General) for his Direction thereon, either while the Bankruptcy is pending before the Court or when it has been brought to a Conclusion.

Indictment.

225. In any Indictment or Information for any Misdemeanor under this Act it shall be sufficient to set forth the Substance of the Offence charged, without alleging or setting forth any Debt, Act of Bankruptcy, Petition, or Adjudication, or any Summons, Warrant, Order, Rule, or Proceeding of or in any Court acting under this Act.

Miscellaneous Clauses:

Power for Court to commit Persons wilfully disobeying

226. If any Person shall wilfully disobey any Rule or Order of the Court, duly made for enforcing any of the Purposes and Provisions of this Act, the Court may, by Warrant in the Form contained in the Schedule (F.) to this Act annexed, commit the Person so offending to the

the Queen's Prison, or to the Common Gaol of any County, City, or Place where he shall be found or where he shall usually reside, there to remain, without Bail or Mainprise, until such Court, or the Court of Appeal in Chancery sitting in Bankruptcy, shall make Order to the contrary. any Rule or Order of Court.

227. All Sums of Money forfeited under this Act, or by virtue of any Conviction for Perjury committed in any Oath, Affirmation, or Declaration thereby directed or authorized, may be sued for by the Creditors Assignee or Trustee, or such other Person as the Court shall by Order direct, in any of Her Majesty's Superior Courts of Record. Money forfeited under this Act, how to be sued for.

228. The several Provisions contained in the One hundred and fourteenth, One hundred and fifteenth, One hundred and sixteenth, and One hundred and seventeenth Clauses of the Act passed in the Ninth and Tenth Years of Her Majesty, Chapter Ninety-five, shall apply to all Officers of the Court and of the County Courts sitting in Bankruptcy, who act in execution of Warrants and Orders of such Courts, as if these several Clauses had been enacted hereby. Sections 114, 115, 116, and 117 of 9 & 10 Vict. c. 95. to apply to Officers acting in execution of Warrants and Orders of the Courts.

As to the Definition and Explanation of Terms:

229. The Terms and Words herein-after enumerated or explained, wheresoever occurring in this Act, shall be understood as herein-after defined or explained, unless it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Definition or Explanation; that is to say, Definition of Terms, &c.

"Annulling" shall mean also "superseding:" "Annulling:"

"Assignee" shall mean the Assignee of the Estate and Effects of the Bankrupt or Petitioner, chosen by the Creditors; and until such Assignee shall be chosen, or where no such Assignee shall exist, shall mean the Official Assignee: "Assignees:"

"Bank of *England*" shall mean also all Branches or Agents thereof: "Bank of England:"

"Bankrupt" shall mean any Person who shall have been under any former Acts, or who shall be by any Court under the Provisions of this Act, adjudicated bankrupt: "Bankrupt:"

"Commissioner," and "Commissioner of the Court of Bankruptcy," shall include the Judge of any County Court entitled to act in Bankruptcy under this Act: "Commissioner," &c.

"Court," "the Court," "the Courts," shall mean the Court in *London*, or any Country District Court, or any County Court, acting under this Act, according as such several Constructions shall be consistent with the Context: "Court:"

"Court of Bankruptcy" shall mean Her Majesty's Court of Bankruptcy constituted under this Act, and the Commissioners thereof: "Court of Bankruptcy:"

"Creditor" shall mean also any Two or more Persons being Partners, and incorporated and Joint Stock Companies: "Creditor:"

"Creditors

"Creditors present at any Meeting:" "Creditors present at any Meeting" shall include Creditors who are represented by some Person duly authorized by any such Creditor in Writing, and such Authority shall not require a Stamp:

"Gaoler:" "Gaoler" shall include the Keeper or Governor of any Gaol or Prison:

"Messenger:" "Messenger" shall mean also and include his Assistant or Assistants, duly authorized by him to act as his Deputy or Deputies, when acting under Order of the Court:

"Metropolitan District:" "Metropolitan District" shall mean and include every Parish the Distance whereof as measured by the nearest Highway from the General Post Office in *London* to the Parish Church of such Parish shall not exceed Twenty Miles:

"Oath:" "Affidavit:" "Oath," "Affidavit," shall mean and include the Declaration or Affirmation of any Person whom any Act of Parliament shall have authorized to make such Declaration or Affirmation in lieu of an Oath:

"Petition for Adjudication of Bankruptcy:" "Petition for Adjudication" or "Petition in Bankruptcy" shall mean any Petition by or against a Debtor for Adjudication of Bankruptcy; and where in any Act of Parliament, Instrument, Document, or other Proceeding granted, executed, or made before the Commencement of this Act Mention shall have been or shall be made of any Fiat in Bankruptcy or Commission in Bankruptcy, such Act, Instrument, Document, or Proceeding shall be construed as though such Fiat or Commission had been a Petition in Bankruptcy under this Act, so far as the Circumstances will admit:

"Petitioning Creditor:" "Petitioning Creditor" shall mean the Creditor who filed the Petition for Adjudication:

"Property:" "Property" shall mean and include all the Real and Personal Estate and Effects of the Petitioner or Bankrupt within this Realm and Abroad (except as herein provided), and all the future Estate, Right, Title, Interest, and Trust of such Petitioner or Bankrupt in or to any Real or Personal Estate and Effects, within this Realm or abroad, which may revert, descend, be devised or bequeathed or come, and all Debts due or to be due to him, before he shall have obtained his Discharge:

"Prisoner:" "Prisoner" shall mean any Person in actual Custody within the Walls, Rules, or Liberties of any Prison in *England* for any Debt, Damages, Costs, Sum or Sums of Money, or for any Contempt by reason of Nonpayment of any Sum or Sums of Money or Costs:

"Proper County Court:" "Proper County Court" shall mean the County Court within the District of which the Debtor has resided or carried on Business during the Six Months next immediately preceding the Time

Time of filing a Petition under this Act by or against him, or for the longest Period during such Six Months:

"Sheriff" shall include Sheriff Substitute: "Sheriff:"

"Suit" shall include Action at Law and Suit at Equity or other Proceeding: "Suit:"

For the Purposes of this Act, all Persons shall be deemed Traders who prior to the Commencement of this Act would have been liable to be adjudicated bankrupt under the Laws of Bankruptcy then in force: "Trader:"

"United Kingdom" shall mean the United Kingdom of *Great Britain* and *Ireland*: "United Kingdom:"

In all Cases in which any particular Number of Days is prescribed by this Act, or shall be mentioned in any Rule or Order of Court which shall at any Time be made under this Act, for the doing of any Act, or for any other Purpose, the same shall be reckoned, in the Absence of any Expression to the contrary, exclusive of the first and inclusive of the last Day, unless the last Day shall happen to fall on a *Sunday*, *Christmas Day*, *Good Friday*, *Monday* and *Tuesday* in *Easter* Week, or a Day appointed for a Public Fast or Thanksgiving, in which Case the Time shall be reckoned exclusive of that Day also. "Computation of Time:"

Concluding Clauses:

230. The Acts and Parts of Acts set forth in Schedule (G.) to this Act to the Extent to which they are therein expressed to be repealed, and all other Acts or Parts of Acts which are inconsistent with this Act, are repealed; but such Repeal shall not affect any Proceeding pending, or any Right that has arisen or may arise, or any Penalty incurred or that may be incurred, in respect of any Transaction, Act, Matter, or Thing done or existing prior to or at the Commencement of this Act, under or by virtue of any of the Acts or Parts of Acts repealed. Acts and Parts of Acts in Sched. (G.) repealed.

231. This Act shall not extend to *Scotland* or *Ireland*, unless where otherwise expressly provided. Limit of Act.

232. This Act shall commence and take effect from and after the passing thereof, as to the Appointment of the Officers hereby authorized to be appointed, and as to all other Matters and Things, from and after the Eleventh Day of *October* One thousand eight hundred and sixty-one, and shall be construed, together with so much of "The Bankrupt Law Consolidation Act, 1849," and "The Bankruptcy Act, 1854," as remain unrepealed, as One Act, and may be cited for all Purposes as "The Bankruptcy Act, 1861." Commencement of Act. Short Title.

SCHEDULES.

SCHEDULE (A.)

To the Persons filling the under-mentioned Offices in the Court of Bankruptcy, the following Salaries shall be payable:—

	£
The Chief Registrar - - - - -	1,400
The Registrars acting in London, each - -	1,200
The Registrars acting in the Country, each -	1,000
The Registrar in attendance upon the Chief Judge - - - - - - -	1,200
The Taxing Master - - - -	1,400
The Accountant in Bankruptcy - - -	1,500
The Registrar of Meetings - - -	250

The Clerks in the several Offices of the Accountant in Bankruptcy, the Chief Registrar, the Taxing Master, the Ushers of the Court, the Clerk and Trainbearer, Ushers, and Assistant Ushers of the Lords Justices of the Court of Appeal in Bankruptcy, shall continue to receive the same Salaries, and out of the same Funds, as if this Act had not been passed.

SCHEDULE (B.)

DOCUMENT.	Stamp Duty in lieu of Fees. £	s.	d.
Every Petition presented to a Court of Bankruptcy for Adjudication of Bankruptcy, or for Arrangement between any Debtor and his Creditors - - - - -	5	0	0
Every such Petition when presented to the London Court or to a County Court by Traders whose Debts do not exceed £300	1	0	0
Every Order of Discharge - - - - -	1	0	0
Every Declaration of Insolvency - - - -	0	2	6
Every Registration of Trust Deeds - - - -	0	10	0
Every Summons of Judgment Debtor or Debtor - -	0	2	6
Every Admission of such Debtor - - - - -	0	2	6
Every Deposition of good Defence - - - -	0	2	6
Every Bond with Sureties - - - -	0	5	0
Every Application for Search for Petition or other Proceeding -	0	1	0
Every Application for any Meeting in any Matter under this Act - - - - - - - -	0	5	0
Every Allocatur by any Officer of the Court for any Costs, Charges, or Disbursements,—where such Bill of Costs shall not exceed £5 - - - - -	0	1	6
Exceeding £5 and not exceeding £10 - -	0	2	6
„ 10 „ - 20 - -	0	5	0
„ 20 „ - 30 - -	0	7	6
„ 30 „ - 50 - -	0	10	0
„ 50 „ - 100 - -	0	15	0
„ 100 „ - 150 - -	1	0	0
„ 150 „ - 200 - -	1	10	0
„ 200 „ - 300 - -	2	0	0
„ 300 „ - 500 - -	3	0	0
„ 500 - - - - -	5	0	0

SCHEDULE (C.)

Bankruptcy Act, 1861.

(In Bankruptcy.)

Warrant of Committal of Bankrupt or other Party for unsatisfactorily answering, or for refusing to sign his Examination.

Court of Bankruptcy.

WHEREAS *E.F.*, the said in the County of Day of [*or G.H.* of] was on the duly sworn and examined in this Court; and the said was again on the Day of duly sworn and examined in this Court, as by the Examination and

and Deposition of the said now on the File of Proceedings in this Matter will appear:

And whereas the Answers of the said , as now so appearing in said Examination and Deposition, are unsatisfactory [*or* the said refused to sign and subscribe his said Examination and Deposition]:

These are therefore to authorize and require you, immediately upon the Receipt hereof, to take into your Custody the said and him safely convey to Her Majesty's Prison of and him there to deliver to the Governor of the said Prison, who is hereby authorized and required to receive the said into his Custody there, and him safely keep and detain, without Bail, until this Court, or the Court of Appeal in Chancery sitting in Bankruptcy, shall make an Order to the contrary; and for so doing this shall be your sufficient Warrant.

Given under the Seal of the Court, this Day of 18 .

J.K.,
Judge.

To
and to
Governor of the said Prison, or his Deputy there.

SCHEDULE (D.)

THIS Deed, made the Day of between *A.B.* [*the Debtor*], and *C.D.* and *E.F.* [*the Trustees*], on behalf and with the Assent of the undersigned Creditors of *A.B.*, witnesseth that *A.B.* hereby conveys all his Estate and Effects to *C.D.* and *E.F.* absolutely, to be applied and administered for the Benefit of the Creditors of *A.B.* in like Manner as if *A.B.* had been at the Date hereof duly adjudged bankrupt. In witness, *&c.*

Schedule of Creditors.

SCHEDULE (E.)

The Bankruptcy Act, 1861.

Form of Declaration to be made by the Bankrupt or the Bankrupt's Wife.

I *A.B.*, the Person declared a Bankrupt under a Petition for Adjudication of Bankruptcy filed on the Day of in the Year of our Lord [*or* I *C.D.*, the Wife of *A.B.*, declared a Bankrupt under a Petition for Adjudication of Bankruptcy filed on the Day of], do solemnly promise and declare, That I will make true Answer to all such Questions as may be proposed to me respecting all the Property of the said *A.B.*, and all Dealings and Transactions relating thereto, and

and will make a full and true Disclosure of all that has been done with the said Property, to the best of my Knowledge, Information, and Belief.

(Signed) *A.B.*

[*or C.D.*, the Wife of the said *A.B.*]

SCHEDULE (F.)

The Bankruptcy Act, 1861.

Warrant against any Person disobeying any Rule or Order of Court.

WHEREAS by a Rule [*or* an Order] of this Court, bearing Date the Day of made for enforcing the Purposes and Provisions of the Bankruptcy Act, 1861, [*or if of any other Act hereafter in force relating to the Subject Matters of this Act, or made or entered into by Consent for carrying into effect any of such Purposes or Provisions, alter the Recital accordingly*], it was ordered, that, [*&c. &c. as in the Rule or Order*].

And whereas it is now proved that after the making of the said Rule [*or* Order], that is to say, on this Day of , a Copy of the said Rule [*or* Order] was duly served on the said personally, and the original Rule [*or* Order] at the same Time shown to him, but the said then refused [*or* neglected] to obey the same, and hath not as yet obeyed the said Rule [*or* Order]

These are therefore to will, require, and authorize you immediately upon Receipt hereof to take into your Custody the Body of the said *A.B.*, and him safely to convey to Her Majesty's Gaol [*or* Prison] of [*or* called], and him there to deliver to the Keeper of the said Prison, together with this Precept, and the Keeper of the said Prison is hereby required and authorized to receive the said *A.B.* into his Custody, and him safely to keep and detain, without Bail or Mainprise, until this Court, or the Court of Appeal in Chancery sitting in Bankruptcy, shall make Order to the contrary; and for so doing this shall be your sufficient Warrant.

Given under my Hand and the Seal of the Court at the Court of Bankruptcy, London, this Day of in the Year of our Lord One thousand eight hundred and .

A.B., (L.S.)
Judge.

To or his Assistant, and to the Keeper of Her Majesty's Prison [*or* Gaol] of [*or* called], or his Deputy there.

SCHEDULE (G.)

ACTS AND PARTS OF ACTS REPEALED.

Date of Act.	Title.	Extent of Repeal.
1 & 2 Vict. c. 110.	An Act for abolishing Arrest on Mesne Process in Civil Actions, except in certain Cases, for extending the Remedies of Creditors against the Property of Debtors, and for amending the Laws for the Relief of Insolvent Debtors in England.	The whole, except ss. 1 to 22. both inclusive.
5 & 6 Vict. c. 116.	An Act for the Relief of Insolvent Debtors.	The whole.
7 & 8 Vict. c. 96.	An Act to amend the Laws of Bankruptcy, Insolvency, and Execution.	Sections 1 to 44, both inclusive, and Sections 49 to 53, both inclusive.
10 & 11 Vict. c. 102.	An Act to abolish the Court of Review in Bankruptcy, and to make Alterations in the Jurisdiction of the Court of Bankruptcy and Court for Relief of Insolvent Debtors.	The whole, except s. 4.
12 & 13 Vict. c. 106.	An Act to amend and consolidate the Laws relating to Bankrupts.	Sections 7, 8, 10, 14, 15, 16, 18, 20, 25, 26, 28, 36, 37, 39, 44, 45, 46, 48, 52, 54, 58, 59, 60, 61, 62, 69, 70, 72, 73, 75, 90, 91, 92, 93, 94, 96, 160, 183, 185, 187, 188, 189, 193, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 209, 211 to 231, both inclusive, Sections 237, 239, 243, 244, 245, 246, 247, 249, 251, 252, 253, 255, 256, 257, 258, 259, 261, 266, 270, 271, 276, and 278, and such other Parts of the said Act as may be inconsistent with this present Act.
15 & 16 Vict. c. 77.	An Act to abolish the Office of Lord Chancellor's Chief Secretary of Bankrupts, and to regulate the Office of Chief Registrar of the Court of Bankruptcy.	Section 10.
17 & 18 Vict. c. 119.	An Act for regulating Appointments to Offices in the Court of Bankruptcy, and for amending the Laws relating to Bankrupts.	Sections 3, 11, 12, 13, 14, 15, 20, 21, 22, 25, 26, 27.

SCHEDULE (H.)

Medical Certificate.

I, the undersigned,
being a (a)
and being in actual Practice as a (b)
hereby certify, that I, on the Day of at
the Gaol of at in the County of
separately from any other Medical Practitioner,
personally examined
a Prisoner for Debt in the said Gaol, and that the said
is a (c) and a proper Person to be taken charge of
and detained under Care and Treatment, and that I have formed this Opinion
upon the following Grounds, viz.:

1. Facts indicating Insanity observed by myself (d)

2. Other Facts (if any) indicating Insanity, communicated to me by others (e)

(a) *Set forth the Qualification entitling the Person certifying to practise as a Physician, Surgeon, or Apothecary, ex. gra.:* — Fellow of the Royal College of Physicians in London, Licentiate of the Apothecaries' Company, *or as the Case may be.*

(b) Physician, Surgeon, *or* Apothecary, *as the Case may be.*

(c) Lunatic *or* an Idiot, *or* a Person of unsound Mind.

(d) *Here state the Facts.*

(e) *Here state the Information, and from whom.*

(Signed) *Name,*
Place of Abode

Dated this Day of One thousand eight hundred and

LONDON:
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Printers to the Queen's most Excellent Majesty. 1861.