

ANNO SEXTO

GEORGII IV. REGIS.

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of King James *the First, and for the Explanation of the Laws relating to Bankruptcy in Cases of Partnership;* and also an Act made in
7 G.1. c. 31. the Seventh Year of the Reign of King *George* the First, intituled *An Act for explaining and making more effectual the several Acts concerning Bankrupts;* and also an Act passed in the Fifth Year of the
5 G. 2. c. 30. Reign of King *George* the Second, intituled *An Act to prevent the committing of Frauds by Bankrupts;* and also an Act passed in the Nineteenth Year of the Reign of King *George* the Second, intituled
19 G.2. c. 32. *An Act for amending the Laws relating to Bankrupts;* and also so much of an Act passed in the Twenty-fourth Year of the Reign of King *George* the Second, the Title of which begins with the Words,
24 G. 2. c.57. *An Act to continue several Laws therein mentioned for preventing Theft and Rapine,* and concludes with the Words, *and to make some further Provisions in relation to the signing of Certificates for the Discharge of Bankrupts,* as relates to the Prevention of Frauds by Bankrupts, and to some further Provisions in relation to the signing of Certificates for the Discharge of Bankrupts; and also an Act passed in the Fourth Year of the Reign of His late Majesty King *George* the
4 G. 3. c. 33. Third, intituled *An Act for preventing Inconveniences arising in Cases of Merchants and such other Persons as are within the Description of the Statutes relating to Bankrupts being entitled to Privilege of Parliament, and becoming insolvent;* and also so much of an Act passed in the Thirty-sixth Year of the Reign of His late Majesty,
36 G.3. c. 90. intituled *An Act for the Relief of Persons equitably and beneficially entitled to or interested in the several Stocks and Annuities transferrable at the Bank of* England, as relates to Trustees in whose Names Stock shall be standing at the Bank becoming Bankrupt, and to Bankrupts refusing to transfer Stock standing in their own Right; and also an Act passed in the Thirty-seventh Year of the Reign of His late
37G.3. c.124. Majesty, intituled *An Act to make perpetual an Act passed in the Fifth Year of the Reign of His late Majesty, intituled 'An Act to prevent 'the committing of Frauds by Bankrupts;'* and also so much of an Act passed in the Forty-fifth Year of the Reign of His late Majesty,
45G.3. c.124. intituled *An Act to amend an Act passed in the Fourth Year of His present Majesty, intituled 'An Act for preventing Inconveniences 'arising in Cases of Merchants and such other Persons as are within 'the Description of the Statutes relating to Bankrupts being entitled 'to Privilege of Parliament, and becoming insolvent,' and to prevent Delay in the entering Appearances in Actions brought against Persons having Privilege of Parliament,* as relates to the Execution of certain Bonds by Traders having Privilege of Parliament, and to the Disobedience by such Traders of Orders for Payment of Money; and also an Act passed in the Forty-sixth Year of the Reign of His late
46G.3. c.135. Majesty, intituled *An Act to amend the Laws relating to Bankrupts;* and also an Act passed in the Forty-ninth Year of the Reign of His
49G.3. c.121. late Majesty, intituled *An Act to alter and amend the Laws relating to Bankrupts;* and also an Act passed in the Fifty-sixth Year of
56G.3. c.137. the Reign of His late Majesty, intituled *An Act to extend the Provisions of an Act of the First Year of the Reign of King* James *the First, intituled 'An Act for the better Relief of the Creditors 'against such as shall become Bankrupts;'* and also so much of an Act passed in the First Year of the Reign of His present Ma-
1 G. 4. c.115. jesty, intituled *An Act to repeal so much of the several Acts passed in the Twenty-ninth Year of the Reign of* Elizabeth, *the Fourth*

of George *the First, the Fifth and Eighth of* George *the Second, as inflicts capital Punishment on certain Offences therein specified, and to provide more suitable and effectual Punishment for such Offences,* as relates to the Punishment of Frauds committed by Bankrupts; and also an Act passed in the Third Year of the Reign of His present Majesty, intituled *An Act to amend the Laws relating to Bankrupts under joint Commissions;* and also another Act passed in the Third Year of His present Majesty, intituled *An Act to amend the Laws relating to Bankrupts;* and also another Act passed in the Fifth Year of the Reign of His present Majesty, intituled *An Act to consolidate and amend the Bankrupt Laws,* be hereby repealed. 3 G. 4. c. 74. 3 G. 4. c. 81. 5 G. 4. c. 98.

What Persons shall be deemed Traders liable to become Bankrupt.

II. And be it enacted, That all Bankers, Brokers, and Persons using the Trade or Profession of a Scrivener, receiving other Men's Monies or Estates into their Trust or Custody, and Persons insuring Ships or their Freight, or other Matters, against Perils of the Sea, Warehousemen, Wharfingers, Packers, Builders, Carpenters, Shipwrights, Victuallers, Keepers of Inns, Taverns, Hotels, or Coffee Houses, Dyers, Printers, Bleachers, Fullers, Calenderers, Cattle or Sheep Salesmen, and all Persons using the Trade of Merchandize by way of Bargaining, Exchange, Bartering, Commission, Consignment, or otherwise, in Gross or by Retail; and all Persons who, either for themselves or as Agents or Factors for others, seek their Living by buying and selling, or by buying and letting for Hire, or by the Workmanship of Goods or Commodities, shall be deemed Traders liable to become bankrupt: Provided, that no Farmer, Grazier, common Labourer, or Workman for Hire, Receiver General of the Taxes, or Member of or Subscriber to any Incorporated, Commercial, or Trading Companies established by Charter or Act of Parliament, shall be deemed as such a Trader liable by virtue of this Act to become Bankrupt.

What Persons not liable.

Departing the Realm; absenting; beginning to keep House; yielding to Prison; fraudulent Outlawry; Arrest; Attachment, Execution, Conveyance, Surrender, or Gift:

Acts of Bankruptcy.

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

Conveyance of all a Trader's Property not to be an Act of

IV. And be it enacted, That where any such Trader shall, after this Act shall have come into Effect, execute any Conveyance or Assignment, by Deed, to a Trustee or Trustees, of all his Estate and Effects for the Benefit of all the Creditors of such Trader, the Execution

Bankruptcy, unless a Commission issue within Six Months.

tion of such Deed shall not be deemed an Act of Bankruptcy, unless a Commission issue against such Trader within Six Calendar Months from the Execution thereof by such Trader; provided that such Deed shall be executed by every such Trustee within Fifteen Days after the Execution thereof by the said Trader, and that the Execution by such Trader and by every such Trustee be attested by an Attorney or Solicitor; and that Notice be given within Two Months after the Execution thereof by such Trader, in case such Trader reside in *London* or within Forty Miles thereof, in the *London Gazette*, and also in Two *London* daily Newspapers; and in case such Trader does not reside within Forty Miles of *London*, then in the *London Gazette*, and also in One *London* daily Newspaper and One provincial Newspaper published near to such Trader's Residence; and such Notice shall contain the Date and Execution of such Deed, and the Name and Place of Abode respectively of every such Trustee and of such Attorney or Solicitor.

Proviso as to the Execution;

and Notice in the Gazette and Newspapers.

Lying in Prison;

V. And be it enacted, That if any such Trader, 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 for Twenty-one Days, or having been arrested or committed to Prison for any other Cause, shall lie in Prison for Twenty-one Days after any Detainer for Debt lodged against him, and not discharged, every such Trader shall be thereby deemed to have committed an Act of Bankruptcy; or if any such Trader, having been arrested, committed, or detained for Debt, shall escape out of Prison or Custody, every such Trader shall be deemed to have thereby committed an Act of Bankruptcy from the Time of such Arrest, Commitment, or Detention: Provided, that if any such Trader shall be in Prison at the Time of the Commencement of this Act, such Trader shall not be deemed to have committed an Act of Bankruptcy by lying in Prison, until he shall have lain in Prison for the Period of Two Months.

escaping out of Prison, Acts of Bankruptcy.

Proviso as to lying in Prison at the passing of the Act.

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

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

Advertisement to be inserted in the Gazette.

Commission must issue within Two Months.

Docket not to be struck before Four Days in a Town, or

next after such Insertion, in case such Commission is to be executed in the Country; and the Gazette containing such Advertisement shall be Evidence to be received of such Declaration having been filed.

Eight in a Country Commission. Gazette Evidence.

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

Declaration concerted between Bankrupt and Creditor not to invalidate Commission.

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

Trader compounding with petitioning Creditor an Act of Bankruptcy.

Commission may either be superseded or continued;

Penalty on Creditor so compounding.

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

Traders having Privilege of Parliament may be proceeded against as other Traders.

X. And be it enacted, That if any Creditor or Creditors of any such Trader having Privilege of Parliament to such Amount as is herein-after declared requisite to support a Commission, shall file an Affidavit or Affidavits in any Court of Record at *Westminster*, that such Debt or Debts is or are justly due to him or them respectively, and that such Debtor, as he or they verily believe, is such Trader as aforesaid, and shall sue out of the same Court a Summons, or an original Bill and Summons against such Trader, and serve him with a Copy of such Summons, if such Trader shall not, within One Calendar Month after personal Service of such Summons, pay, secure, or compound for such Debt or Debts to the Satisfaction of such Creditor or Creditors, or enter into a Bond in such Sum, and with

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

with Two sufficient Sureties, as any of the Judges of the Court out of which such Summons shall issue shall approve of, to pay such Sum as shall be recovered in such Action or Actions, together with such Costs as shall be given in the same, and within One Calendar Month next after personal Service of such Summons cause an Appearance or Appearances to be entered to such Action or Actions, in the proper Court or Courts in which the same shall have been brought, every such Trader shall be deemed to have committed an Act of Bankruptcy from the Time of the Service of such Summons, and any Creditor or Creditors of such Trader to such Amount as aforesaid may sue out a Commission against him, and proceed thereon in like Manner as against other Bankrupts.

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

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

Power to the Lord Chancellor to issue a Commission.

XII. And be it enacted, That the Lord Chancellor shall have Power, upon Petition made to him in Writing against any Trader having committed any Act of Bankruptcy, by any Creditor or Creditors of such Trader, by Commission under the Great Seal, to appoint such Persons as to him shall seem fit, who shall by virtue of this Act and of such Commission, have full Power and Authority to take such Order and Direction, with the Body of such Bankrupt, as herein-after mentioned, as also with all his Lands, Tenements, and Hereditaments, both within this Realm and Abroad, as well Copy or Customaryhold as Freehold, which he shall have in his own Right before he became Bankrupt, as also with all such Interest in any such Lands, Tenements, and Hereditaments as such Bankrupt may lawfully depart with all, and with all his Money, Fees, Offices, Annuities, Goods, Chattels, Wares, Merchandize, and Debts, wheresoever they may be found or known, and to make Sale thereof in manner herein-after mentioned, or otherwise order the same for Satisfaction and Payment of the Creditors of the said Bankrupt.

Petitioning Creditor shall make Oath of his Debt, and

XIII. And be it enacted, That the petitioning Creditor shall, before any Commission be granted, make an Affidavit in Writing before a Master Ordinary or Extraordinary in Chancery (which shall be filed

with

with the proper Officer), of the Truth of such his or their respective Debt or Debts; and shall likewise give Bond to the Lord Chancellor in the Penalty of Two hundred Pounds to be conditioned for proving his or their Debt or Debts, as well before the Commissioners as upon any Trial at Law, in case the due issuing forth of the Commission be contested, and also for proving the Party to have committed an Act of Bankruptcy at the Time of taking out such Commission, and to proceed on such Commission; but if such Debt or Debts shall not be really due, or if after such Commission taken out it be not proved that the Party had committed an Act of Bankruptcy at the Time of the issuing of the Commission, and it shall also appear that such Commission was taken out fraudulently or maliciously, the Lord Chancellor shall and may, upon Petition of the Party or Parties against whom the Commission was so taken out, examine into the same, and order Satisfaction to be made to him or them for the Damages by him or them sustained, and for the better Recovery thereof, may assign such Bond or Bonds to the Party or Parties so petitioning, who may sue for the same in his and their Name or Names.

give Bond to the Lord Chancellor.

Power to the Lord Chancellor to assign Bond.

XIV. And be it enacted, That the petitioning Creditor or Creditors shall, at his or their own Costs, sue forth and prosecute the Commission until the Choice of Assignees; and the Commissioners shall, at the Meeting for such Choice, ascertain such Costs, and by Writing under their Hands direct the Assignees (who are hereby thereto required) to reimburse such Petitioning Creditor or Creditors such Costs out of the First Money that shall be got in under the Commission; and all Bills of Fees or Disbursements of any Solicitor or Attorney employed under any Commission for Business done after the Choice of Assignees, shall be settled by the Commissioners, except that so much of such Bills as contain any Charge respecting any Action at Law, or Suit in Equity, shall be settled by the proper Officer of the Court in which such Business shall have been transacted, and the same, so settled, shall be paid by the Assignees to such Solicitor or Attorney: Provided that any Creditor who shall have proved to the Amount of Twenty Pounds or upwards, if he be dissatisfied with such Settlement by the Commissioners, may have any such Costs and Bills settled by a Master in Chancery, who shall receive for such Settlement, and the Certificate thereof, Twenty Shillings, and no more.

Petitioning Creditor to prosecute Commission at his own Costs, until Choice of Assignees.

Bills of Costs to be taxed by Commissioners.

Creditor may have Bills taxed by a Master.

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

Amount of Petitioning Creditor's Debt.

May be upon Debt payable at a future Time, although no Security given.

XVI. And

Joint Commissions may be issued against Partners in a Firm.

May be superseded as to One or more, without affecting the rest.

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

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

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

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

XVIII. And be it enacted, That if after Adjudication the Debt or Debts of the Petitioning Creditor or Creditors, or any of them, be found insufficient to support a Commission, it shall be lawful for the Lord Chancellor, upon the Application of any other Creditor or Creditors, having proved any Debt or Debts sufficient to support a Commission, provided such Debt or Debts has or have been incurred not anterior to the Debt or Debts of the Petitioning Creditor or Creditors, to order the said Commission to be proceeded in, and it shall by such Order be deemed valid.

Commission not invalid by reason of prior Act of Bankruptcy.

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

Auxiliary Commissions for Proof of Debts or Examination of Witnesses.

XX. And be it enacted, That it shall be lawful for the Lord Chancellor to direct an auxiliary Commission to issue for Proof of Debts under Twenty Pounds, and for the Examination of Witnesses on Oath, or for either of such Purposes; and the Commissioners in every such Commission issued for the Examination of Witnesses shall possess the same Powers to compel the Attendance of and to examine

examine Witnesses, and to enforce both Obedience to such Examination, and the Production of Books, Deeds, Papers, Writings, and other Documents, as are possessed by the Commissioners in any original Commission: Provided always, that all such Examinations of Witnesses under such Commissions shall be taken down in Writing, and shall be annexed to and form Part of the original Commission. Examinations to be annexed to the original Commission.

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

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

'So help me GOD.'

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

XXII. And be it enacted, That the said Commissioners shall receive and be paid the Fee of Twenty Shillings each Commissioner for every Meeting, and the like Sum for every Deed of Conveyance executed by them, and for the Signature of the Bankrupt's Certificate; and where any Commission shall be executed in the Country, every Commissioner, being a Barrister at Law, shall receive a further Fee of Twenty Shillings for each Meeting; and in case the usual Place of Residence of such Commissioner, being a Barrister, is distant Seven Miles or upwards from the Place where such Meetings are holden, and he shall travel such Distance to any such Meeting, he may receive a further Sum of Twenty Shillings for every such Meeting; and every Commissioner who shall receive from the Creditors, or out of the Estate of the Bankrupt, any further Sum than as aforesaid, or who shall eat or drink at the Charge of the Creditors, or out of the Estate of the Bankrupt, or order any such Expence to be made, shall be disabled for ever from acting in such or any other Commission. Commissioners Fees.

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

XXIV. And be it enacted, That it shall be lawful for the Commissioners, after they shall have taken such Oath as aforesaid, by Writing under Commissioners before Adjudication

may summon Persons to give Evidence of trading and Act of Bankruptcy.

under their Hands, to summon before them any Person whom they shall believe capable of giving any Information concerning the Trading of or any Act or Acts of Bankruptcy committed by the Person or Persons against whom such Commission is issued, and also to require any Person so summoned to produce any Books, Papers, Deeds, and Writings, and other Documents in the Custody, Possession, or Power of such Person, which may appear to the said Commissioners to be necessary to establish such Trading or Act or Acts of Bankruptcy; and it shall be lawful for the said Commissioners to examine any such Person upon Oath, by Word of Mouth, or Interrogatories in Writing, concerning the Trade of or any Act or Acts of Bankruptcy committed by the Person or Persons against whom such Commission shall have issued; and every such Person so summoned shall incur such Danger or Penalty for not coming before the Commissioners, or for refusing to be sworn and examined, or for not fully answering to the Satisfaction of the said Commissioners, or for refusing to sign or subscribe his Examination, or for refusing to produce or for not producing any such Book, Paper, Deed, Writing, or Document, as is hereby provided as to Persons summoned after the Adjudication of Bankruptcy;

Adjudication.

and the Commissioners, upon Proof made before them of the Petitioning Creditor's Debt or Debts, and of the Trading and Act or Acts of Bankruptcy of the Person or Persons against whom such Commission is issued, shall thereupon adjudge such Person or Persons Bankrupt.

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

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

Commissions not to abate by Death of the King, &c.

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

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

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

Messenger may seize Goods in Ireland.

XXVIII. And be it enacted, That it shall be lawful for the Person so appointed by the Commissioners as aforesaid, to break open any

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

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

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

Execution of such Warrant in Scotland.

XXX. And be it enacted, That if in the Execution of any Warrant of Seizure so granted by the Commissioners as aforesaid, it shall be necessary to break open any House, Chamber, Shop, Warehouse, Door, Trunk, or Chest of such Bankrupt in *Scotland*, where any of the Property of such Bankrupt shall be reputed to be, or to seize and get Possession of such Property; such Warrant, after having been verified upon Oath as aforesaid, may be backed or indorsed with the Name of a Judge Ordinary or Justice of the Peace in *Scotland*, who are hereby required, within their respective Jurisdictions, to back or indorse the same; and such Warrant so indorsed shall be sufficient Authority to the Person bringing such Warrant, and to all Officers of the Law in *Scotland*, to execute the same within the County or Burgh wherein it is so indorsed, and in virtue thereof to break open the House, Chamber, Shop, Warehouse, Door, Trunk, or Chest of such Bankrupt, and to seize and take Possession of such Property, to be distributed under the said Commission, or otherwise dealt with according to Law.

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

XXXI. And be it enacted, That no Action shall be brought against any Person so appointed by the Commissioners, for any thing done in obedience to their Warrant prior to the Choice of Assignees, unless Demand of the Perusal and Copy of such Warrant hath been made or left at the usual Place of Abode of such Person or Persons by the Party or Parties intending to bring such Action, or by his or their Attorney or Agent, in Writing, signed by the Party or Parties demanding the same, and unless the same hath been refused or neglected for Six Days after such Demand; and if after such Demand and Compliance therewith any Action be brought against the Person

so

so appointed as aforesaid, without making the Petitioning Creditor or Creditors Defendant or Defendants, if living, on producing and proving such Warrant at the Trial of such Action, the Jury shall give their Verdict for the Defendant, notwithstanding any Defect of Jurisdiction in the Commissioners; and if such Action be brought against the Petitioning Creditor or Creditors and the Person so appointed as aforesaid, the Jury shall, on Proof of such Warrant, give their Verdict for the Person so appointed as aforesaid, notwithstanding any such Defect of Jurisdiction as aforesaid; and if the Verdict shall be given against the Petitioning Creditor or Creditors, the Plaintiff or Plaintiffs shall recover his or their Costs against him or them, to be taxed so as to include such Costs as the Plaintiff or Plaintiffs are liable to pay to the Person so appointed as aforesaid.

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

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

Commissioners empowered to summon Persons suspected of having Bankrupt's Property in their Hands, &c.; and compel them to produce Books, &c.

XXXIII. And be it enacted, That after Adjudication it shall be lawful for the Commissioners, by Writing under their Hands, to summon before them any Person known or suspected to have any of the Estate of the Bankrupt in his Possession, or who is supposed to be indebted to the Bankrupt, or any Person whom the Commissioners believe capable of giving Information concerning the Person, Trade, Dealings, or Estate of such Bankrupt, or concerning any Act or Acts of Bankruptcy committed by him, or any Information material to the full Disclosure of the Dealings of the Bankrupt; and it shall be lawful for the said Commissioners to require such Person to produce any Books, Papers, Deeds, Writings, or other Documents in his Custody or Power, which may appear to the Commissioners necessary to the Verification of the Deposition of such Person, or to the full Disclosure of any of the Matters which the Commissioners are authorized to inquire into; and if such Person so summoned as aforesaid shall not come before the Commissioners at the Time appointed, having no lawful Impediment (made known to the said Commissioners at the Time of their Meeting, and allowed by them), it shall be lawful for the said Commissioners, by Warrant under their Hands and Seals, to authorize and direct the Person or Persons therein named for that Purpose, to apprehend and arrest such Person, and bring him before them to be examined as aforesaid.

Power to examine Persons summoned, or present at any Meeting.

XXXIV. And be it enacted, That upon the Appearance of any Person so summoned or brought before the Commissioners as aforesaid, or if any Person be present at any Meeting of the Commissioners, it shall be lawful for them to examine every such Person upon Oath, either by Word of Mouth or by Interrogatories in Writing, concerning

ing the Person, Trade, Dealings, or Estate of such Bankrupt, or concerning any Act or Acts of Bankruptcy by such Bankrupt committed, and to reduce into Writing the Answers of every such Person, and such Answers so reduced into Writing the Party examined is hereby required to sign and subscribe; and if any such Person shall refuse to be sworn, or shall refuse to answer any lawful Questions put to him by the said Commissioners touching any of the Matters aforesaid, or shall not fully answer to the Satisfaction of the said Commissioners any such lawful Questions, or shall refuse to sign and subscribe his Examination so reduced into Writing as aforesaid (not having any lawful Objection allowed by the said Commissioners), or shall not produce any Books, Papers, Deeds, and Writings, and other Documents in his Custody or Power relating to any of the Matters aforesaid, which such Person was required by the Commissioners to produce, and to the Production of which he shall not state any Objection allowed by the said Commissioners, it shall be lawful for them, by Warrant under their Hands and Seals, to commit him to such Prison as they shall think fit, there to remain without Bail, until he shall submit himself to them to be sworn, and full Answers make to the Satisfaction, to all such lawful Questions as shall be put to him, and sign and subscribe such Examination, and produce such Books, Papers, Deeds, Writings, and other Documents as aforesaid in his Custody or Power, to the Production of which no such Objection as aforesaid has been allowed.

Persons refusing to be sworn, or to answer, or not fully answering, or refusing to sign Examination, or to produce Books, &c. may be committed.

XXXV. And be it enacted, That where any Person known or suspected to have any of the Estate of the Bankrupt in his Possession, or who is supposed to be indebted to the Bankrupt, shall be summoned to attend before the said Commissioners, every such Person shall have such Costs and Charges as the said Commissioners in their Discretion shall think fit; and every Witness summoned to attend before the Commissioners shall have his necessary Expences tendered to him, in like Manner as is now by Law required upon Service of a Subpœna to a Witness in an Action at Law.

Persons known or suspected to have Bankrupt's Property, to have Costs.

Witnesses to have Expences tendered.

XXXVI. And be it enacted, That it shall be lawful for the Commissioners, by Writing under their Hands, to summon any Bankrupt before them, whether such Bankrupt shall have obtained his Certificate or not; and in case he shall not come at the Time by them appointed (having no lawful Impediment made known to them at such Time, and allowed by them), it shall be lawful for the said Commissioners, by Warrant under their Hands and Seals, to authorize and direct any Person or Persons they shall think fit to apprehend and arrest such Bankrupt, and bring him before them; and upon the Appearance of such Bankrupt, or if such Bankrupt be present at any Meeting of the said Commissioners, it shall be lawful for them to examine such Bankrupt upon Oath, either by Word of Mouth, or on Interrogatories in Writing, touching all Matters relating either to his Trade, Dealings, or Estate, or which may tend to disclose any secret Grant, Conveyance, or Concealment of his Lands, Tenements, Goods, Money, or Debts, and to reduce his Answers into Writing, which Examination, so reduced into Writing, the said Bankrupt shall sign and subscribe; and if such Bankrupt shall refuse

Commissioners may summon Bankrupt;

Power to examine the Bankrupt.

Bankrupt refusing to be sworn, or answer, or not fully answering, or to sign his Examination, may be committed,

to be sworn, or shall refuse to answer any Questions put to him by the said Commissioners touching any of the Matters aforesaid, or shall not fully answer to the Satisfaction of the said Commissioners any such Questions, or shall refuse to sign and subscribe his Examination so reduced into Writing as aforesaid (not having any lawful Objection allowed by the said Commissioners), it shall be lawful for the said Commissioners, by Warrant under their Hands and Seals, to commit him to such Prison as they shall think fit, there to remain without Bail until he shall submit himself to the said Commissioners to be sworn, and full Answers make to their Satisfaction to such Questions as shall be put to him, and sign and subscribe such Examination.

Commissioners may summon and examine the Bankrupt's Wife.

XXXVII. And be it further enacted, That it shall be lawful for the Commissioners, in manner aforesaid, to summon before them the Wife of any Bankrupt, and in manner aforesaid to examine her for the finding out and Discovery of the Estate, Goods, and Chattels of such Bankrupt, concealed, kept, or disposed of by such Wife, in her own Person, or by her own Act, or by any other Person, and she shall incur such Danger or Penalty for not coming before the Commissioners, or for refusing to be sworn and examined, or for refusing to sign or subscribe her Examination, or for not fully answering to the Satisfaction of the Commissioners, as is hereby provided against other Persons.

Penalty on Gaoler for Escape, 500*l.*

XXXVIII. And be it enacted, That if any Gaoler to whose Custody any Bankrupt or other Person shall be committed as aforesaid, shall suffer such Bankrupt or other Person to escape, every such Gaoler shall forfeit Five hundred Pounds.

Questions to be particularly specified on Warrant.

If Habeas Corpus be brought the Judge may recommit the Prisoner.

XXXIX. And be it enacted, That if any Person be committed by the Commissioners for refusing to answer or for not fully answering any Question put to him by the said Commissioners, they shall in their Warrant of Commitment specify every such Question: Provided, that if any Person committed by the Commissioners shall bring any Habeas Corpus in order to be discharged from such Commitment, and there shall appear on the Return of such Habeas Corpus any such Insufficiency in the Form of the Warrant whereby such Person was committed, by reason whereof he might be discharged, it shall be lawful for the Court or Judge before whom such Party shall be brought by Habeas Corpus, and such Court or Judge is hereby required to commit such Person to the same Prison, there to remain until he shall conform, unless it shall be shewn to such Court or Judge by the Party committed, that he has fully answered all lawful Questions put to him by the Commissioners; or if such Person was committed for refusing to be sworn, or for not signing his Examination, unless it shall appear to such Court or Judge that he had a sufficient Reason for the same: Provided also, that such Court or Judge shall, if required thereto by the Party committed, in case the whole of the Examination of the Party so committed shall not have been stated in the Warrant of Commitment, inspect and consider the whole of the Examination of such Party, whereof any such Question was a Part; and if it shall appear from the

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

the whole Examination that the Answer or Answers of the Party committed is or are satisfactory, such Court or Judge shall and may order the Party so committed to be discharged.

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

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

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

Notice to set forth Cause of Action, &c.

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

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

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

Tender of Amends within One Month after Notice, and pleaded in bar, &c.

XLIII. And be it enacted, That every such Commissioner may, at any Time within One Calendar Month after such Notice, tender Amends to the Party complaining, or to his Agent or Attorney; and if the same is not accepted, may plead such Tender in bar to any Action brought against him, grounded on such Writ or Process, together with the Plea of Not Guilty, and any other Plea, with Leave of the Court; and if upon Issue joined thereon, the Jury shall find the Amends so tendered to have been sufficient, they shall give a Verdict for the Defendant; and if the Plaintiff shall become Nonsuit, or shall discontinue his Action, or if Judgment shall be given for such Defendant upon Demurrer, such Commissioner shall be entitled to the like Costs as he would have been entitled to in case he had pleaded the General Issue only; and if upon Issue so joined, the Jury shall

shall find that no Amends were tendered, or that the same were not sufficient, and also against the Defendant on such other Plea or Pleas, they shall give a Verdict for the Plaintiff, and such Damages as they shall think proper, which he shall recover together with Costs of Suit: Provided, that if any such Commissioner shall neglect to tender any Amends, or shall have tendered insufficient Amends before the Action brought, he may, by Leave of the Court where such Action shall depend, at any Time before Issue joined, pay into Court such Sum of Money as he shall think fit, whereupon such Proceedings shall be had in Court as in other Actions where the Defendant is allowed to pay Money into Court.

Amends may be paid into Court before Issue joined.

Limitation of Actions.

General Issue.

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

Double Costs.

Commissioners may appoint Assignees until others are chosen by Creditors.

XLV. And be it enacted, That it shall be lawful for the Commissioners as often as they shall think fit, by Writing under their Hands, to appoint One or more Person or Persons an Assignee or Assignees of the Bankrupt's Real and Personal Estate, or of any Part thereof, which Assignee or Assignees shall or may be removed at the Meeting of the Creditors for the Choice of Assignees, if they shall think fit; and such Assignee or Assignees so removed shall deliver up and assign all the Estate of the Bankrupt come to his or their Possession to the Assignees so chosen as herein-after mentioned, and all the Estate of the Bankrupt, which shall be so delivered up and assigned, shall be as effectually and legally vested in the Assignees so chosen as aforesaid, as if the First Assignment had been made to them by the Commissioners; and if such First Assignee or Assignees shall not within Ten Days after Notice given of the said Choice of Assignees, and of their Consent to accept such Assignment, signified to the First Assignee or Assignees by Writing under their Hands, make such Assignment and Delivery as aforesaid, every such Assignee shall forfeit Two hundred Pounds.

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

Debts how to be proved.

XLVI. And be it enacted, That at the Three several Meetings so appointed by the Commissioners as aforesaid, and at every other Meeting by them appointed for Proof of Debts (whereof, and of the Purport whereof, Ten Days Notice shall have been given in the *London Gazette*), every Creditor of the Bankrupt may prove his Debt by his own Oath; and all Bodies Politic and public Companies incorporated or authorized to sue or bring Actions, either by Charter or

By Corporations, &c.

Act

Act of Parliament, may prove by an Agent, provided such Agent shall in his Deposition swear that he is such Agent as aforesaid, and that he is authorized to make such Proof; and if any Creditor shall live remote from the Place of the Meeting of the Commissioners, he may prove by Affidavit, sworn before a Master in Chancery, Ordinary or Extraordinary; or if such Creditor shall live out of *England*, by Affidavit sworn before a Magistrate where such Creditor shall be residing, and attested by a Notary Public, *British* Minister, or Consul, and no Creditor shall pay any Contribution on account of any such Debt; provided, that it shall be lawful for the said Commissioners to examine upon Oath, either by Word of Mouth or by Interrogatories in Writing, every Person claiming to prove a Debt under the said Commission, or to require such further Proof, and to examine such other Persons in relation thereto, as they shall think fit.

By Creditor remote or abroad.

Creditor may be examined upon Oath.

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

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

XLVIII. And be it enacted, That when any Bankrupt shall have been indebted, at the Time of issuing the Commission against him, to any Servant or Clerk of such Bankrupt, in respect of the Wages or Salary of such Servant or Clerk, it shall be lawful for the Commissioners, upon Proof thereof, to order so much as shall be so due as aforesaid, not exceeding Six Months Wages or Salary, to be paid to such Servant or Clerk out of the Estate of such Bankrupt; and such Servant or Clerk shall be at liberty to prove under the Commission for any Sum exceeding such last-mentioned Amount.

Commissioners may order Six Months Wages of Servants or Clerks of Bankrupt to be paid.

XLIX. And be it enacted, That where any Person shall be an Apprentice to a Bankrupt at the Time of issuing of the Commission against him, the issuing of such Commission shall be and enure as a complete Discharge of the Indenture or Indentures whereby such Apprentice was bound to such Bankrupt; and if any Sum shall have been really and *bonâ fide* paid, by or on the Behalf of such Apprentice to the Bankrupt, as an Apprentice Fee, it shall be lawful for the Commissioners, upon Proof thereof, to order any Sum to be paid to or for the Use of such Apprentice which they shall think reasonable, regard being had, in estimating such Sum, to the Amount of the Sum so paid by or on behalf of such Apprentice to the Bankrupt, and to the Time during which such Apprentice shall have resided with the Bankrupt previous to the issuing of the Commission.

Apprentices discharged from their Indentures.

Commissioners may order any Sum to be paid in respect of Apprentice Fees.

L. And be it enacted, That where there has been mutual Credit given by the Bankrupt and any other Person, or where there are mutual Debts between the Bankrupt and any other Person, the Commissioners shall state the Account between them, and one Debt or Demand may be set against another, notwithstanding any prior Act of

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

of Bankruptcy committed by such Bankrupt before the Credit given to or the Debt contracted by him, and what shall appear due on either Side on the Balance of such Account, and no more, shall be claimed or paid on either Side respectively, and every Debt or Demand hereby made proveable against the Estate of the Bankrupt, may also be set off in Manner aforesaid against such Estate; provided that the Person claiming the Benefit of such Set-off had not, when such Credit was given, Notice of an Act of Bankruptcy by such Bankrupt committed.

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

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

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

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

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

Persons effecting In-

LIII. And be it enacted, That the Obligee in any Bottomry or Respondentia Bond, and the Assured in any Policy of Insurance made upon good and valuable Consideration, shall be admitted to claim, and after the Loss or Contingency shall have happened, to prove his Debt or Demand in respect thereof, and receive Dividends with the other Creditors as if the Loss or Contingency had happened before the issuing the Commission against such Obligor or Insurer; and that the Person effecting any Policy of Insurance upon Ships or Goods with any Person, as a Subscriber or Underwriter, becoming Bankrupt, shall be entitled to prove any Loss to which such Bankrupt shall be liable in respect of such Subscription, although the Person so effecting

such Policy was not beneficially interested in such Ships or Goods, in case the Person or Persons so interested is not or are not within the United Realm. surance admitted to prove Loss.

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

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

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

LVII. And

Interest on Promissory Notes and Bills of Exchange proveable.

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

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

LVIII. And be it enacted, That if any Plaintiff in any Action at Law or Suit in Equity, or Petition in Bankruptcy or Lunacy, shall have obtained any Judgment, Decree, or Order against any Person who shall thereafter become Bankrupt for any Debt or Demand in respect of which such Plaintiff or Petitioner shall prove under the Commission, such Plaintiff or Petitioner shall also be entitled to prove for the Costs which he shall have incurred in obtaining the same, although such Costs shall not have been taxed at the Time of the Bankruptcy.

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

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

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

Commissioners may expunge Proof of Debts.

LX. And be it enacted, That whenever it shall appear to the Assignees or to Two or more Creditors, who have each proved Debts to the Amount of Twenty Pounds or upwards, that any Debt proved under

under the Commission is not justly due either in Whole or in Part, such Assignees or Creditors may make Representation thereof to the Commissioners; and it shall be lawful for the said Commissioners to summon before them and examine upon Oath any Person who shall have so proved as aforesaid, together with any Person whose Evidence may appear to the Commissioners to be material, either in Support of or in Opposition to any such Debt; and if the said Commissioners, upon the Evidence given on both Sides or (if the Person who shall have so proved as aforesaid shall not attend to be examined, having been first duly summoned, or Notice having been left at his last Place of Abode) upon the Evidence adduced by such Assignees or Creditors as aforesaid, shall be of Opinion that such Debt is not due either wholly or in part, the said Commissioners shall be at liberty to expunge the same, either wholly or in part, from the Proceedings: Provided, that such Assignees or Creditors requiring such Investigation shall, before it is instituted, sign an Undertaking, to be filed with the Proceedings, to pay such Costs as the Commissioners shall adjudge to the Creditor who has proved such Debt as aforesaid, such Costs to be recovered by Petition: Provided also, that such Assignees or Creditors may apply in the first Instance by Petition to the Lord Chancellor, or that either Party may petition against the Determination of the Commissioners.

Persons requiring Investigation to sign Undertaking for Costs.

Application by Petition reserved.

LXI. And be it enacted, That at the Second Meeting appointed by the Commissioners as aforesaid, or any Adjournment thereof, Assignees of the Bankrupt's Estate and Effects shall be chosen; and all Creditors who have proved Debts under the Commission to the Amount of Ten Pounds and upwards shall be entitled to vote in such Choice; and also any Person authorized by Letter of Attorney from any such Creditor or Creditors, upon Proof of the Execution thereof, either by Affidavit sworn before a Master in Chancery, Ordinary or Extraordinary, or by Oath before the Commissioners *viva voce*, and in case of Creditors residing out of *England*, by Oath before a Magistrate where the Party shall be residing, duly attested by a Notary Public, *British* Minister or Consul, and the Choice shall be made by the major Part in Value of the Creditors so entitled to vote: Provided that the Commissioners shall have Power to reject any Person so chosen who shall appear to them unfit to be such Assignee as aforesaid, and upon such Rejection a new Choice of another Assignee or Assignees shall be made as aforesaid.

Choice of Assignees at Second Meeting; how chosen.

Commissioners may reject any Person chosen as unfit.

LXII. And be it enacted, That in all Commissions against One or more of the Partners of a Firm, any Creditor to whom the Bankrupt or Bankrupts is or are indebted, jointly with the other Partner or Partners of the said Firm, or any of them, shall be entitled to prove his Debt under such Commission for the Purpose only of voting in the Choice of Assignees under such Commission, and of assenting to or dissenting from the Certificate of such Bankrupt or Bankrupts, or of either of such Purposes; but such Creditor shall not receive any Dividend out of the separate Estate of the Bankrupt or Bankrupts until all the separate Creditors shall have received the full Amount of their respective Debts, unless such Creditor shall be a Petitioning Creditor in a Commission against One Member of a Firm.

Joint Creditor entitled to prove under separate Commission, for the Purpose of voting in the Choice of Assignees; not to receive Dividend unless Petitioning Creditor against one of the Firm.

Commissioners to convey the Personal Estate to the Assignees, and Debts due to the Bankrupt.

LXIII. And be it enacted, That the Commissioners shall assign to the Assignees, for the Benefit of the Creditors of the Bankrupt, all the present and future Personal Estate of such Bankrupt wheresoever the same may be found or known, and all Property which he may purchase, or which may revert, descend, be devised or bequeathed or come to him, before he shall have obtained his Certificate; and the Commissioners shall also assign as aforesaid all Debts due or to be due to the Bankrupt wheresoever the same may be found or known, and such Assignment shall vest the Property, Right, and Interest in such Debts in such Assignees, as fully as if the Assurance whereby they are secured had been made to such Assignees; and after such Assignment, neither the Bankrupt nor any Person claiming through or under him shall have Power to recover the same, nor to make any Release or Discharge thereof, neither shall the same be attached as the Debt of the Bankrupt by any Person according to the Custom of the City of *London* or otherwise, but such Assignees shall have like Remedy to recover the same in their own Names as the Bankrupt himself might have had if he had not been adjudged Bankrupt.

Commissioners to convey Bankrupt's Real Estate to Assignees.

LXIV. And be it enacted, That the Commissioners shall, by Deed indented and inrolled in any of His Majesty's Courts of Record, convey to the said Assignees, for the Benefit of the Creditors as aforesaid, all Lands, Tenements, and Hereditaments, except Copy or Customary-hold in *England*, *Scotland*, *Ireland*, or in any of the Dominions, Plantations, or Colonies belonging to His Majesty, to which any Bankrupt is entitled, and all Interest to which such Bankrupt is entitled in any of such Lands, Tenements, or Hereditaments, and of which he might, according to the Laws of the several Countries, Dominions, Plantations, or Colonies have disposed, and all such Lands, Tenements, and Hereditaments as he shall purchase, or shall descend, be devised, revert to, or come to such Bankrupt before he shall have obtained his Certificate, and all Deeds, Papers, and Writings respecting the same, and every such Deed shall be valid against the Bankrupt, and against all Persons claiming under him: Provided, that where according to the Laws of any such Plantation or Colony such Deed would require Registration, Enrolment, or Recording, the same shall be so registered, enrolled, or recorded, according to the Laws of such Plantation or Colony, and no such Deed shall invalidate the Title of any Purchaser for valuable Consideration prior to such Registration, Enrolment, or Recording, without Notice that the Commission has issued.

Proviso as to Registration of Conveyance of Colonial Property.

Commissioners may make sale of Hereditaments where of the Bankrupt is seised of any Estate Tail, &c.

LXV. And be it enacted, That the Commissioners shall by Deed, indented and enrolled as aforesaid, make sale for the Benefit of the Creditors as aforesaid of any Lands, Tenements, and Hereditaments, situate either in *England* or *Ireland*, whereof the Bankrupt is seised of any Estate Tail in Possession, Reversion, or Remainder, and whereof no Reversion or Remainder is in the Crown, the Gift or Provision of the Crown, and every such Deed shall be good against the said Bankrupt and the Issue of his Body, and against all Persons claiming under him after he became Bankrupt, and against all Persons whom the said Bankrupt by Fine, Common Recovery, or any other Means, might cut off or debar from any Remainder, Reversion,

or

or other Interest, in or out of any of the said Lands, Tenements, and Hereditaments.

Lord Chancellor may vacate any Conveyance or Assignment, and direct new.

LXVI. And be it enacted, That the Lord Chancellor may, upon Petition, order any Conveyance or Assignment either of the Real or Personal Estate of the Bankrupt, made either to Assignees appointed by the Commissioners or chosen by the Creditors, and any Enrolment thereof, to be vacated, provided that no Title of any Purchaser under any Conveyance prior to such Order be thereby affected, and that no Estate previously barred be thereby revived; and the Lord Chancellor may order the Commissioners to execute a new Assignment or Assignments of the Debts and Effects unreceived and not disposed of by the then Assignee or Assignees to any other Person or Persons to be chosen by the Creditors as aforesaid, or to execute a new Conveyance of the Real Estate unsold or not conveyed to such Person or Persons, and in such Manner as the Lord Chancellor shall direct; and if such new Assignment shall be ordered, the Debts and Personal Estate of the Bankrupt shall be thereby vested in such new Assignees, and it shall be lawful for them to sue for the same, and to discharge any Action or Suit, or to give any Acquittance for such Debts, as effectually as the former Assignees might have done; and the Commissioners shall, in the Two *London* Gazettes next after the Removal of such Assignee or Assignees, and such new Appointment as aforesaid, cause Advertisements to be inserted giving Notice of such Removal and Appointment, and directing Persons indebted to the Bankrupt's Estate not to pay any Debt to the Assignee or Assignees so removed; and if such new Conveyance as aforesaid shall be ordered as aforesaid, it shall be valid without any Conveyance from any former Assignee or Assignees, or his or their Heirs or Assigns, provided that the Order so made for vacating any Bargain and Sale be enrolled; and any Bargain and Sale to be executed in pursuance thereof shall be enrolled in the same Court as the First Bargain and Sale of the same Estate was enrolled.

Order for new Assignment to vest the Personal Estate in the new Assignees.

New Conveyance of Real Estate valid, without any Conveyance from the former Assignees.

Suits not to be abated by Death or Removal of Assignees.

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

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

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

LXIX. And

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

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

Conditional Estates granted by the Bankrupt may be redeemed.

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

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

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

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

Proviso for Assignments of Vessels under 4 G. 4. c. 41.

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

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

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

LXXIV. And be it enacted, That no Distress for Rent made and levied after an Act of Bankruptcy upon the Goods or Effects of any Bankrupt (whether before or after the issuing of the Commission), shall be available for more than One Year's Rent, accrued prior to the Date of the Commission, but the Landlord or Party to whom the Rent shall be due, shall be allowed to come in as a Creditor under the Commission for the Overplus of the Rent due, and for which the Distress shall not be available.

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

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

Bankrupts entitled to Leases, or Agreements for Leases, when not liable for Rent or Covenants.

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

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

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

Assignees may execute Powers previously vested in Bankrupts.

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

Lord Chancellor may order Bankrupts to join in Conveyances.

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

Where Trustee becomes Bankrupt the Chancellor may order Conveyance or Assignment to other Trustees.

LXXIX. And be it enacted, That if any Bankrupt shall as Trustee be seised, possessed of, or entitled to, either alone or jointly, any Real or Personal Estate, or any Interest secured upon or arising out of the same, or shall have standing in his Name as Trustee, either alone or jointly, any Government Stock, Funds, or Annuities, or any of the Stock of any public Company, either in *England*, *Scotland*, or *Ireland*, it shall be lawful for the Lord Chancellor, on the Petition of the Person or Persons entitled in Possession to the Receipt of the Rents, Issues, and Profits, Dividends, Interest, or Produce thereof, on due Notice given to all other Persons (if any) interested therein, to order the Assignees, and all Persons whose Act or Consent thereto is necessary, to convey, assign, or transfer the said Estate, Interest, Stock, Funds, or Annuities to such Person or Persons as the Lord Chancellor shall think fit, upon the same Trusts as the said Estate, Interest, Stock, Funds, or Annuities were subject to before the Bankruptcy, or such of them as shall be then subsisting and capable of taking Effect; and also to receive and pay over the Rents, Issues, and Profits, Dividends, Interest, or Produce thereof, as the Lord Chancellor shall direct.

Where Bankrupt beneficially entitled to Stock.

LXXX. And be it enacted, That if any such Bankrupt shall have any Government Stock, Funds, or Annuities, or any of the Stock of any public Company, either in *England*, *Scotland*, or *Ireland*, standing in his Name in his own Right, it shall be lawful for the Commissioners, by Writing under their Hands, to order all Persons whose Act or Consent is thereto necessary, to transfer the same into the Name of the Assignees, and to pay all Dividends upon the same to such Assignees; and all such Persons whose Act or Consent is so necessary as aforesaid are hereby indemnified for all Things done or permitted pursuant to such Order.

Conveyances, Contracts, Executions,

LXXXI. And be it enacted, That all Conveyances by, and all Contracts and other Dealings and Transactions by and with any Bankrupt,

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

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

Where a Commission has issued within the Two Months, which is afterwards superseded, the Two Months shall be reckoned from the issuing of it.

LXXXII. And be it enacted, That all Payments really and *bonâ fide* made, or which shall hereafter be made by any Bankrupt, or by any Person on his Behalf, before the Date and issuing of the Commission against such Bankrupt, to any Creditor of such Bankrupt (such Payment not being a fraudulent Preference of such Creditor), shall be deemed valid, notwithstanding any prior Act of Bankruptcy by such Bankrupt committed; and all Payments really and *bonâ fide* made, or which shall hereafter be made to any Bankrupt before the Date and issuing of the Commission against such Bankrupt, shall be deemed valid, notwithstanding any prior Act of Bankruptcy by such Bankrupt committed; and such Creditor shall not be liable to refund the same to the Assignees of such Bankrupt, provided the Person so dealing with the said Bankrupt had not, at the Time of such Payment by or to such Bankrupt, Notice of any Act of Bankruptcy by such Bankrupt committed.

Payments made by and to Bankrupt without Notice, &c. valid, notwithstanding Act of Bankruptcy.

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

What shall be constructive Notice.

LXXXIV. And be it enacted, That no Person or Body Corporate, or Public Company, having in his or their Possession or Custody any Money, Goods, Wares, Merchandizes, or Effects belonging to any Bankrupt, shall be endangered by reason of the Payment or Delivery thereof to the Bankrupt or his Order; provided such Person or Company had not, at the Time of such Delivery or Payment, Notice that such Bankrupt had committed an Act of Bankruptcy.

Persons not to be endangered for Delivery of Goods without Notice, &c.

LXXXV. And

Bodies Politic, &c. deemed to have Notice, if Persons acting on their behalf had Notice.

LXXXV. And be it enacted, That if any accredited Agent of any Body Corporate or Public Company shall have had Notice of any Act of Bankruptcy, such Body Corporate or Company shall be hereby deemed to have had such Notice.

Bonâ fide Purchases of Bankrupts not to be impeached.

LXXXVI. And be it enacted, That no Purchase from any Bankrupt *bonâ fide* and for valuable Consideration, where the Purchaser had Notice at the Time of such Purchase of an Act of Bankrupt by such Bankrupt committed, shall be impeached by reason thereof, unless the Commission against such Bankrupt shall have been sued out within Twelve Calendar Months after such Act of Bankruptcy.

Titles to Property sold under Commission not to be impeached unless Proceedings to supersede commenced within Twelve Months.

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

Assignees, with Consent of Creditors, may compound or submit Disputes to Arbitration, or commence Suits in Equity.

LXXXVIII. And be it enacted, That the Assignees, with the Consent of the major Part in Value of Creditors who shall have proved under the Commission, present at any Meeting, whereof and of the Purport whereof Twenty-one Days Notice shall have been given in the *London Gazette*, may compound with any Debtor to the Bankrupt's Estate, and take any reasonable Part of the Debt in discharge of the Whole, or may give Time or take Security for the Payment of such Debt, or may submit any Dispute between such Assignees and any Persons, concerning any Matter relating to such Bankrupt's Estate, to the Determination of Arbitrators to be chosen by the Assignees and the major Part in Value of such Creditors, and the Party with whom they shall have such Dispute, and the Award of such Arbitrators shall be binding on all the Creditors; and the Assignees are hereby indemnified for what they shall do according to the Directions aforesaid, and no Suit in Equity shall be commenced by the Assignees without such Consent as aforesaid; provided that if One-third in Value or upwards of such Creditors shall not attend at any such Meeting (whereof such Notice shall have been given as aforesaid), the Assignees shall have Power, with the Consent of the Commissioners testified in Writing under their Hands, to do any of the Matters aforesaid.

Meetings of Creditors to be attended by One-third in Value.

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

LXXXIX. And be it enacted, That in any Commission against any one or more Member or Members of a Firm, the Lord Chancellor may, upon Petition, authorize the Assignees to commence or prosecute any Action at Law, or Suit in Equity, in the Names of such Assignees and of the remaining Partner or Partners, against any Debtor of the Partnership, and may obtain such Judgment, Decree, or Order therein, as if such Action or Suit had been instituted with the Consent of such Partner or Partners, and if such Partner or Partners shall execute any Release of the Debt or Demand for which such Action or Suit is instituted, such Release shall be void; pro-

provided that every such Partner, if no Benefit is claimed by him by virtue of the said Proceedings, shall be indemnified against the Payment of any Costs in respect of such Action or Suit; and that it shall be lawful for the Lord Chancellor, upon the Petition of such Partner, to direct that he may receive so much of the Proceeds of such Action or Suit as the Lord Chancellor shall think fit.

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

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

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

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

The same in Suits in Equity.

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

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

Demand for which the Bankrupt might have sustained any Action or Suit.

Proviso for Debtor to the Estate paying the Debt into Court when sued by the Assignees within the Time for the Bankrupt to dispute.

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

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

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

Office for registering Proceedings in Bankruptcy.

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

No Commission, Adjudication, Conveyance, or Certificate to be received in Evidence unless entered of Record.

What Fees to be paid for Entry.

XCVI. And be it enacted, That in all Commissions issued after this Act shall have taken Effect, no Commission of Bankruptcy, Adjudication of Bankruptcy by the Commissioners, or Assignment of the Personal Estate of the Bankrupt, or Certificate of Conformity, shall be received as Evidence in any Court of Law or Equity, unless the same shall have been first so entered of Record as aforesaid; and the Person so appointed to enter Matters of Record as aforesaid, shall be entitled to receive for such Entry of every such Commission, Adjudication of Bankruptcy, Assignment, or Order for vacating the

the same respectively, having the Certificate of such Entry indorsed thereon respectively, the Fee of Two Shillings each, and for the Entry of every Certificate of Conformity, having the like Certificate indorsed thereon, Six Shillings; and every such Instrument shall be so entered of Record upon the Application of, or on behalf of any Party interested therein, and on Payment of the several Fees aforesaid, without any Petition in Writing presented for that Purpose; and the Lord Chancellor may, upon Petition, direct any Depositions, Proceedings, or other Matter relating to Commissions of Bankruptcy, to be entered of Record as aforesaid, and also appoint such Fee and Reward for the Labour therein of the Person so appointed as aforesaid, as the Lord Chancellor shall think reasonable; and all Persons shall be at liberty to search for any of the Matters so entered of Record as aforesaid: Provided that on the Production in Evidence of any Instrument so directed to be entered of Record, having the Certificate thereon, purporting to be signed by the Person so appointed to enter the same, or by his Deputy, the same shall, without any Proof of such Signature, be received as Evidence of such Instrument having been so entered of Record as aforesaid.

Lord Chancellor may direct certain other Matters to be entered.

Liberty to search.

Certificate of Entry endorsed to be Evidence of Entry.

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

Office Copies made Evidence in certain Cases.

Costs of producing original Instrument when not allowed.

XCVIII. And be it further enacted, That after this Act shall have come into Effect all Commissions of Bankrupt, and also all Deeds, Conveyances, Assignments, Surrenders, Admissions, and other Assurances of, or to, or relating solely to any Freehold, Leasehold, Copyhold, or Customary Messuages, Lands, or Tenements, or any Mortgage, Charge, or other Incumbrance upon, or any Estate, Right, or Interest of and in any Messuages, Lands, Tenements, or Personal Estate, being the Estate of or belonging to any Bankrupt or Bankrupts, or Part or Parcel thereof, and which after the Execution of such Deeds, Conveyances, Assignments, Surrenders, or Assurances respectively shall, either at Law or in Equity, be or remain the Estate and Property of such Bankrupt or Bankrupts, or the Assignee or Assignees appointed or chosen by virtue of the Commission issued against him or them respectively, and also all Powers of Attorney, Writs of Supersedeas and Procedendo, Certificates of Conformity, Affidavits, and all other Instruments and Writings whatsoever relating solely to the Estate or Effects of any Bankrupt or Bankrupts, or any Part thereof, or to any Proceedings under any Commission of Bankrupt, and all Advertisements inserted in the *London Gazette* relating solely to Matters in Bankruptcy, shall not be liable to any Stamp Duty or any other Government Duty whatsoever, and all Sales of any Real or Personal Estate of any Bankrupt or Bankrupts shall not be liable to any Auction Duty.

Commissions, Deeds, and other Instruments relating to Estates and Effects of Bankrupts, not liable to Stamp Duty.

Sales not liable to Auction Duty.

XCIX. And

Punishment of Perjury and false Affirmation.

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

Provision as to Quakers.

Application of Forfeitures.

C. And be it enacted, That all Sums of Money forfeited under this Act, or by virtue of any Conviction for Perjury committed in any Oath hereby directed or authorized, may be sued for by the Assignees in any of His Majesty's Courts of Record; and the Money so recovered (the Charges of Suit being deducted) shall be divided among the Creditors.

Assignees directed to keep a Book of Account of Bankrupts Estate.

Commissioners may summon Assignees, &c.

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

Creditors to direct where the Money arising from the Bankrupt's Estate shall be paid in, &c.

CII. And be it enacted, That at the Meeting of Creditors for the Choice of Assignees, the major Part in Value of such Creditors there present may direct how, and with whom, and where the Money received from Time to Time out of the Estate shall be paid in and remain until it be divided; and if such Creditors shall not make such Direction as aforesaid, the Commissioners shall, immediately after such Choice, and at the same Meeting, make such Direction; but

Final Dividend within 18 Months;

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

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

Assignees to file an Account in the Bankrupt Office of unclaimed Dividends remaining in their Hands.

CX. And be it enacted, That if any Assignee under any Commission of Bankrupt shall have, either in his own Hands or at any Bankers, or otherwise subject to his Order or Disposition, or to his Knowledge in the Hands of, or in the Order and Disposition of himself and any Co-assignee or Co-assignees, or of any or either of them, any unclaimed Dividend or Dividends, amounting in the Whole to the Sum of Fifty Pounds, and shall not within Six Months after this Act shall have taken Effect, or Two Calendar Months after the Expiration of One Year after the Declaration and Order of Payment of such Dividend or Dividends made by the Commissioners, either pay to the Creditor or Creditors entitled thereto, or cause a Certificate thereof to be filed in the Office of the Lord Chancellor's Secretary of Bankrupts, containing a full and true Account of the Name or Names of the Creditor or Creditors to whom such unclaimed Dividend or Dividends is or are respectively due, and of the Amount of such Dividend or Dividends respectively (such Account being signed by the Assignee or Assignees rendering the same, and attested by the Solicitor to the Commission, or the Solicitor to the Assignee or Assignees signing the same), such Assignee or Assignees shall be charged, in account with the Estate of the Bankrupt, Interest upon such unclaimed Dividend or Dividends, to be computed from the Time that such Certificate is hereby directed to be filed, at the Rate of Five Pounds *per Centum per Annum*, for such Time as he shall thenceforth retain the same, and also such further Sum as the Commissioners shall think fit, not exceeding in the Whole Twenty Pounds *per Centum per Annum*; and the Lord Chancellor, or the said Commissioners, may order the Investment of any unclaimed Dividends in the Public Funds, or in any Government Security, for or on account of the Creditors entitled, and subject to such Order as the Lord Chancellor may think fit to make respecting the same, who, if he shall think fit, may, after the same shall have remained unclaimed for the Space of Three Years from the Declaration of such Dividends by the Commissioners, order the same to be divided amongst and paid to the other Creditors, and the Proof of the Creditors to whom such Dividends were allotted shall from

Penalty on Assignees neglecting.

Power of Investment of such Dividends, and after Three Years dividing the same among the other Creditors.

from thenceforth be considered as void as to the same, but renewable as to any future Dividends, to place them *pari passu* with the other Creditors, but not to disturb any Dividends which shall have been previously made.

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

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

Bankrupt not surrendering and submitting to be examined;

CXII. And be it enacted, That if any Person against whom any Commission has been issued, or shall hereafter be issued, whereupon such Person hath been or shall be declared Bankrupt, shall not, before Three of the Clock upon the Forty-second Day after Notice thereof in Writing to be left at the usual Place of Abode of such Person, or personal Notice in case such Person be then in Prison, and Notice given in the *London Gazette* of the issuing of the Commission, and of the Meetings of the Commissioners, surrender himself to them, and sign or subscribe such Surrender, and submit to be examined before them, from Time to Time, upon Oath, or being a Quaker, upon solemn Affirmation; or if any such Bankrupt upon such Examination shall not discover all his Real or Personal Estate, and how and to whom, upon what Consideration, and when he disposed of, assigned, or transferred any of such Estate, and all Books, Papers, and Writings relating thereunto (except such Part as shall have been really and *bond fide* before sold or disposed in the way of his Trade, or laid out in the ordinary Expence of his Family); or if any such Bankrupt shall not upon such Examination deliver up to the Commissioners all such Part of such Estate, and all Books, Papers, and Writings relating thereunto, as be in his Possession, Custody, or Power, (except the necessary Wearing Apparel of himself, his Wife and Children); or if any such Bankrupt shall remove, conceal, or embezzle any Part of such Estate, to the Value of Ten Pounds or upwards, or any Books of Account, Papers, or Writings relating thereto, with Intent to defraud his Creditors, every such Bankrupt shall be deemed guilty of Felony, and be liable to be transported for Life, or for such Term, not less than Seven Years, as the Court before which he shall be convicted shall adjudge, or shall be liable to be imprisoned only, or imprisoned and kept to hard Labour in any Common Gaol, Penitentiary House, or House of Correction, for any Term not exceeding Seven Years.

or not making Discovery of his Estate and Effects;

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

or removing or embezzling to the Value of 10*l.* guilty of Felony, &c.

Lord Chancellor may enlarge the Time for Bankrupt surrendering himself.

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

Allowance to Bankrupt for Maintenance.

CXIV. And be it enacted, That it shall be lawful for the Commissioners, before the Choice of Assignees, and after such Choice, for the Assignees,

Assignees, with the Approbation of the Commissioners, testified in Writing under their Hands, from Time to Time to make such Allowance to the Bankrupt out of his Estate, until he shall have passed his last Examination, as shall be necessary for the Support of himself and his Family.

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

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

Bankrupt to deliver up his Books of Accounts to the Assignees upon Oath; to attend Assignees; to be at liberty to inspect Accounts; after Allowance of Certificate to attend Assignees in settling Accounts. Allowance for Attendance. Commitment for Non-attendance.

CXVI. And be it enacted, That the Bankrupt, after the Choice of Assignees, shall (if thereto required) forthwith deliver up to them, upon Oath, before a Master, Ordinary or Extraordinary, in Chancery, or Justice of the Peace, all Books of Account, Papers, and Writings relating to his Estate, in his Custody or Power, and discover such as are in the Custody or Power of any other Person; and every such Bankrupt, not in Prison or Custody, shall at all Times after such Surrender attend such Assignees upon every reasonable Notice in Writing for that Purpose given by them to him, or left at his House, and shall assist such Assignees in making out the Accounts of his Estate; and such Bankrupt, after he shall have surrendered, may, at all seasonable Times before the Expiration of the said Forty-two Days, or such farther Time as shall be allowed to him to finish his Examination, inspect his Books, Papers, and Writings, in the Presence of his Assignees, or any Person appointed by them, and bring with him each Time any Two Persons to assist him; and every such Bankrupt, after he shall have obtained his Certificate, shall upon Demand in Writing given to him, or left at his usual Place of Abode, attend the Assignees, to settle any Accounts between his Estate, and any Debtor to or Creditor thereof, or attend any Court of Record to give Evidence touching the same, or do any Act necessary for getting in the said Estate, for which Attendance he shall be paid Five Shillings *per* Day by the Assignees out of his Estate; and if such Bankrupt shall, after such Demand as aforesaid, not attend, or on such Attendance refuse to do any of the Matters aforesaid, without sufficient Cause shewn to the Commissioners for such Refusal, and by them allowed, the Assignees making Proof thereof upon Oath before the Commissioners, the said Commissioners may, by Warrant directed to such Person as they shall think proper, cause such Bankrupt to be apprehended and committed to such Prison as they shall think fit, there to remain until he shall conform to the Satisfaction of the said Commissioners, or of the Lord Chancellor.

To be free from Arrest during Examination, if not in Custody. If arrested, to be discharged on producing Summons.

CXVII. And be it enacted, That the Bankrupt shall be free from Arrest or Imprisonment by any Creditor in coming to surrender; and after such Surrender during the said Forty-two Days, and such further Time as shall be allowed him for finishing his Examination, provided he was not in Custody at the Time of such Surrender; and if such Bankrupt shall be arrested for Debt, or on any Escape Warrant in coming to surrender, or shall after his Surrender be so arrested within the Time aforesaid, he shall, on producing the Summons under the

Penalty on Officer detaining Bankrupt.

Hands of the Commissioners to the Officer who shall arrest him, and giving such Officer a Copy thereof, be immediately discharged; and if any Officer shall detain any such Bankrupt after he shall have shown such Summons to him, so signed as aforesaid, such Officer shall forfeit to such Bankrupt, for his own Use, the Sum of Five Pounds for every Day he shall detain such Bankrupt, to be recovered by Action of Debt in any Court of Record at *Westminster*, in the Name of such Bankrupt, with full Costs of Suit.

Commissioners may adjourn last Examination of Bankrupt sine die.

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

Bankrupt in Custody to be brought before the Commissioners at the Creditors Expence.

CXIX. And be it enacted, That whenever any Bankrupt is in Prison, or in Custody, under any Process, Attachment, Execution, Commitment, or Sentence, the Commissioners may, by Warrant under their Hands, directed to the Person in whose Custody such Bankrupt is confined, cause such Bankrupt to be brought before them at any Meeting, either public or private; and if any such Bankrupt is desirous to surrender, he shall be so brought up, and the Expence thereof shall be paid out of his Estate, and such Person shall be indemnified by the Warrant of the Commissioners for bringing up such Bankrupt; provided that the Assignees may appoint any Persons to attend such Bankrupt from Time to Time, and to produce to him his Books, Papers, and Writings, in order to prepare an Abstract of his Accounts, and a Statement to show the Particulars of his Estate and Effects previous to his final Examination and Discovery thereof; a Copy of which Abstract and Statement the said Bankrupt shall deliver to them Ten Days at least before his last Examination.

Assignees may appoint Persons to attend Bankrupt in Prison.

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

Allowance to Persons making Discovery thereof.

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

Bankrupt discharged by Certificate of Conformity.

CXXI. And be it enacted, That every Bankrupt who shall have duly surrendered, and in all Things conformed himself to the Laws in force concerning Bankrupts at the Time of issuing the Commission against him, shall be discharged from all Debts due by him when he

became Bankrupt, and from all Claims and Demands hereby made proveable under the Commission, in case he shall obtain a Certificate of such Conformity, so signed and allowed, and subject to such Provisions as herein-after directed; but no such Certificate shall release or discharge any Person who was Partner with such Bankrupt at the Time of his Bankruptcy, or who was then jointly bound, or had made any joint Contract with such Bankrupt.

By Discharge of Bankrupt Partner not discharged.

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

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

After Six Months by Three-fifths in Number and Value, or Nine-tenths in Number.

Allowance by Lord Chancellor.

CXXIII. And be it enacted, That in all Cases where any Petition for the Allowance of a Certificate shall have been presented to the Lord Chancellor previous to the passing of this Act, by virtue of the Act passed in the Fifth Year of the Reign of His present Majesty, and hereby repealed, by any Bankrupt whose Certificate shall have been signed by the requisite Number of Creditors, with the Exception of one whose Signature is thereto necessary, and by the Commissioners, it shall be lawful for the Lord Chancellor to allow any such Certificate, and such Certificate shall be a valid Discharge as aforesaid, provided such Petition shall have been duly served as in the said Act required.

Provision for Petitions for the Allowance of Certificates presented under the 5 G. 4. c. 98.

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

Proof of Signature of Creditors.

CXXV. And be it enacted, That any Contract or Security made or given by any Bankrupt or other Person unto or in trust for any Creditor, or for securing the Payment of any Money due by such Bankrupt at his

Contracts and Securities to induce Creditors to sign, void.

his Bankruptcy, as a Consideration or with Intent to persuade such Creditor to consent to or sign such Certificate, shall be void, and the Money thereby secured or agreed to be paid shall not be recoverable, and the Party sued on such Contract or Security may plead the General Issue, and give this Act and the special Matter in Evidence.

Bankrupt having obtained his Certificate, free from Arrest.

Certificate Evidence of the Proceedings under the Commission.

Bankrupt in Execution may be ordered to be discharged.

CXXVI. And be it enacted, That any Bankrupt who shall, after his Certificate shall have been allowed, be arrested, or have any Action brought against him for any Debt, Claim, or Demand hereby made proveable under the Commission against such Bankrupt, shall be discharged upon Common Bail, 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 such Bankrupt's Certificate, and the Allowance thereof, shall be sufficient Evidence of the Trading, Bankruptcy, Commission, and other Proceedings precedent to the obtaining such Certificate; and if any such Bankrupt shall be taken in Execution, or detained in Prison for such Debt, Claim, or Demand, where Judgment has been obtained before the Allowance of his Certificate, it shall be lawful for any Judge of the Court wherein Judgment has been so obtained, on such Bankrupt's producing his Certificate, to order any Officer who shall have such Bankrupt in Custody by virtue of such Execution, to discharge such Bankrupt without exacting any Fee, and such Officer shall be hereby indemnified for so doing.

Where Bankrupt has been Bankrupt before, or compounded, or taken the Benefit of the Insolvent Act, unless 15*s.* in the Pound is paid, his future Effects shall vest in the Assignees, notwithstanding Certificate.

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

Allowance to Bankrupt. 5 per Cent. and not exceeding 400*l.* if 10*s.* paid in the Pound; 7½ and not exceeding 500*l.* if 12*s.* 6*d.*; 10 per Cent. and not exceeding 600*l.* if 15*s.*;

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

such Allowance shall not exceed Six hundred Pounds; but if such Produce shall not pay such Creditors Ten Shillings in the Pound, such Bankrupt shall only be allowed and paid so much as the Assignees and Commissioners shall think fit, not exceeding Three Pounds *per Cent.* and Three hundred Pounds.

if under 10*s*, not exceeding 3 per Cent. and 300*l*.

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

Partner may receive Allowance though the others are not entitled.

CXXX. And be it enacted, That no Bankrupt shall be entitled to his Certificate, or to be paid any such Allowance, and that any Certificate, if obtained, shall be void, if such Bankrupt shall have lost, by any Sort of Gaming or Wagering, in One Day Twenty Pounds, or within One Year next preceding his Bankruptcy Two hundred Pounds; or if he shall, within One Year next preceding his Bankruptcy, have lost Two hundred Pounds by any Contract for the Purchase or Sale of any Government or other Stock, where such Contract was not to be performed within One Week after the Contract, or where the Stock bought or sold was not actually transferred or delivered in pursuance of such Contract; or shall, after an Act of Bankruptcy committed or in contemplation of Bankruptcy, have destroyed, altered, mutilated, or falsified, or caused to be destroyed, altered, mutilated, or falsified, any of his Books, Papers, Writings, or Securities, or made or been privy to the making of any false or fraudulent Entries in any Book of Account or other Document, with Intent to defraud his Creditors, or shall have concealed Property to the Value of Ten Pounds or upwards; or if any Person having proved a false Debt under the Commission, such Bankrupt being privy thereto, or afterwards knowing the same, shall not have disclosed the same to his Assignees within One Month after such Knowledge.

Bankrupt not entitled to Certificate or Allowance, and Certificate obtained void, if he has lost 20*l*. in One Day, or 200*l*. within 12 Months; or 200*l*. by Stock-jobbing; or destroyed Books, &c.; or made fraudulent Entries; or concealed Property to the Value of 10*l*. or permitted fictitious Debts to be proved.

CXXXI. And be it enacted, That no Bankrupt after his Certificate shall have been allowed under any present or future Commission, shall be liable to pay or satisfy any Debt, Claim, or Demand, from which he shall have been discharged by virtue of such Certificate, or any Part of such Debt, Claim, or Demand, upon any Contract, Promise, or Agreement made or to be made after the suing out of the Commission, unless such Promise, Contract, or Agreement be made in Writing, signed by the Bankrupt, or by some Person thereto lawfully authorized in Writing by such Bankrupt.

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

CXXXII. And be it enacted, That the Assignees shall, upon Request made to them by the Bankrupt, declare to him how they have disposed of his Real and Personal Estate, and pay the Surplus, if any, to such Bankrupt, his Executors, Administrators, or Assigns; and every such Bankrupt, after the Creditors who have proved under the Commission shall have been paid, shall be entitled to recover the Remainder of the Debts due to him but the Assignees shall not pay such

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

In case of a Surplus all Debts to carry Interest.

such Surplus until all Creditors who have proved under the Commission shall have received Interest upon their Debts, to be calculated and paid at the Rate and in the Order following; (that is to say,) all Creditors whose Debts are now by Law entitled to carry Interest, in the Event of a Surplus, shall first receive Interest on such Debts at the Rate of Interest reserved or by Law payable thereon, to be calculated from the Date of the Commission, and after such Interest shall have been paid, all other Creditors who have proved under the Commission shall receive Interest on their Debts from the Date of the Commission, at the Rate of Four Pounds *per Centum*.

Nine-tenths in Number and Value of Creditors may accept a Composition which shall bind the rest.

CXXXIII. And be it enacted, That at any Meeting of Creditors after the Bankrupt shall have passed his last Examination, (whereof and of the Purport of which Twenty-one Days Notice shall have been given in the *London Gazette*), if the Bankrupt or his Friends shall make an Offer of Composition, or Security for such Composition, which Nine-tenths in Number and Value of the Creditors assembled at such Meeting shall agree to accept, another Meeting for the Purpose of deciding upon such Offer shall be appointed, whereof such Notice as aforesaid shall be given; and if at such Second Meeting Nine-tenths in Number and Value of the Creditors then present shall also agree to accept such Offer, the Lord Chancellor shall and may, upon such Acceptance being testified by them in Writing, supersede the said Commission.

Mode of voting in deciding upon such Composition.

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

Construction of the Act.

CXXXV. And be it enacted, That this Act shall be construed beneficially for Creditors, and that nothing herein contained shall alter the present Practice in Bankruptcy, except where any such Alteration is expressly declared, and that it shall extend to Aliens, Denizens, and Women, both to make them subject thereto, and to entitle them to all the Benefits given thereby; and that all Powers hereby given to, or Duties directed to be performed by the Lord Chancellor, shall and may be exercised or performed by a Lord Keeper or Lords Commissioners of the Great Seal; and all Powers given to or Duties directed to be performed

by the Commissioners or Assignees, may be exercised and shall be performed respectively by the major Part of the Commissioners, or by One Assignee, where only one shall have been chosen; and that nothing herein contained shall render invalid any Commission of Bankruptcy now subsisting, or which shall be subsisting at the Time this Act shall take Effect, or any Proceedings which may have been had thereunder, or affect or lessen any Right, Claim, Demand, or Remedy which any Person now has thereunder, or upon or against any Bankrupt against whom any Commission has or shall have issued, except as is herein specifically enacted; and that this Act shall not extend either to *Scotland* or *Ireland*, except where the same are expressly mentioned.

Subsisting Commissions declared valid.

Act not to extend to Scotland or Ireland.

CXXXVI. And be it enacted, That this Act shall not take Effect before the First Day of *September* One thousand eight hundred and twenty-five; save and except that the Repeal of the Act passed in the Fifth Year of the Reign of His present Majesty, hereby repealed, and all Enactments herein contained relating to Certificates of Conformity, shall take Effect upon the passing of this Act.

Commencement of Act.

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