

ANNO NONO

GEORGII IV. REGIS.

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CAP. LXXIII.

An Act to provide for the Relief of Insolvent Debtors in the *East Indies*, until the First Day of *March* One thousand eight hundred and thirty-three. [19th *July* 1828.]

WHEREAS divers good Laws have of late Years been established within the United Kingdom of *Great Britain* and *Ireland* for the Relief of Insolvent Debtors, and it is right that Relief be given also to Insolvent Debtors in some Parts of the *East Indies;* be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the First Day of *March* One thousand eight hundred and twenty-nine, there shall be holden, within the respective Limits of the Towns of *Calcutta*, *Madras*, and *Bombay*, separate Courts for the Relief of Insolvent Debtors, which shall be Courts of Record, and shall be stiled "The Courts for the Relief of Insolvent Debtors;" and that His Majesty's Supreme Courts of Judicature at *Calcutta*, *Madras*, and *Bombay* respectively, shall from Time to Time appoint such of their Officers, or if the Officers of such Supreme Courts shall be found insufficient, such additional Persons as may be necessary to transact the Business of such Courts, and to act as Common Assignees, Examiners, and Ministerial Officers of such Courts; and it shall be lawful for the said Courts for the Relief of Insolvent Debtors to administer

Courts for the Relief of Insolvent Debtors shall be held at Calcutta, Madras, and Bombay.

Powers of the said Courts.

administer Oaths, and examine Parties and Witnesses upon Oath or solemn Affirmation; and the said Courts, within and throughout the *British* Territories under the Government of the United Company of Merchants of *England* trading to the *East Indies*, shall have the like Powers of issuing Commissions to take Evidence, and of enforcing the Attendance of Witnesses and the Production of Books, Papers, and Writings, and of summoning, examining, and enforcing the Attendance of any Insolvent Debtor, or his Wife, or any other Person who may be able to give Information respecting the Debts, Estates, or Effects of any such Insolvent Debtor, as are now possessed by the said Supreme Court, or as are possessed by Commissioners of Bankrupt, in case of Bankruptcy, for the Purpose of summoning, examining, and enforcing the Attendance of Bankrupts and their Wives, and other Persons, under and by virtue of an Act passed in the Sixth Year of the Reign of His present Majesty, and intituled *An Act to amend the Laws relating to Bankrupts*; and the said Courts for the Relief of Insolvent Debtors shall also have the Power of fining in a summary Way, or of committing to the Common Gaol, all Persons guilty of Contempt of Court, and of fining in a summary Way and of removing any of their Officers who shall be guilty of Negligence or Misconduct; but the said Courts for the Relief of Insolvent Debtors shall not have the Power of awarding Costs against any Person, except in Cases in which it is expressly permitted by this Act, or in which it shall be expressly permitted by some Rule which shall be made by the said Supreme Courts respectively, for the Purposes and in the Manner herein-after stated: Provided always, that the said Courts for the Relief of Insolvent Debtors shall not summon or examine any Native of the *East Indies*, otherwise than by Commission, in any Case in which such summoning or Examination shall appear to the said Court to be repugnant to the Customs and Usages of the Country.

6 G. 4, c. 16.

Practice of the Court.

II. And be it further enacted, That a Court for the Relief of Insolvent Debtors shall be holden once a Month at least throughout the Year, and oftener if need be, in *Calcutta*, and as often as may be found necessary within the Towns of *Madras* and *Bombay*, by any one Judge of the said Supreme Courts of Judicature respectively; and it shall be lawful for the said Courts for the Relief of Insolvent Debtors to adjourn from Time to Time as they may think fit, and for the said Courts, and the said Supreme Courts respectively, to be sitting at one and the same Time, and severally to act and proceed in the Exercise of their respective Powers; and every Advocate or Attorney of the said Supreme Courts at *Calcutta*, *Madras*, and *Bombay* respectively, shall be admitted to practise in the Way of his Profession in the said Courts for the Relief of Insolvent Debtors respectively, and no other Persons shall practise as Advocates or Attornies in the said Courts for the Relief of Insolvent Debtors; and the said Supreme Courts of Judicature respectively shall have Power from Time to Time to establish Rules to regulate the Proceedings of the Courts for the Relief of Insolvent Debtors to be holden within their respective Jurisdictions, and especially to prescribe in what Manner Notice shall be given to the Creditors of Parties applying for Relief under this Act, and in what Cases, besides those mentioned in this Act, Costs may be awarded; and shall prepare, and cause

cause to be sealed with their respective Seals, a sufficient and proper List of Fees to be charged and received by the Officers of the Courts for the Relief of Insolvent Debtors, and shall certify under their respective Seals, and transmit to the President of the Board of Commissioners for the Affairs of *India*, Copies of such Rules and Lists of Fees, to be laid before His Majesty for His Royal Approbation, Correction, or Revision, and other Copies of the same shall at all Times be fixed in conspicuous Places in the Courts for the Relief of Insolvent Debtors; and no other Fee or Gratuity shall be received or taken by any Officer or Attorney of such last-mentioned Courts on any Pretence whatsoever, except such as shall be specified in such Lists.

Parties interested may require Evidence to be taken down in Writing.

III. And be it further enacted, That any Person who shall be interested in any Petition for Relief which shall be presented by any Insolvent Person to any of the said Courts for the Relief of Insolvent Debtors, or in any Petition which shall be presented against any Trader to any of the said Courts, praying an Adjudication of Insolvency as herein-after mentioned, or in any Proceeding of any of the said Courts respecting any such Petition, upon depositing with the proper Officer of the Court a Sum of Money of which the Amount shall be fixed by the Court, may require that the whole of the Evidence relating to any Proceeding in which he has an Interest may be taken down in Writing by a sworn Officer of the Court, and the same shall be done accordingly; and in case the Party who shall have so required such Evidence to be taken down in Writing shall not within One Calendar Month thereafter present his or her Petition of Appeal as is herein-after directed, it shall be lawful for the Court in which such Evidence shall have been so taken down in Writing as aforesaid to pay the reasonable Costs and Expences thereof out of the Money which shall have been so deposited as aforesaid, returning the Overplus, if any, to the Person who shall have deposited the same.

Parties aggrieved may petition the Supreme Court, &c.

IV. And be it further enacted, That it shall be lawful for any Person who shall think himself aggrieved by any Adjudication, Order, or Proceeding of any such Court for the Relief of Insolvent Debtors, to present, within One Calendar Month thereafter, a Petition to the Supreme Court of Judicature of the Presidency where such Court for the Relief of Insolvent Debtors shall be holden, or if such Supreme Court of Judicature shall not be sitting, then to present such Petition to One of the Judges thereof; and it shall be lawful for the Court or Judge to which or to whom any such Petition shall be presented to order that the whole of the Evidence, if any, which shall have been so taken down in Writing as aforesaid, and the Minutes and Records of the Proceedings of which Complaint shall have been made, shall be brought before it; and the said last-mentioned Court shall inquire into the Matter of the Petition and of such Proceedings and Evidence, and shall make such Order thereon as to the same Court shall seem meet and just, and shall thereby direct by whom and in what Manner the Costs of such Petition, and of the Proceedings which shall have been had thereon, and of the taking down of any such Evidence in Writing, and of the Proceedings of

which

which Complaint shall have been made, shall be paid; and such Order shall be final and conclusive as to all Parties, and shall be compulsory and binding upon the Court in which such Proceedings so complained of shall have been had.

Persons imprisoned for Debts may petition the Court for the Relief of Insolvents.

V. And be it further enacted, That after the Time herein-before appointed for this Act to take effect, any Person who shall be in Prison within the respective Limits of the Towns of *Calcutta*, *Madras*, and *Bombay*, for Debt, Damage, Costs, or Money which such Person is solely, or jointly with any other or others, liable to pay, or for Contempt of any Court whatsoever, by the Nonpayment of Money only, may, at any Time within Fourteen Days next after the Commencement of the actual Custody of such Debtor, or afterwards, if the Court shall in any Case think it reasonable and proper to permit the same, apply by Petition to the Court for the Relief of Insolvent Debtors within the Presidency where such Insolvent Debtor shall then be; and in such Petition there shall be stated the Place wherein the Prisoner shall be then confined, the Time when he or she shall have been first charged in Custody, and the Parties by whom, and the Reasons and the Amount for which, he or she shall at the Time of presenting such Petition be detained; and the said Petition shall be subscribed by the Prisoner with his Name or Mark, and shall forthwith be filed in the Court to which it shall be presented; and if any Persons so imprisoned as aforesaid shall be jointly indebted, it shall be lawful for them to apply jointly by Petition, in such Manner as is herein-before mentioned.

Insolvent Persons who can deliver up Property to the Amount of Half their Debts, and of a certain Value, may petition without being in Prison.

VI. And be it further enacted, That if any Person or Persons being so indebted as aforesaid, and who shall reside within the Jurisdiction of either of the said Supreme Courts at *Calcutta*, *Madras*, or *Bombay*, shall find that he, she, or they is or are in insolvent Circumstances, but that he, she, or they has or have some Estate and Effects of the Amount of Half his, her, or their Debts, of which instant Possession might be given to an Assignee, it shall be lawful for such Person or Persons, without being in Prison, to apply, jointly or severally, as the Case may be, by Petition to the Court for the Relief of Insolvent Debtors to be holden at those Places respectively, and the Petition or Petitions shall be subscribed by the Insolvent or Insolvents with his, her, or their Name or Names, and shall be forthwith filed in the said Court.

Those who petition jointly may be required to file sole Petitions also.

VII. And be it further enacted, That when any such joint Petition as is afore-mentioned shall be presented to any Court for the Relief of Insolvent Debtors, it shall be lawful for the Court, if it shall see fit, to require and compel each of the Insolvents to file a sole Petition also, in order that upon one Petition, and by the Proceedings to be thereon taken, the Court may dispose of the Estates and Effects belonging to all the Insolvents jointly, and that upon the other Petitions, and the Proceedings to be thereon taken, it may dispose of the Estates and Effects belonging to each Insolvent separately; and if there shall be any Residue of the joint Estate and Effects after Payment of the joint Debts, such Residue shall be duly divided and paid over to the several Assignees who shall have been appointed upon

upon the sole Petitions of those to whom such joint Estate and Effects shall have belonged, and in like Manner if there shall be any Residue of the separate Estate and Effects of any of the Insolvents after the Payment of his or her separate Debts, it shall be paid over to the Assignee or Assignees who shall have been appointed upon the joint Petition.

Fines, Penalties, Forfeitures, and Recognizances shall not be deemed Debts for the Purposes of this Act.

VIII. Provided always, and be it further enacted, That no Debt due to our Sovereign Lord the King, nor any Fine, Penalty, or Forfeiture whatsoever, nor any Recognizance whereby a Debt is acknowledged to the King, nor any Debt due on account of any Fine, Penalty, or Forfeiture, nor any Estreat, shall be deemed or taken to be such a Debt or Debts as to entitle any Person or Persons to petition as is before mentioned, nor shall any Person be entitled to receive any Dividend for the same under this Act, nor shall any such Fines, Penalties, Forfeitures, Recognizances, Debts, or Estreats be in any way discharged or affected by any thing done under this Act, otherwise than they might and would have been discharged or affected if this Act had not been passed.

At the Time of presenting Petitions Assignments shall be made to Persons appointed by the Court.

IX. And be it further enacted, That the Person or Persons who shall present any such Petition as is herein-before mentioned shall, at the Time of presenting the same, execute an Assignment to the Common Assignee in such Manner and Form as the Court shall direct, of all his, her, or their Real and Personal Estate and Effects, Rights, Dues, Claims, Choses in Action, and Interests, which he, she, or they shall then have or be entitled to, or which may in any way come to or be acquired by them before the Court shall have made its final Order in the Matter of his, her, or their Petition.

Lying in Prison 21 Days for Debt; or departing the Jurisdiction with Intent to defeat or delay any Creditor, shall be deemed an Act of Insolvency on which Creditor may petition;

X. And be it enacted, That if any Person who by an Act passed in the Sixth Year of the Reign of His present Majesty, intituled *An Act to amend the Laws relating to Bankrupts*, or by any Act hereafter to be passed, shall be deemed a Trader liable to become Bankrupt, 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, be 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; or if any such Person shall depart from within the Limits of the Jurisdiction of any of the said Supreme Courts with Intent to defeat or delay his or her Creditors; it shall be lawful for any Creditor to whom such Person shall be indebted to the Amount of One thousand Sicca Rupees, or for any Two Creditors to whom such Person shall be indebted to the Amount of One thousand five hundred Sicca Rupees, or for any Three or more Creditors to whom such Person shall be indebted to the Amount of Two thousand Sicca Rupees, to present a Petition to the Insolvent Debtors Court of the Presidency within which such Person shall have been imprisoned or have resided previously to such Departure as aforesaid, stating the Amount of the Debt or Debts due to such Creditor or Creditors from such Person, and the Nature of his trading, and such Act of lying in Prison or Departure as aforesaid, and praying

that such Court would proceed in like Manner as if such Person had petitioned such Court for Relief under this Act; whereupon such Court shall inquire into the Truth of such Petition, and if such Court shall be satisfied thereof, such Court shall adjudge the same to be true, and that such Person has committed an Act of Insolvency.

Upon such Adjudication the Court to be invested with the same Powers as if Insolvent had petitioned.

XI. And be it enacted, That upon such Adjudication being made, such Court shall be invested with the same Powers and Authorities with which such Court would have been invested or might have exercised in case such Insolvent had presented a Petition for Relief under this Act, and all the Real and Personal Estate and Effects, Rights, Dues, Claims, Choses in Action, and Interests, which such Insolvent shall then have or be entitled to, or which may in any way come to or be acquired by such Insolvent before the Court shall have made its final Order in the Matter of such Petition, shall, by force of such Adjudication, be vested in the Common Assignee of the said Court, in like Manner to all Intents and Purposes as if such Insolvent had assigned the same under the Directions of the said Court: Provided always, that in all Cases where any Adjudication of an Act of Insolvency shall have been pronounced by any Court for the Relief of Insolvent Debtors, it shall be lawful for such Court, upon the Petition of any Person so adjudged to have committed an Act of Insolvency, complaining of such Adjudication, and upon Proof of Notice to the Creditor or Creditors upon whose Petition such Adjudication shall have been pronounced, to appoint an early Day for hearing such Petition of Complaint, and on such Day, or on any future Day to which such Hearing may be adjourned, to hear such Creditor or Creditors and such Complainant, by themselves or their Counsel respectively, and to examine the Evidence to be adduced by them respectively, and thereupon to revoke or confirm such Adjudication.

The filing a Petition of an Insolvent to be accounted an Act of Bankruptcy.

XII. And be it enacted, That the filing of every Petition by an Insolvent Debtor in any of the said Courts for Relief under this Act, whether such Insolvent shall be in Custody or not, and every such Adjudication of an Act of Insolvency, shall be accounted and adjudged conclusive Evidence of an Act of Bankruptcy committed by such Insolvent, from the Time of filing such Petition or of such Adjudication respectively, if such Insolvent shall be a Person subject to the Laws then in force respecting Bankrupts; and any Creditor or Creditors of such Insolvent, whose Debt or Debts shall be of sufficient Amount to entitle him or them by Law to petition for a Commission of Bankrupt, shall at any Time within Two Months after Notice of such Petition or Adjudication shall have been given in the *London Gazette*, as herein-after directed, be at liberty to sue out a Commission of Bankrupt, in that Part of the United Kingdom called *England*, against such Insolvent, under which Commission all such Proceedings may be had and taken as are authorized and directed, or shall be authorized and directed, by the Provisions of an Act passed in the Sixth Year of the Reign of His present Majesty, intituled *An Act to amend the Laws relating to Bankrupts*, or by any other Act or Acts hereafter to be passed respecting Bankrupts, except as herein-after provided.

XIII. And

Commission may issue on Certificate of Proof of Debt by an Indian Creditor.

XIII. And be it further enacted, That when any Creditor or Creditors resident within the Limits of the Charter of the said United Company shall be desirous of suing out any such Commission of Bankrupt against any such Insolvent, it shall be lawful for such Person or Persons to make Proof of his, her, or their Debt or Debts before such Court for the Relief of Insolvent Debtors, which Proof, if satisfactory to such Court, shall be certified under the Seal of such Court; and the Certificate thereof, on Proof being made that the same is sealed with the Seal of such Court, shall be sufficient Evidence of a Petitioning Creditor's Debt to warrant the issuing of such Commission, and also to authorize the Commissioners under such Commission to proceed thereon.

Assignees protected for Acts done prior to the Commission of Bankruptcy.

XIV. Provided always, and be it further enacted, That in case of the issuing of any such Commission of Bankrupt against any such Insolvent, such Commission shall not in any Manner affect, invalidate, or make void any of the Proceedings of any Court for Relief of Insolvent Debtors, nor any of the Acts or Proceedings of any Assignee or Assignees appointed by such Court, respecting any Property or Interest whatsoever of such Insolvent, Real or Personal, within the Limits of the Charter of the said United Company, nor shall the Assignee or Assignees appointed under any such Commission acquire any Right or Title to take Possession of, demand, sue for, or recover any Property or Interest whatsoever, Real or Personal, of such Insolvent, within the Limits aforesaid; but the Assignee or Assignees appointed by such Court for the Relief of Insolvent Debtors shall continue, and shall, notwithstanding such Commission of Bankrupt, have full Power and Controul over all the Real and Personal Property of such Insolvent within the Limits aforesaid, and the Distribution and Management thereof, as effectually as if such Commission of Bankrupt had not issued; nevertheless it shall be the Duty of any Assignee or Assignees appointed by such Court, and the Assignee or Assignees chosen under the said Commission, equally to come to account with each other, so as in the end that a Dividend shall be rateably and proportionably made among all the Creditors of the said Insolvent, whether resident within the Limits aforesaid or in the United Kingdom of *Great Britain* and *Ireland*.

Creditors whose Debts have been allowed in Court to receive equal Dividend with Creditors under any Commission of Bankrupt.

XV. And be it further enacted, That all the Creditors of any such Insolvent whose Debts shall have been allowed in any Court for the Relief of Insolvent Debtors shall be admitted as Creditors under any such Commission of Bankrupt, for the Purpose of receiving an equal Dividend upon the Estate of such Bankrupt with the Creditors who shall have proved their Debts under such Commission; and in like Manner all Creditors whose Debts shall have been duly proved under any such Commission of Bankrupt shall be admitted as Creditors in such Court for the Relief of Insolvent Debtors, for the Purpose of receiving an equal Dividend upon the Estate of such Insolvent with the Creditors whose Debts shall have been allowed in such Court.

As to surrender of Persons declared

XVI. Provided always, and be it enacted, That when any such Insolvent shall be declared bankrupt upon the sole Ground of his having

bankrupt upon filing Petition to the Court only.

having filed such Petition for Relief in the said Court for Relief of Insolvent Debtors, or of such Adjudication of an Act of Insolvency as aforesaid, he shall not be required to surrender or be liable to any Penalty for not surrendering himself to be examined under his Commission, until Forty-two Days after he shall have come into some Part of the said United Kingdom of *Great Britain* and *Ireland*.

Creditors and Commissioners may sign Certificate of Bankrupt, &c.

XVII. And be it enacted, That it shall be lawful for any Creditors of such Insolvent, who shall have duly proved their Debts under any such Commission as aforesaid, and for the Commissioners under such Commission, if they shall be satisfied with such Examination of such Insolvent as shall have been had in any Court for the Relief of Insolvent Debtors, to sign the Certificate of such Bankrupt; and such Certificate shall have the same Force and Effect in all Places situate without the Limits aforesaid, and in respect of all Debts due to Persons resident at any such Places without the Limits aforesaid, at the Date of such Certificate, as if the same had been duly signed in the usual Way, after such Bankrupt had duly surrendered and passed his last Examination.

No Indian Creditor to vote in the Choice of Assignees, except the Petitioning Creditor if resident.

XVIII. Provided always, and be it further enacted, That no Creditor of such Insolvent who shall be resident within the Limits aforesaid, excepting only the Petitioning Creditor or Creditors, in case he, she, or they shall be so resident, shall be entitled to vote in the Choice of the Assignee or Assignees to be appointed under any such Commission of Bankrupt or otherwise, respecting the Matters to be transacted under such Commission of Bankrupt, nor shall be reckoned among the Creditors of the Bankrupt in Number or Value whose Signature is required by Law to the Certificate of such Bankrupt.

Partnership Creditors.

XIX. Provided also, and be it enacted, That in all Cases where any One Member of a Partnership to which any such Insolvent shall be indebted shall be resident within the Limits aforesaid, such Partnership shall be accounted and taken as a Creditor resident in the *East Indies*, for the Purposes of this Act.

Notices to be inserted in the Gazettes of the Presidencies and in the London Gazette.

XX. And be it further enacted, That the Principal Officer of the respective Courts for Relief of Insolvent Debtors shall cause Notices to be inserted in the Gazettes of the respective Presidencies within which such Courts shall be holden, of every Petition which shall be filed in any of the said Courts by any Insolvent for Relief under this Act, and of every such Adjudication of an Act of Insolvency, and of every Confirmation or Revocation thereof, forthwith after the filing such Petition or pronouncing such Adjudication, or such Confirmation or Revocation thereof respectively; and that the Chief Secretary of the Government of the said Presidencies respectively shall, without Delay, transmit to the Court of Directors of the said United Company, by different Ships, Two or more Copies at least of every such Gazette which shall contain any such Notice as aforesaid, who shall, without Delay, after the Receipt thereof, cause such Notice to be inserted in the *London Gazette*.

XXI. And

XXI. And be it enacted, That the Production of the *London Gazette* containing any such Notice as aforesaid shall be deemed and taken by all Commissioners of Bankrupt, and all Courts whatsoever, to be sufficient Evidence of the filing of the Petition of such Insolvent in such Court for Relief of Insolvent Debtors, and of such Adjudication of an Act of Insolvency, and of such Confirmation or Revocation thereof.

Production of the London Gazette containing such Notice to be sufficient Evidence.

XXII. Provided always, and be it further enacted, That in all Cases where an Insolvent petitioning any such Court for Relief shall be possessed of any Real or Personal Estate in the United Kingdom of *Great Britain* and *Ireland*, and no Commission of Bankrupt shall be sued out as herein-before mentioned, it shall be lawful for the Assignee or Assignees of the said Insolvent, appointed by any such Court, to proceed, either by himself or themselves, or by any Person duly authorized for that Purpose by Power of Attorney, to get Possession of such Real and Personal Estate, and to dispose of the same in the most beneficial Manner, and to administer the Proceeds thereof among the Creditors of the said Insolvent under the Provisions of this Act.

When no Commission of Bankruptcy shall issue, the Assignees appointed by the Court may administer the Estate.

XXIII. And be it enacted, That after the making of any such Assignment as is herein-before directed, or after any such Adjudication of Insolvency as aforesaid, it shall be lawful for any such Court to direct that so much of the Wearing Apparel, Household Furniture, Working Tools, and other Necessaries of the Insolvent or Insolvents, and of his, her, and their Family or Families, as shall be fitting and suitable to his, her, or their Condition and Circumstances, may be left in his, her, or their Possession until the further Order of the Court, not exceeding in Value in the whole the Sum of One thousand Sicca Rupees: Provided always, that when any Person or Persons shall have executed any such Assignment without being in Custody, he, she, or they shall be required forthwith to put the Assignee or Assignees into Possession of his, her, or their Estate and Effects of the Amount of Half their Debts; and the Assignee or Assignees who shall be so put into Possession shall, according to the best of his or their Knowledge and Belief, forthwith certify the same to the Court by which he or they shall have been appointed; and until such Assignee or Assignees shall have so certified, no such Order as is herein-before mentioned, for leaving Part of the Effects of such Insolvent or Insolvents in his, her, or their Possession, shall be made, nor any other Step taken towards granting the Prayer of the Petition of the Insolvent or Insolvents, or any Part thereof.

The Court may order Part of the Insolvent's Effects to be left in his Possession.

After Assignment made, Insolvent to put Assignees into the Possession of the Estate, and Assignees to certify the same.

XXIV. And be it enacted, That when any Assignee or Assignees shall have so certified as is last herein-before mentioned, it shall be lawful for the said Courts for Relief of Insolvent Debtors at *Calcutta*, *Madras*, and *Bombay* respectively, to grant and deliver, to the Person or Persons by whom such Estate or Effects shall have been given up, a Certificate or Certificates of his, her, or their having delivered to his, her, or their Assignee or Assignees Property which is believed to be of the Amount of Half their Debts; and every such last-

The Court may, upon such Certificate, give the Insolvent a Protection from Arrest.

mentioned Certificate shall, until the said Courts respectively shall make Order to the contrary, have the Effect of protecting the Person to whom it shall be so given from being arrested for Debt within the Limits of the Towns of *Calcutta*, *Madras*, and *Bombay* respectively, or any other Place within the Limits of the Charter of the said United Company to which such Person shall resort with Leave of the said Courts respectively, signified in Writing; and if any such Person shall, contrary to the aforesaid Provisions, be arrested for Debt, and the Officer who shall have arrested him or her shall, after having seen such last-mentioned Certificate and Leave, refuse to discharge such Person, he shall forfeit to the same Person Fifty Sicca Rupees for every Day he shall detain him or her, which Sum or Sums may be recovered by Action of Debt in any of His Majesty's Courts of Record within the Jurisdiction of which the Arrest shall have been made, and such Action shall be brought in the Name of the Person so detained, who, if he shall recover in such Action, shall also have full Costs of Suit.

Upon Assignment being made and Possession certified, the Court may discharge Debtors from Prison.

XXV. And be it enacted, That when any Person or Persons being in Custody shall have executed any such Assignment as is herein-before mentioned, if he, she, or they shall in like Manner put the Assignee or Assignees to whom the Assignment shall have been made into Possession of his, her, or their Estate or Effects of the Amount of Half their Debts, and the Assignee or Assignees of such Prisoner or Prisoners shall have certified the same to the Court for Relief of Insolvent Debtors, in such Manner as herein-before is mentioned, and the Court shall be satisfied of the Truth thereof, it shall be lawful for such Court to discharge such Person or Persons from Custody, and to grant and deliver to him, her, or them the like Certificate and Leave, which shall have the like Consequences and Effects in protecting him, her, or them from being arrested for Debt: Provided always, that it shall at all Times be lawful for such Court to revoke and annul such Certificate or Leave, if it shall appear to such Court that such Certificate or Leave hath been unfairly obtained or improperly used.

Proviso.

General Effect of the Assignment.

XXVI. And be it enacted, That every such Assignment as is herein-before mentioned shall have the Effect of conveying or transferring to and of vesting in the Assignee or Assignees, who shall have been appointed by the Court and named in the Assignment, the whole Estate and Effects, Real and Personal, and all Rights, Duties, Claims, Choses in Action, Interests, and Property whatsoever, which at the Time of executing the Assignment shall belong to the Insolvent or Insolvents, either solely or jointly with any other Person or Persons, or which shall come to or be required by him, her, or them, or to which he shall be or become entitled in Reversion, Remainder, or Expectancy, before the Court shall have made an Order for the Discharge of such Insolvent or Insolvents from all Liability as herein-after mentioned, and the Effect also of entitling and empowering the Assignee or Assignees to give such Discharges for Debts due to such last-mentioned Person or Persons as may be requisite; and every such Assignment as is herein-before mentioned shall be in Trust for the Benefit, in proportion to their respective Dues and just Claims,

Claims, of all the Creditors of the Person or Persons executing the Assignment.

Offices, Appointments, and Benefices, if saleable, shall pass to the Assignees, and if not, the Court may order a Proportion thereof.

XXVII. And be it further enacted, That if any Insolvent at the Time of making any such Assignment as is herein-before mentioned shall hold any Public Office, Appointment, or Benefice, Civil, Military, or Ecclesiastical, under the Crown of the United Kingdom of *Great Britain* and *Ireland*, or under the said United Company, and if his Interest in such Office or Appointment shall be such that he might lawfully sell the same, such Interest for the Purpose of Sale shall, by the Assignment, be transferred to and vested in the Assignee or Assignees in Trust for the Benefit of his Creditors, and if his Interest therein shall not be such as he might lawfully sell, then it shall be lawful for the said Court to order the said Insolvent to pay such Proportion of his Receipts therefrom to his Assignee or Assignees as the said Court shall think just and right.

Voluntary Preference fraudulent, and void as against Assignee.

XXVIII. And be it enacted, That if any Insolvent who shall file his or her Petition for his or her Discharge under this Act, or if any Trader who shall be adjudged to have committed an Act of Insolvency on the Petition of any such Creditor or Creditors as aforesaid, being in insolvent Circumstances, shall voluntarily convey, assign, transfer, charge, deliver, or make over any Estate, Real or Personal, Security for Money, Bond, Bill, Note, Money, Property, Goods, or Effects whatsoever, to any Creditor or other Person whomsoever, or to any Person in Trust for or to or for the Use, Benefit, or Advantage of any Creditor or other Person whomsoever, every such Conveyance, Assignment, Transfer, Charge, Delivery, and making over, if made within Two Months before the Date of such Petition, or with the View or Intention, by the Party so conveying, assigning, transferring, charging, delivering, or making over, of petitioning the said Court for his or her Discharge from Custody under this Act, or of committing such Act of Insolvency, shall be deemed and is hereby declared to be fraudulent and void as against the common or other Assignee or Assignees of such Prisoner appointed under this Act.

No Distress for Rent shall be made after the Assignment.

XXIX. And be it enacted, That after any such Assignment shall be made by any Petitioner or Petitioners, as herein-before mentioned, or after any such Adjudication of an Act of Insolvency as aforesaid, no Distress for Rent due before the filing of such Petition or Adjudication shall be made upon the Goods or Effects of any such Insolvent or Insolvents before the final Order of the Court shall have been made in the Matter of the Petition before the Court, but the Landlord or Party to whom the Rent shall be due shall be allowed to come in as a Creditor, and receive any Dividend or Dividends in proportion to the Amount of any Rent due, in like Manner as other Creditors in proportion to the Amounts of their respective Dues.

The Court may remove the Assignees and appoint others.

XXX. And be it further enacted, That after any such Assignment or Conveyance as by the Provisions of this Act are required to be made to the Common Assignee of the Court for Relief of Insolvent Debtors, or

or after any such Adjudication as aforesaid, it shall be lawful for the said Courts respectively, at any Time in their Discretion, to appoint some other Assignee or Assignees, and when such new Assignee or Assignees shall have signified to the Court his or their Acceptance of the Appointment, the Estate, Effects, Rights, Dues, Claims, Choses in Action, Interest, Trusts, and Powers, which shall have been assigned or conveyed, transferred to, or vested in such Common Assignee, shall immediately be assigned and conveyed by him to such new Assignee or Assignees as aforesaid, upon the same Trusts and for the same Purposes as they are before assigned and conveyed; and in case any Assignee or Assignees shall be unwilling to act, or in case of the Death or Incapacity or Misconduct of any Assignee or Assignees, it shall be lawful for the Court by which he or they shall have been appointed to order that any Assignment or Conveyance to him or them shall be vacated, and the same shall be vacated accordingly, but so nevertheless that no Act or Thing done prior to the Order whereby they are vacated shall be annulled or in any way affected thereby; and it shall also be lawful for the Court to appoint a new Assignee or Assignees, with like Powers and Authorities, and to oblige any Assignee or Assignees so removed, and the Heirs, Executors, Administrators, and Assigns of any deceased Assignee, to account for and deliver up all such Estate and Effects, Books, Papers, Writings, Deeds, and all other Evidences relating thereto, as shall have come to his, her, or their Hands by virtue of any Assignment or Conveyance made under this Act, and the Decision of the Court thereupon shall be final and conclusive; and from and immediately after any such Appointment as is aforesaid of any new Assignee, all the Estate, Effects, Rights, Dues, Claims, Choses in Action, Interest, Trusts, and Powers assigned or conveyed to or vested in the Assignee or Assignees, in the Room of whom such new Assignee or Assignees as aforesaid shall have been appointed, shall by virtue of such Appointment be transferred to and become vested in such new Assignee or Assignees; and whenever an Assignee shall die or be removed, or a new Assignee or Assignees shall be appointed as aforesaid, no Action at Law or Suit in Equity brought or defended by him or them in the Character of Assignee or Assignees under this Act shall be thereby abated, but upon the Suggestion of such Death, Removal, or new Appointment, such Action or Suit shall be prosecuted or defended in the Name of the existing Assignee or Assignees; and all such Assignments, Conveyances, and Appointments, as it is herein-before mentioned are to be made under the Directions of the Courts for the Relief of Insolvent Debtors, shall be entered on the Proceedings of the Court by the Order of which they shall be made.

Suits shall not abate by the Death or Removal of Assignees.

XXXI. And be it enacted, That when any such Petition as is aforesaid shall be presented by any Insolvent or Insolvents to the said Court for the Relief of Insolvent Debtors, the Party or Parties presenting the Petition, at the same Time or within Thirty Days after, or within such further Time as the said Court may deem reasonable, shall deliver into the Court a Schedule containing a full and true Account of all his, her, or their Debts, whether due by him, her, or them solely, or jointly with any other Person or Persons, and of all Claims made upon the Insolvent or Insolvents for any such Debts not

Petitioners shall deliver Schedules of their Property.

not admitted to be due, together with a full and true Description of the several Persons to whom such Debts shall be owing, or by whom such Claims shall have been made, and also a true and perfect Account of all the Estates and Effects, Real and Personal, of the Insolvent or Insolvents, in Possession, Reversion, Remainder, or Expectancy, wheresoever situate, and of all his, her, or their Rights, Dues, Claims, Choses in Action, and Interests, and of all Trusts and Powers which can in any way be available for the Benefit of his, her, or their Creditors; and such Schedule shall also contain a full and true Statement of the Names and Places of Abode of the Person or Persons from whom any Debt or Debts shall be owing to the Petitioner or Petitioners, himself or themselves, or to him, her, or them jointly with any other Person or Persons, or against whom any Claim or Action may be brought, maintained, and enforced, and of the Witnesses who may be able to prove such Debts or support such Claim or Action, together with any other Particulars which may be required by any Rules to be established for the Practice of the said Courts for the Relief of Insolvent Debtors respectively, or for giving further Effect to this Act in the Manner which is hereinbefore set forth; and every such Schedule so delivered as aforesaid shall be subscribed by the Insolvent or Insolvents delivering the same with his, her, or their Names, and shall forthwith be filed in the Court.

Insolvent may file Schedule after Adjudication.

XXXII. Provided always, and be it further enacted, That after any such Adjudication of an Act of Insolvency as aforesaid, it shall be lawful for any Insolvent to file a Schedule in the Court by which such Adjudication shall have been pronounced, in like Manner as if such Insolvent had presented a Petition for Relief under this Act, which Schedule shall have the like Effect and be acted upon in the like Manner, and from which Schedule such Insolvent shall be entitled to the like Benefit, as if the same had been filed in consequence of a Petition for Relief presented by such Insolvent under this Act.

After the Petition and Schedule are filed, the Court shall give Notice to the Detaining Creditor, and appoint a Day for hearing the same.

XXXIII. And be it enacted, That after the Petition and Schedule of any Insolvent shall have been filed in any Court for the Relief of Insolvent Debtors, and Assignment shall have been made as hereinbefore directed, and after any such Adjudication of an Act of Insolvency shall have been pronounced upon the Petition of any Creditor or Creditors of such Insolvent as aforesaid, the Court shall cause Notice thereof to be given to any Creditor or Creditors of the Insolvent at whose Suit he or she may be detained in Custody, or the Attorney or Agent of such Creditor or Creditors, and to the other Creditors resident within the *British* Territories in the *East Indies*, as the Court shall direct; and Notice to the like Effect shall be Twice at least published in the Gazette of the Presidency where such Court shall be holden; and the Court in such Notice shall appoint a Day and Place for the hearing of the Matters of the Petition of such Insolvent, or of any such Creditor or Creditors of such Insolvent as aforesaid, after such convenient Interval of Time that all the Creditors resident within the *British* Territories in the *East Indies* may have sufficient Opportunity of examining and

ascertaining the Truth or Falsehood of the Insolvent's Petition and Schedule.

Hearing of Petitions.

XXXIV. And be it further enacted, That upon the Day so appointed by the Court as aforesaid for the Hearing of any Petition, or on any future Day to which such Hearing may be adjourned, it shall be lawful for the Insolvent or Insolvents, and for any Creditor or Creditors of the Insolvent or Insolvents, to be heard, either by himself, herself, or themselves, or by Counsel, in support of or in opposition to the Petition before the Court, and the whole Matter and Substance of the Petition shall be inquired into and examined by the Court, as well respecting the Claims of any Creditors who shall be absent, as of those who shall be present; and it shall be lawful for the Court to order any Insolvent who is in Custody to be brought before it as often as Occasion may require, and to summon any Insolvent who shall not be in Custody, and the Wife of any Insolvent, and any other Person, whether a Creditor or not, who is known or suspected to have any of the Estate or Effects of the Insolvent or Insolvents in his or her Possession, or any Person who is suspected to be indebted to the Insolvent or Insolvents, or any Person who is believed to be capable of giving any Information which will more easily enable the Court to dispose of the Estate and Effects of the Insolvent or Insolvents for the Benefit of his, her, or their Creditors; and it shall also be lawful for the Court to examine any Insolvent or his Wife, or any other such Person, whether a Creditor or not, who shall appear before the said Court, in the same Way as any other Witnesses are examined in any of His Majesty's Courts of Record in the *East Indies* in any Suits at Law or in Equity, or according to any Rules which may be made for the Practice of the said Courts for the Relief of Insolvent Debtors respectively, or for giving Effect to this Act in the Manner which is herein prescribed: Provided always,

Expences of Witnesses.

that every Witness summoned to attend before the Court shall have his necessary Expences tendered to him, in like Manner as by Law is required upon Service of a Subpœna to a Witness in an Action at Law.

Where Creditor is incapable of attending, the Court may receive his Affidavit.

XXXV. Provided also, and be it enacted, That in all Cases where any Creditor or other Person shall reside more than One hundred Miles from the said Court, or shall be incapable of attending the said Court by reason of Sickness or Infirmity, to be proved to the Satisfaction of the Court, it shall be lawful for the Court to receive the Affidavit or solemn Affirmation of such Creditor or other Person, and also, if the Court shall think fit, to permit Interrogatories to be filed for the Examination and Cross-examination of any Person making or joining in such Affidavit or solemn Affirmation.

Mutual Debts.

XXXVI. And be it further enacted, That when there has been mutual Credit given by the Insolvent or Insolvents and any other Person or Persons, one Debt or Demand may be set against the other, and all such Debts, Dues, and Claims as may be proved under a Commission of Bankruptcy, according to the Provisions of an Act passed in the Sixth Year of the Reign of His present Majesty, intituled *An*

Act to amend the Laws relating to Bankrupts, or may hereafter be proveable under such Commission by virtue of any Act hereafter to be passed, may also be proved upon any such Hearing as is herein-before mentioned, in the same Manner, and subject to the like Deductions, Conditions, and Provisions, as in the said last-mentioned Act are set forth and prescribed. 6 G. 4. c. 16.

Creditors may claim, although omitted from Schedule, &c.

XXXVII. And be it further enacted, That when any Petition shall have been presented under this Act to any of the said Courts for the Relief of Insolvent Debtors, either by an Insolvent or by any Creditor or Creditors of such Insolvent, it shall be lawful for any Person or Persons to whom such Insolvent shall be indebted, at any Time before or after the Discharge of such Insolvent, to make claim upon the Estate of such Insolvent, and to prove his or their Debt or Debts, whether due by such Insolvent solely, or jointly with any other Person or Persons, and shall be entitled to and receive a Dividend thereon rateably with the other Creditors of the said Insolvent, although the Name of such Creditor may have been wholly omitted by the said Insolvent in his or her Schedule, or may have been inserted for a smaller Amount than the Debt really due to such Person; and in the Case of an Adjudication of an Act of Insolvency under this Act, then although no Schedule shall have been filed by such Insolvent, and where any Objection to the Existence or Amount of such Debt so claimed shall be made by such Insolvent or any Creditor, such Court shall hear the same, and make such Order thereon as may seem meet and just.

Order of Court upon the Hearing.

XXXVIII. And be it further enacted, That upon the Hearing of any such Petition it shall be lawful for the Court to adjudge that the Insolvent is entitled to the Benefit of this Act, and to order his immediate Discharge from Custody accordingly, or to dismiss or amend the Petition, or to order the Insolvent or Insolvents to amend his, her, or their Schedule or Schedules, or to adjourn the further Hearing of the Petition until a future Day, or to make a Reference to the Examiner or other proper Officer of the Court to make Inquiry into any Matter of Account, or into the Truth of the Schedule or Schedules, and to report thereon to the Court; and it shall also be lawful for the Court to remand the Insolvent or Insolvents to Prison until the further Hearing of the Petition, or until final Order be made in the Matter thereof, or to commit the Insolvent or Insolvents to Custody for any Debt or Debts, if he, she, or they shall not be in Custody at the Time of the Hearing, and to cancel or renew any such Certificate as is herein-before mentioned, which may have been given for the Purpose of protecting the Insolvent or Insolvents from Arrest, or to make any fresh Order for protecting the Insolvent or Insolvents from Arrest until final Order shall be made in the Matter of the Petition before the Court, and to order and direct that the Assignee or Assignees shall make some reasonable Allowance for Maintenance until such final Order, the Amount of which shall be fixed by the Court, and shall not exceed Five Sicca Rupees *per* Week: Provided always, that in case of the Court dismissing any Petition, the Acts previously done by the Assignee or Assignees, or any Person or Persons acting under his or their Authority, in pursuance

suance of this Act, shall be valid; but in such Case the Court shall make such Order for re-assigning and Re-delivery to the Insolvent the Residue of his or her Estate and Effects, as the Case shall require, whereupon the same shall be re-vested in such Insolvent accordingly.

Public Notice shall be given of the Order.

XXXIX. And be it further enacted, That the Court by which any Order shall be made upon any such Hearing as is herein-before mentioned shall also order that the Assignee or Assignees shall give such Notice of such Order having been made as to the Court shall seem fit and convenient.

Discharge may extend to Sums payable by way of Annuity.

XL. And be it further enacted, That the Discharge of any such Insolvent so adjudicated as aforesaid shall and may extend to any Sum and Sums of Money which shall be payable by way of Annuity or otherwise, at any future Time or Times, by virtue of any Bond, Covenant, or other Security whatsoever; and that every Person and Persons who would be a Creditor or Creditors of such Insolvent for such Sum or Sums of Money, if the same were presently due, shall be admissible as a Creditor or Creditors of such Insolvent for the Value of such Sum or Sums of Money so payable as aforesaid; which Value the said Court shall, upon Application at any Time made in that Behalf, ascertain, regard being had to the original Price given for such Sum or Sums of Money, deducting therefrom such Diminution in the Value thereof as shall have been caused by the Lapse of Time since the Grant thereof to the Time of filing such Insolvent's Petition; and such Creditor or Creditors shall be entitled, in respect of such Value, to the Benefit of all the Provisions made for Creditors by this Act, without Prejudice nevertheless to the respective Securities of such Creditor or Creditors, excepting as respects such Insolvent's Discharge under this Act.

Any Actions which may have been brought upon Claims admitted in the Schedule shall be discontinued.

XLI. And be it further enacted, That if at the Time of any such Hearing and Order any Suit or Action shall be pending against the Insolvent or Insolvents in any Court within the *British* Territories in the *East Indies*, or for any Debt, Claim, Obligation, or Demand admitted in the Schedule of the Insolvent or Insolvents, or disputed as to Amount only, every Plaintiff in such Suit or Action shall discontinue the same, and shall pay all Costs incurred subsequent to his having Notice of such Hearing and Order; and in case of such Discontinuance, the Insolvent or Insolvents shall not, by virtue of any Supersedeas, Nonsuit, or Judgment as in case of Nonsuit in any such Suit or Action, be relieved from the Debt, Claim, Obligation, or Demand for which it shall have been brought, or entitled to claim from the Plaintiff or Plaintiffs any of the Costs of any such Suit or Action incurred before the Plaintiff or Plaintiffs had Notice of the Hearing and Order aforesaid.

Assignees may seize the Property of the Petitioners.

XLII. And be it further enacted, That every such Assignee as aforesaid shall, with all convenient Speed, take Possession, by himself, or by means of Messengers of the Court, or by other fit and proper Persons, of all the Real and Personal Estate and Effects of the Insolvent of which immediate Possession may be obtained, and shall

shall use his or her best Endeavours to seize, obtain, recover, and reduce into Possession as speedily as possible the rest of such Estate and Effects, and all Debts, Claims, and Choses in Action which by such Assignment he shall have been empowered to obtain, recover, and get in.

The Court may sell the reputed Property of the Petitioner.

XLIII. And be it further enacted, That if any such Insolvent or Insolvents as are before mentioned, at the Time of filing his, her, or their Petition, or at the Time of any such Adjudication of an Act of Insolvency as aforesaid, shall, by the Consent and Permission of the true Owner thereof, have in his, her, or their Possession, Order, or Disposition, any Goods or Chattels whereof he, she, or they is or are reputed Owner, or of which he, she, or they have undertaken the Sale, Alteration, or Disposition, as Owner, the Court in which the Petition shall have been filed, or by which such Adjudication shall have been pronounced, shall have Power to sell and dispose of the same for the Benefit of the Creditors of such Insolvent or Insolvents; 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, according to the Provisions of an Act of Parliament made in the Sixth Year of the Reign of His present Majesty, and intituled *An Act for the registering of* British *Vessels.*

Assignees may redeem any Property of the Petitioner.

XLIV. And be it further enacted, That if any Insolvent or Insolvents shall have mortgaged, pledged, pawned, or deposited any Real or Personal Estate, or any Effects, Deeds or written Instruments, with a Reservation to himself, herself, or themselves of a Power of redeeming the same, his, her, or their Assignee or Assignees shall have the same Right and Power of Redemption as the Insolvent or Insolvents would have had if the Assignment had not been made.

Where a Petitioner is beneficially entitled to Stock, Court may order Transfer thereof.

XLV. And be it enacted, That if any Insolvent or Insolvents shall, at the Time of filing his, her, or their Petition for Relief in any such Court for the Relief of Insolvent Debtors, or at the Time of any such Adjudication of an Act of Insolvency as aforesaid, or at any Time before he or she shall become entitled to his or her final Discharge according to this Act, 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, her, or their own Name or Names, in his, her, or their own Right, it shall be lawful for such Court, whenever it shall deem fit so to do, to order all Persons whose Act or Consent is thereto necessary to transfer the same into the Name or Names of such Assignee or Assignees as aforesaid, 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: Provided always, that in all Transfers into the Name or Names of any such Assignee or Assignees, the Transferee or Transferees shall be described as Assignee or Assignees of the Estate and Effects of the Insolvent; and no Dividend shall be payable to, nor any future Transfer made by, any Person of any such Stock, Funds, or Annuities,

ties, except under a Power of Attorney in the usual Form required for the Receipt of Dividends upon or transfer of such Stock, Funds, and Annuities respectively, duly executed by such Assignee or Assignees, and attested by Two credible Witnesses, one of whom shall be an Officer of such Court for Relief of Insolvent Debtors, and to which Attestation the Seal of such Court shall be affixed.

Assignees may make Composition for the Rights and Dues of the Petitioners.

XLVI. And be it further enacted, That after the Hearing of any such Petition and Schedule as herein-before mentioned it shall be lawful for the Assignee or Assignees, by and with the Approbation of such Court, and by and with the Consent of any Creditors whose Claims after such Hearing shall appear to amount to more than Half of all the Debts due from the Insolvent to Persons resident within the *British* Territories in the *East Indies*, to take such reasonable Part of any Debts due to the Petitioner or Petitioners, as may by Composition be gotten, in full Discharge of such Debts, and to submit to Arbitration any Difference or Dispute between the Assignee or Assignees, and any other Person or Persons, for or on account or by reason of any thing relating to the Estate and Effects of such Prisoner.

Assignees may prosecute and defend Actions at Law and Suits in Equity, with the Approbation of the Court and Consent of Creditors.

XLVII. And be it further enacted, That it shall be lawful for the Assignee or Assignees, by and with the like Approbation and Consent, to commence and prosecute or defend any Suits or Actions at Law or in Equity which the Insolvent or Insolvents might have commenced and prosecuted or defended, and to defray the Costs to which he or they may be put in respect of such Suits or Actions out of the Proceeds of the Estate and Effects of the Insolvent or Insolvents; and if there be any Partner or Partners of the Insolvent or Insolvents who hath not or have not joined in the Petition, it shall be lawful for the Court to authorize the Assignee or Assignees to join such Partner or Partners with himself or themselves as Plaintiffs in such Suit or Action; and if such Partner or Partners shall execute any Release of the Debt or Demand for which such Suit or Action is brought, the Release shall be void: Provided always, that such Partner or Partners, if he, she, or they shall take no Part in the Prosecution or Defence of such Suit or Action, shall not be liable to pay Costs in respect of the same.

Assignees may execute Powers vested in Insolvents.

XLVIII. And be it further enacted, That all Powers vested in any such Insolvent or Insolvents as are afore-mentioned, which he, she, or they might lawfully execute, for his, her, or their Benefit, might be executed by his, her, or their Assignees, for the Benefit of his, her, or their Creditors.

Assignees shall sell the Property, unless the Court direct otherwise.

XLIX. And be it further enacted, That from Time to Time as Possession is obtained of any of the Estate or Effects of any Insolvent or Insolvents, the Assignee or Assignees shall with all convenient Speed make Sale of the same; subject nevertheless to the Direction and Controul of the Court by Authority of which he or they shall have been appointed, in case any Application shall be made to such Court by any Insolvent, or any Creditor or Mortgagee, in all which Cases such Court shall have full Power and Authority to delay or

postpone the Sale of any Property, and to make such other Order regulating the same as to such Court shall seem meet.

Court may defer the Sale of Property, if it shall think proper.

L. And whereas the Insolvents may be entitled to Annuities for their own Lives, or other uncertain Interests, or to reversionary or contingent Interests, or may have made Advances of Money for the Cultivation of Lands, or may be interested in Property in other Ways, in which the immediate Sale thereof for Payment of their Debts may be very prejudicial to them and to their Creditors, and it may be proper in some Cases to defer the Sale of such Property, and to put it under temporary Management, or to authorize the raising of Money by way of Mortgage for Payment of the Debts or Part of the Debts of an Insolvent, and for defraying the Expences attending the Execution of this Act, instead of selling for such Purpose; be it enacted, That in all such Cases it shall be lawful for the said Courts for Relief of Insolvent Debtors at any Time to take into Consideration all Circumstances affecting any Property of the Prisoner which shall have been assigned under the Provisions of this Act; and if it shall appear to any such Court that it would be reasonable to make any special Order touching the same, it shall be lawful for such Court so to do, and to direct that so much of the said Property as it may be expedient not to sell immediately, according to the Provisions of this Act, shall not be so sold, and from Time to Time to order and direct in what Manner such Property shall be managed, for the Benefit of the Creditors of such Insolvent, until the same can be properly sold, or until Payment of such Creditors be effected, according to the Provisions of this Act, and to make such Order touching the Sale or Disposition of such Property as to such Court for Relief of Insolvent Debtors may seem reasonable and beneficial, and upon such Terms and Conditions, with respect to the Allowance of Interest on Debts not bearing Interest, or other Circumstances, as to such Court shall seem just; and if it shall appear that the Debts of any such Insolvent or Insolvents can be discharged by means of Money raised by way of Mortgage on any of the said Property of the said Insolvent or Insolvents, instead of raising the same by Sale, it shall be lawful for the said Court so to order, and to give all necessary Directions for such Purpose, and generally to direct all Things which may be proper for the Discharge of the Debts of such Insolvent or Insolvents, as may be most consistent with the Interest of such Petitioner or Petitioners, and of his, her, or their Creditor or Creditors.

Assignees to render Accounts to the Court.

LI. And be it further enacted, That the Assignee or Assignees of all such Insolvents as are herein-before mentioned shall keep Accounts of the Property, Debts, and Credits of such Insolvents, whether belonging or due to or from such Insolvents solely, or jointly with any other Person or Persons, wherein they shall enter all Property of the Insolvents received by them, and all Payments made by them; which Accounts any Creditors may inspect at all seasonable Times; and it shall be lawful for the Courts for the Relief of Insolvent Debtors at all Times to summon the Assignees before them, and require them to produce all Books, Papers, Deeds, Writings, and other Documents in their Possession, which in any way relate to the Petition of the Insolvent or Insolvents; and if such Assignee or

Assignees

Assignees so summoned shall not come before such Courts respectively at the Time appointed, or shall not bring with him or them such Documents as are afore-mentioned, it shall be lawful for such Courts respectively to issue Attachments, and to cause such Assignee and Assignees to be brought before them, and to commit such Assignee or Assignees to Prison until he or they shall submit to the Court by which he or they shall have been summoned.

Court shall declare Dividends.

LII. And be it further enacted, That whenever it shall appear by the Accounts of any Assignee or Assignees that a Dividend may be beneficially made amongst the Creditors, it shall be lawful for any Court for the Relief of Insolvent Debtors to summon before it the Assignee or Assignees, and to direct that such Public Notice as to the Court may seem meet shall be given of a further Hearing of the Petition on a Day certain, for the Purpose of making a Dividend; and on the Day so fixed the Insolvent or Insolvents, and Assignee or Assignees, and any Creditors who shall be willing to do so, shall attend the Court, and all Objections to the Schedule of the Insolvent or Insolvents, and to the Accounts or Conduct of the Assignees, and any Claims of any Creditors which shall not have been previously determined, shall be then heard and determined, either by such Court immediately, or upon a Reference to the Examiner or other proper Officer of such Court; and it shall be lawful for such Court to examine the Insolvent or Insolvents, Assignees, and any Witnesses, on Oath, and either at that Time to declare a Dividend, and to direct that the same shall be paid by the Assignee or Assignees, or to postpone such Declaration and Direction of the same until a further Hearing, and to make such Order in the Matter of the Petition, and respecting the same, as shall be most conducive to the Attainment of the Benefit intended by the several Provisions of this Act.

No Dividend to joint Creditors from separate Estate until separate Creditors paid in full, nor *e converso*.

LIII. Provided always, and be it enacted, That it shall not be lawful for such Court to order any Dividend to be made amongst the joint Creditors out of the separate Estate, until the separate Creditors shall have been paid in full, nor to order any Dividend to be made to the separate Creditors out of the joint Estate, until all the joint Creditors shall have been paid in full; in which latter Case it shall be lawful for such Court to order such Dividend to be made among the separate Creditors, out of such Interest in the joint Estate, as such Insolvent shall appear to be separately entitled to.

A certain Part of an Insolvent's Property to be reserved for a limited Time.

LIV. Provided always, and be it further enacted, That unless it shall appear, upon reasonable Proof to be made to the Satisfaction of such Court for the Relief of Insolvent Debtors, and be so certified by such Court, that all the Property of the Insolvent is situate, and all the Debtors and Creditors resident, within the Limits of the Charter of the said United Company, then, until the Expiration of Twelve Calendar Months from the Notice in the *London Gazette* of the Petition of any Insolvent, as herein-before mentioned, the Assignee or Assignees appointed by such Court shall reserve the full Amount of One Third Part of the Property of the said Insolvent collected in and received by such Assignee or Assignees, and shall make a Dividend among the Creditors of the said Insolvent to the Amount of

of the remaining Two Third Parts only, which Third Part so to be reserved as aforesaid shall in the meantime be invested or disposed of in such Way as such Court shall order, and shall not remain in the Hands of such Assignee or Assignees; and at the Expiration of the said Term of Twelve Calendar Months it shall be lawful for the Assignee or Assignees of such Insolvent to apply to such Court for a Return of the said Third Part so reserved as aforesaid, in order that the same may be so distributed among the Creditors as to place them all upon an equal Footing; and upon such Third Part so reserved as aforesaid being restored to such Assignee or Assignees, such Assignee or Assignees shall forthwith proceed to take an Account of the Debts of the said Insolvent, and of the Sum or Sums which shall or may have been paid by way of Dividend to any of such Creditors, and shall distribute the Fund then in the Hands of such Assignee or Assignees, so as to place all the Creditors of the said Insolvent, whether *Indian* or *British*, upon a just and equal Footing, and so as that every Creditor shall receive a rateable and proportionable Part of the Assets of the said Insolvent, according to the Amount of his Debt, and whether such Debt be inserted or omitted in the Schedule, or whether the same shall have been rightly inserted or not, and without reference to the Time at which such Debt shall have been claimed.

Court to direct what is to be done with the Money of absent Creditors.

LV. And be it further enacted, That if any Creditor whose Claim shall have been established in any Court for the Relief of Insolvent Debtors shall not appear, by himself, his Attorney or Agent, at the making of any Dividend, nor shall make Application to receive his, her, or their Share thereof, the Assignee or Assignees shall certify the same to such Court at its First Sitting after the making of the Dividend; and it shall be lawful for the Court to direct in what Manner, and by whom, and upon what Conditions, the Money so due to such Creditor or Creditors shall be kept for or paid to him, her, or them, or to his, her, or their lawful constituted Attorney.

Assignees to make Compensation to the Petitioners or their Creditors, for any Losses which may be occasioned by their Misconduct.

LVI. And be it further enacted, That if any Assignee or Assignees shall neglect to account, or to pay any Difference which shall have been ordered by any Court for the Relief of Insolvent Debtors, or in any other respect shall neglect his or their Duty as Assignee or Assignees, it shall be lawful for such Court to summon such Assignee or Assignees, and to inquire into such Neglect; and if such Court shall be of opinion that the Insolvent or Insolvents, or his, her, or their Creditors, have suffered any Injury by the Fault of the Assignee or Assignees, it shall be lawful for such Court to order the Assignee or Assignees to make such Compensation for the same as to such Court shall seem fit; and in default of the Assignee or Assignees obeying the Summons of such Court, or making such Compensation as shall be ordered by such Court, it shall be lawful for such Court to commit the Assignee or Assignees who shall have so offended to the Common Gaol, there to remain without Bail until he or they shall obey the Order of such Court; or to levy, by Distress and Sale of the Offender's Goods, so much as shall be sufficient to make the Compensation which shall have been ordered by such Court.

In certain Cases, Discharge to be at any Period not later than Three Years from petitioning.

LVII. And be it further enacted, That in case it shall appear to any Court for the Relief of Insolvent Debtors, that any such Insolvent has fraudulently, with Intent to conceal the State of his or her Affairs, or to defeat the Objects of this Act, destroyed, or otherwise wilfully prevented or purposely withheld the Production of any Book, Paper, or Writing relating to such of his or her Affairs as are subject to Investigation under this Act; or kept or cause to be kept false Books, or made false Entries in, or withheld Entries from, or wilfully altered or falsified, any such Book, Paper, or Writing; or that such Insolvent has fraudulently, with Intent of diminishing the Sum to be divided among his or her Creditors, or of giving an undue Preference to any of the said Creditors, discharged or concealed any Debt due to or from the said Insolvent; or made away with, charged, mortgaged, or concealed any Part of his or her Property, of what kind soever; then it shall and may be lawful for such Court to adjudge that such Insolvent shall be so discharged, and so entitled as aforesaid, so soon as he or she shall have been in Custody, at the Suit of some one or more of the Persons as to whose Debts and Claims such Discharge is so adjudicated, for such Period or Periods, not exceeding Three Years in the whole, as such Court shall direct, to be computed from the Date of his or her Petition.

In other Cases, Discharge to be at any Period not later than Two Years from petitioning.

LVIII. And be it further enacted, That in case it shall appear to any such Court that such Insolvent shall have contracted any of the Debts fraudulently, or by means of Breach of Trust, or by means of false Pretences, or without having any reasonable or probable Expectation, at the Time when contracted, of paying the same; or shall have put any of his or her Creditors to any unnecessary Expence, by any vexatious or frivolous Defence or Delay to any Suit for recovering any Debt or any Sum of Money due from such Insolvent; or shall be indebted for Damages recovered in any Action for Criminal Conversation with the Wife or for seducing the Daughter or Servant of the Plaintiff in such Action, or for Breach of Promise of Marriage made to the Plaintiff in such Action, or for Damages recovered in any Action for a Malicious Prosecution, or for a Libel, or for Slander, or in any other Action for a Malicious Injury done to the Plaintiff therein, or in any Action of Tort or Trespass to the Person or Property of the Plaintiff therein, wherein it shall appear, to the Satisfaction of such Court, that the Injury complained of was malicious; then it shall and may be lawful for such Court to adjudge that such Insolvent shall be so discharged and so entitled as aforesaid forthwith, excepting as to such Debts, Sum or Sums of Money, or Damages as above mentioned; and as to such Debt or Debts, Sum or Sums of Money, or Damages, to adjudge that such Insolvent shall be so discharged and so entitled as aforesaid as soon as he or she shall have been in Custody, at the Suit of the Person or Persons who shall be Creditor or Creditors for the same respectively, for a Period or Periods not exceeding Two Years in the whole, as such Court shall direct, to be computed as aforesaid.

Court may order Costs in certain Cases to be

LIX. And be it further enacted, That whenever any Creditor or Creditors opposing such Insolvent's Discharge shall prove, to the Satisfaction of any such Court, that such Insolvent has done or committed

committed any Act for which upon such Adjudication as aforesaid he or she may be liable to remain in such Custody as aforesaid for a Period not exceeding Three Years, to be computed as aforesaid, such Court shall adjudge the Taxed Costs of such Opposition to be paid to such opposing Creditor or Creditors, out of the Estate and Effects of such Prisoner, by his or her Assignee or Assignees, before any Dividend made thereof; and in all other Cases of Opposition to an Insolvent's Discharge being substantiated or effectual, it shall be lawful for such Court to adjudge in like Manner, if it shall seem fit; and that in case it shall appear to such Court that the Opposition of any Creditor to any such Insolvent's Discharge was frivolous and vexatious, it shall and may be lawful for such Court to award such Costs to such Insolvent as shall appear to be just and reasonable, to be paid by the Creditor or Creditors making such Opposition, which shall be paid accordingly.

paid to Creditors out of Insolvent's Estate.

Costs in Cases of frivolous Opposition.

LX. And be it enacted, That where, in the Matter of any such Petition heard before any such Court, any Adjudication shall have been made by such Court for Discharge of any Insolvent, Order shall be made accordingly by the said Court in pursuance of such Adjudication, and such Court shall also issue a Warrant or Warrants to the Gaoler accordingly, ordering the Discharge of such Insolvent from Custody as to the Detainers under which he or she shall then be confined, or which shall be lodged against him or her before he or she shall be out of Custody, the same being for Debts in respect of which such Adjudication shall have been made; and that every such Order of Adjudication shall take effect as from the Day on which the Adjudication shall have been made in that Behalf; and that every such Adjudication, and Certificate thereof, and Order thereupon, may be made without specifying therein any such Debt or Debts, or Sum or Sums of Money, or Claims as aforesaid, or naming therein any such Creditor or Creditors as aforesaid, excepting so far as shall be necessary in any Case in order to distinguish between the Creditors as to whom any such Insolvent may be adjudged to be so discharged and entitled as aforesaid forthwith, and the Creditors as to whom he or she may be adjudged to be so discharged and entitled at some future Period: Provided nevertheless, that in all Cases the Detainer or Detainers with respect to which any such Insolvent shall have been adjudged to be discharged out of Custody, he or she being then in Custody thereupon, shall be specified in the Warrant of such Court to be delivered to the Gaoler in that Behalf.

Court to make Order pursuant to Adjudication, and issue Warrant.

Proviso.

LXI. And be it further enacted, That every such Adjudication for Discharge of any Insolvent as aforesaid by any such Court as aforesaid, and the Order thereupon, so made as aforesaid, except in Cases of Appeals, shall be final and conclusive, and shall not be reviewed by such Court, unless such Court shall thereafter see good and sufficient Cause to believe that such Adjudication has been made on false Evidence, or otherwise improperly made or fraudulently obtained, in which Case it shall and may be lawful for such Court, upon the Application of such Insolvent, or of any Creditor of such Insolvent, to order such Insolvent, upon due Notice, to be given to such Persons

Adjudication and Order to be final, unless obtained on false Evidence, &c. in which Case Court may order a Rehearing.

Persons and in such Manner as the said Court shall direct, to attend or to be brought up, and the said Matter to be reheard before the said Court, who shall thereupon rehear the same, and shall and may, if just Cause shall appear, annul the original Adjudication and Order thereupon made in such Case, and shall have the same Powers and Authorities upon such Rehearing as upon any original Hearing in pursuance of this Act, and may adjudicate in such Matter accordingly; and thereupon, in case the former Adjudication in the said Matter shall not be confirmed, such Order, Certificate, and Warrant shall be made as required by this Act to be made upon such original Adjudication; and the said Court shall and may, if necessary, remand the said Insolvent to the same Custody in which he or she was at the Time of the former Hearing, there to be subject to Imprisonment as if the former Adjudication therein had not been made; and thereupon all Detainers which were in force against such Insolvent at the Time of his or her former Discharge from Custody shall be deemed to be still in force against him or her, as if such former Adjudication had not been made; and the Gaoler and Keeper of the Prison to which such Insolvent shall be so remanded shall and is hereby required to receive such Insolvent into his Custody, in pursuance of such Remand, for doing which the Order of Remand in such Case shall be his sufficient Warrant; and where in any Case such Insolvent shall refuse or neglect to appear before such Court, according to such Order for rehearing as aforesaid, a Copy whereof shall have been duly served on such Insolvent, it shall and may be lawful for such Court to order such Insolvent to be apprehended, and committed to Custody to such Prison, and to issue its Warrant accordingly, and to cause such Insolvent to be brought up for Examination as often as to such Court shall seem fit: Provided always, that where upon such Rehearing it shall appear to such Court that such Insolvent is not entitled to the Benefit of this Act until some future Period, according to the Provisions herein contained, the said Court shall and may, if it shall appear reasonable, adjudge the Discharge of such Insolvent at such future Period, to be calculated without including the Time during which such Insolvent shall have been out of Custody since the Time appointed for his or her Discharge by such former Adjudication as aforesaid.

Insolvent may, after Discharge, be examined as to the Estate and Effects, on Application of the Assignee.

LXII. And whereas the Estate, both Real and Personal, of any Person whose Discharge has been adjudicated under this Act, may not be sufficiently described or discovered in his or her Schedule so sworn to as aforesaid, or the Assistance of such Person may be necessary to adjudge, make out, recover, or manage his or her Estate and Effects, for the Benefit of his or her Creditors; be it therefore enacted, That it shall and may be lawful to and for the Assignee or Assignees of the Estate and Effects of any such Person whose Discharge shall have been adjudicated under this Act, in case such Person shall, upon Application to him or her for that Purpose, have refused or neglected to give the necessary Information, from Time to Time to apply to the Court by which any such Adjudication shall have been pronounced, that such Person may be further examined as to any Matters or Things relating to his or her Estate and Effects by such Court; and thereupon, and also in case such Person shall neglect

neglect or refuse to appear before such Court at such Time and Place as shall be directed by such Order, or appearing shall refuse to be sworn, or to answer such Questions as shall be put to him or her relating to the Discovery of his or her said Estate and Effects, then and in any of such Cases it shall be lawful for such Court, by Warrant, to commit such Person to Gaol, there to remain without Bail or Mainprize until such Time as he or she shall submit himself or herself to the Order of such Court in that Behalf, and shall answer upon Oath or otherwise, as shall be required, to all such lawful Questions as shall be put to him or her, in pursuance of the same, for the Purposes aforesaid.

Court may in certain Cases discharge the Insolvent from all Liability in respect of the Debts specified.

LXIII. And be it further enacted, That whenever it shall be made to appear to the Satisfaction of any Court for Relief of Insolvent Debtors, upon the Application of any Insolvent, his Assignee or Assignees, or any of his or her Creditors, that the Estate of such Insolvent Debtor which shall have come to the Hands of the Assignee or Assignees shall have produced sufficient to pay and discharge Three Fourths of the Amount of the Debts which shall have been established in such Court, or that Creditors to the Amount of more than One Half in Number and Value of the Debts which shall have been so established shall signify their Consent in Writing thereto, it shall be lawful for such Court to inquire into the Conduct of the said Insolvent; and if it shall appear to such Court that the said Insolvent has acted fairly and honestly towards his or her Creditors, such Court shall be fully authorized and empowered thereupon to order that the said Insolvent shall be for ever discharged from all Liability whatsoever for or in respect of such Debts so established as aforesaid; and such Court shall, in the Order to be drawn up, specify and set forth the Names of such Creditors; and after any such Order shall have been so made, no further Proceedings shall be had in the Matter of the Petition before the Court, unless upon Appeal made to the Supreme Court of Judicature of the Presidency where such Court for the Relief of Insolvent Debtors shall be holden, as hereby authorized: Provided always, that no such Order as last aforesaid shall prevent any Creditor who shall not have been resident within the Limits of the Charter of the said United Company at any Time between the filing of such Petition and the making of such Order as last mentioned, and who shall not have taken part in any of the Proceedings under the said Petition, from bringing any Suit or Action in the *East Indies*, for the Purpose of obtaining Execution against the Goods, Estate, or Effects of such Insolvent, for any unsatisfied Claim of such Creditor, nor from bringing any Suit or Action for such Claim in any Court of the United Kingdom of *Great Britain* and *Ireland*, or elsewhere without the Limits of the said United Company's Charter, against such Insolvent, in the same Manner, and with the like Consequences and Effects, as if such Order as last mentioned had not been made.

Order of Discharge not to affect Creditors residing out of the Limits at the Time.

Remedy for unlawful Proceedings against Petitioner after final Order.

LXIV. And be it further enacted, That if after the making of any such Order as last aforesaid any Insolvent shall, contrary to the Tenor of the same, and to the true Intent and Meaning of this Act, be sued in any Court whatsoever, it shall be lawful for such Person to

to plead such Order, and to give an Office Copy thereof in Evidence; and if such Person shall thereupon obtain a Verdict or Decree in his or her Favour, or if the Bill shall be dismissed for Want of Prosecution, or there shall be Judgment of Nonsuit, the Defendant or Defendants shall also be adjudged to have Treble Costs.

Where Adjudication of Discharge at a future Period, the Petitioner may be arrested, &c. till Period arrives.

LXV. Provided always, and be it enacted, That in all Cases where it shall have been adjudged that any such Insolvent shall be so discharged and be entitled as aforesaid at some future Period, such Insolvent shall be subject and liable to be detained in Prison, and to be arrested and charged in Custody, at the Suit of any One or more of his Creditors with respect to whom it shall have been so adjudged, at any Time before such Period shall have arrived, in the same Manner as he or she would have been subject and liable thereto if this Act had not passed: Provided nevertheless, that when such Period shall have arrived such Insolvent shall be entitled to the Benefit and Protection of this Act, notwithstanding that he or she may have been out of actual Custody during all or any Part of the Time subsequent to such Adjudication, by reason of such Prisoner not having been arrested or detained during such Time or any Part thereof.

Court may order detaining Creditor to pay Prisoner a Sum not exceeding Five Sicca Rupees per Week.

LXVI. And be it further enacted, That in all Cases where such Insolvent shall, upon such Adjudication as aforesaid, be liable to further Imprisonment at the Suit of his or her Creditor or Creditors, or any or either of them, it shall be lawful at any Time for the Court by which such Adjudication shall be pronounced, on the Application of such Insolvent, to order such Creditor or Creditors at whose Suit he or she shall be so imprisoned to pay to such Insolvent such Sum or Sums of Money, not exceeding the Rate of Five Sicca Rupees by the Week in the whole, at such Times, and in such Manner, and in such Proportions as such Court shall direct; and that, on Failure of Payment thereof, as directed by such Court, such Court shall order such Insolvent to be forthwith discharged from Custody at the Suit of the Creditor or Creditors so failing to pay the same.

Special Provisions for Insolvent Married Women.

LXVII. And be it further enacted, That if any Married Woman, being a Prisoner, or in insolvent Circumstances, within the Intent and Meaning of this Act, shall petition to be discharged for any Debt or Debts under the Provisions of the same, it shall be lawful for any Court for the Relief of Insolvent Debtors to which such Petition shall be presented to receive the same, without requiring such Married Woman to execute such Conveyance or Assignment as may be lawfully required for other Petitioners according to the Provisions of this Act, but instead thereof such Court shall require such Married Woman to execute a Conveyance and Assignment for vesting in an Assignee or Assignees appointed by such Court, all Property, Real and Personal, to which she may be entitled for her separate Use, whether in Possession, Remainder, Reversion, or Expectancy, or over which she shall have any Power of Disposition notwithstanding her Coverture, or which shall be vested in any Trustees or Trustee, or other Person or Persons, for her Benefit, and to deliver up all Personal Estate and Effects of which she shall have the actual Possession, except such as she may be permitted by such Court to retain, subject only

only to such Right, Title, or Interest as her Husband may have in the aforesaid Real and Personal Property; all which Acts she is hereby empowered to do without her Husband, notwithstanding her Coverture, so nevertheless as not to prejudice any Right of her Husband in such Real and Personal Estate and Effects respectively; and all such Estate and Effects, Real and Personal, in Possession, Reversion, or Remainder, shall, by such Conveyance and Assignment so to be executed under the Order of such Court, be as effectually vested in the Assignee or Assignees as the same might have been vested in such Assignee or Assignees by the Conveyance or Assignment of such Woman if she had been sole and unmarried, subject only to the Rights of her Husband therein as aforesaid; and all Provision in this Act contained, touching the Real and Personal Estate of any Petitioner or Petitioners seeking to be relieved under the Authority of the same, shall apply to such Real and Personal Estate and Effects of such Married Woman, in the same Manner as the same would apply to such Personal Estate.

Insolvent Lunatics.

LXVIII. And be it further enacted, That if any such Prisoner for Debt as aforesaid shall be or become of unsound Mind, and be therefore incapable of taking the Benefit of this Act, in such Manner as he or she might have done if of sound Mind, the Gaoler or Keeper of the Prison wherein the Prisoner shall be shall give Information thereof to the Court for the Relief of Insolvent Debtors of the Presidency wherein such Prison shall be situated, which Court shall thereupon issue a Commission to some competent Person or Persons to inquire, examine, and report to such Court touching and respecting the State of the Prisoner's Mind; and such Court may either confirm or set aside the Report of such Commissioner or Commissioners, and may, if it think fit, make further Inquiry by Examination of Witnesses upon Oath; and if such Court shall conclude that the Prisoner is of unsound Mind, it shall be lawful for such Court, at the Instance of any Person or Persons on behalf of such Prisoner, to order Notice to be Twice inserted in the Gazette of such Presidency, and in such Notice to specify and direct that Application will be made to such Court for the Discharge of such Prisoner on a Day to be specified in such Notice, being Twenty Days at least from the First Time of Publication of such Notice; which Notice, together with Service of the Notice on the Creditor or Creditors at whose Suit such Prisoner shall be detained in Custody, or his, her, or their Attorney, shall be deemed sufficient to authorize such Court to proceed to the Discharge of such Prisoner, and such Court shall proceed accordingly, and discharge such Prisoner: Provided always, that all and every Estate, Right, Title, Interest in Law and Equity, Real and Personal, Power, Benefit, and Emolument whatsoever, which if such Prisoner were of sound Mind could and ought to be assigned by such Prisoner pursuant to the Provisions of this Act, shall, by force and virtue of the Order for the Discharge of such Prisoner, be vested in the common or other Assignee or Assignees appointed by such Court, as fully and effectually, and in the same Manner, and with all and every the same Consequence and Effect, both in Fact and Law, as if such Prisoner had been of sound Mind, and had duly conveyed the same to such common or other Assignee at the Time and in the Manner in this Act provided.

LXIX. And

Warrants of Attorney and Cognovits shall be void, unless filed in Six Weeks after Execution.

LXIX. And be it further enacted, That after the Time appointed for this Act to take effect, every Warrant of Attorney to confess Judgment in any Personal Action, in any of His Majesty's Courts of Record within the *British* Territories under the Government of the said United Company, and every Cognovit Actionem given by any Defendant in any Personal Action which shall be pending in any of the said Courts, shall, within Six Weeks after the Execution of such Warrant or Cognovit, be filed, together with an Affidavit of the Time of the Execution thereof, with the Prothonotary or other proper Officer of the Court in which the Judgment is confessed or the Action is pending; and every such Warrant of Attorney and Cognovit Actionem as aforesaid, which shall not be so filed as aforesaid, shall be deemed fraudulent, null and void, to all Intents and Purposes; and if any Warrant or Cognovit which shall be so filed as aforesaid shall have been given subject to any Defeazance or Condition, such Defeazance or Condition shall be written on the same Paper or Parchment on which such Warrant or Cognovit shall be written, before the Time when it shall be filed, otherwise such Warrant or Cognovit shall be null or void to all Intents and Purposes.

Prothonotary, &c. to keep Books for the Registry of Warrants and Cognovits.

3 G. 4. c. 39.

LXX. And be it further enacted, That the Prothonotary or other proper Officer of His Majesty's Court of Record within the *British* Territories under the Government of the said United Company shall cause every Warrant of Attorney and Cognovit Actionem in any Personal Action, filed in his Office, to be numbered, and shall keep a Book or Books in his said Office, in which he shall cause to be fairly entered an Alphabetical List of all such Warrants and Cognovits, according to the Form of a Schedule annexed to an Act passed in the Third Year of His present Majesty, intituled *An Act for preventing Frauds upon Creditors by secret Warrants of Attorney to confess Judgment;* which Book or Books, and every Warrant of Attorney and Cognovit Actionem filed as aforesaid, shall be searched and viewed at all Times, upon Payment of the Fees lawfully established.

Court may order Memorandum of Satisfaction to be indorsed.

LXXI. And be it further enacted, That it shall be lawful for the Court in which any such Warrant or Cognovit is filed to order a Memorandum of Satisfaction to be written upon any such Warrant or Cognovit, if it shall appear to such Court that the Debt for which such Warrant or Cognovit was given as a Security shall have been satisfied or discharged.

Penalty for Perjury.

LXXII. And be it further enacted, That if any Person, in any Proceeding, Examination, Affidavit, or Affirmation had or taken under this Act, shall wilfully and corruptly swear or affirm falsely, it shall be lawful for any Court before which any such Person shall be convicted of any such Offence by due Course of Law, to order and adjudge such Person, if convicted in the said United Kingdom, to be transported for any Term not exceeding Seven Years, or if convicted in the *East Indies*, to be transported to such Place and for such Term as the Court shall direct, or in either Case to order and adjudge that such Person shall be imprisoned and fined, or imprisoned or fined only, for such Time, and to such Amount, and in such Manner, as the same Court shall direct.

LXXIII. And

LXXIII. And be it further enacted, That if any Insolvent or other Person shall wilfully and fraudulently embezzle or conceal any Part of the Real and Personal Estate or Effects of any Insolvent or Insolvents who shall have filed a Petition for Relief, or against whom any Petition shall have been filed in any of the said Courts for the Relief of Insolvent Debtors, such Person shall be guilty of a Misdemeanor; and it shall be lawful for any Court before which any such Person shall be convicted of any such Offence by due Course of Law, to order and adjudge that such Person shall be transported to such Place and for such Term of Years as the said Court shall direct, or to order and adjudge that such Person shall be imprisoned and fined, or imprisoned or fined only, for such Time, and to such Amount, and in such Manner, as the same Court shall direct.

Penalty for Embezzlement or Concealment of Effects.

LXXIV. And be it further enacted, That whenever any Person or Persons shall have been ordered and adjudged, under the Provisions of this Act, to pay any Fine for any Forgery, Perjury, Embezzlement, or Concealment, and such Fine shall have been paid, it shall be lawful for any Assignee or Assignees in whom the Estate and Effects of any Insolvent or Insolvents shall be duly vested, according to the Provisions of this Act, to apply to the Court by which such Fine shall have been imposed; and if it shall be proved to the Satisfaction of the same Court that the Creditors for whose Benefit the said Assignee or Assignees shall hold in Trust the said Estate and Effects have been defrauded, or have incurred Loss, by means of such Forgery, Perjury, Embezzlement, or Concealment, the said Court by which the said Fine shall have been imposed shall pay the same, after deducting the Costs of Prosecution, to the said Assignee or Assignees for the Use and Benefit of the said Creditors: Provided always, that if no such Application shall be made by such Assignee or Assignees within One Year after any such Fine shall have been paid, it shall be lawful for the Court by which such Fine shall have been imposed, to appropriate, apply, and pay over such Fine to such Uses, Purposes, and Persons, and in such Manner as any other Fine imposed by the same Court for any Forgery, Perjury, or other Crime or Misdemeanor may be lawfully appropriated, applied, and paid over.

Application of Fines imposed for the foregoing Offences.

LXXV. And be it enacted, That all Affidavits and Affirmations to be used before any Court for the Relief of Insolvent Debtors, or any Officer of such Court, shall and may be sworn and affirmed before such Court, or any Commissioner or other Person appointed by such Court for that Purpose, or any Judge or Commissioner for taking Affidavits in any of His Majesty's Courts of Record within the Limits of the said United Company's Charter, or before any Master or Master Extraordinary in Chancery in *England* or *Ireland*, or any Magistrate authorized to take Affidavits or Affirmations in *Scotland*.

Mode of taking Affidavits.

LXXVI. Provided always, and be it further enacted, That no Person who shall have been at any Time discharged by virtue of this Act shall again be entitled to the Benefit thereof within the Space of Five Years after such Discharge, unless a Majority in Number and Value of the Creditors against whom such Person shall seek to be discharged by

No Person having had the Benefit of this Act shall have it again within Five

Years, except in certain Cases.

by virtue of this Act shall signify his, her, or their Assent to such Discharge, or unless it shall be made to appear to the Satisfaction of the Court for the Relief of Insolvent Debtors, to which Application for such Discharge shall be made, that such Person has since his or her former Discharge endeavoured by Industry and Frugality to pay all just Demands upon him or her, and has incurred no unnecessary Expence, and that the Debts which such Person has incurred subsequent to such former Discharge have been necessarily incurred for the Maintenance of such Person, or his or her Family, or that the Insolvency of such Person has arisen from Misfortune, or from Inability to acquire Subsistence for himself or herself, and his or her Family.

In Actions under this Act the General Issue may be pleaded.

LXXVII. And be it further enacted, That if any Action of Escape, or any other Suit or Action, shall be brought against any Magistrate or Officer or any other Person for performing the Duty of his Office or Appointment in pursuance of this Act, he or they may plead the General Issue, and give this Act in Evidence; and if the Plaintiff shall be nonsuited, or discontinue his or her Action, or a Verdict shall pass against him or her, or Judgment shall be given for the Defendant upon Demurrer, the Defendant shall have Treble Costs.

Officer of Court to produce Proceedings, and give Copies.

LXXVIII. And be it further enacted, That the proper Officer of the several Courts for the Relief of Insolvent Debtors shall, on the reasonable Request of any such Insolvent as aforesaid, or of any Creditor or Creditors of such Insolvent, or his or their Attorney, produce and shew to such Insolvent, Creditor or Creditors, and his, her, or their Attorney, at such Times as such Courts respectively shall direct, every Petition, Schedule, Order of Adjudication, and all other Orders and Proceedings made and had relating to such Insolvent, and all Books, Papers, and Writings filed in such Matter, and permit him, her, or them to inspect and examine the same, and shall provide for any such Insolvent, or Creditor or Creditors, or his, her, or their Attorney requiring the same, a Copy or Copies of such Petition and other Proceedings, or of such Part thereof as shall be required, receiving such Fee as such Court shall appoint for so providing the same; and that a Copy of such Petition, Schedule, Order, and other Orders and Proceedings, purporting to be signed by the Officer in whose Custody the same shall be, or his Deputy, certifying the same to be a true Copy of such Petition, Schedule, Order, or other Proceeding, and sealed with the Seal of the said Courts respectively, shall, at all Times be admitted in all Courts whatever, and before Commissioners of Bankrupt and Justices of the Peace, as sufficient Evidence of the same, without any Proof whatever given of the same, further than that the same is sealed with the Seal of such Courts respectively as aforesaid.

Proceedings not liable to Stamp Duty, &c.

LXXIX. And be it further enacted, That no Conveyance, Assignment, Letter of Attorney, Affidavit, Certificate, or other Proceeding, Instrument, or Writing whatsoever, before or under any Order of any of such Courts for Relief of Insolvent Debtors, nor any Copy thereof, nor any Advertisement inserted in any Newspaper by Direction of any such Court, relating to Matters within the Jurisdiction of such

Court, shall be liable to or chargeable or charged with the Payment of any Stamp or other Duty whatsoever, and that no Sale of any Real or Personal Estate of any such Insolvent as aforesaid, for the Benefit of his or her Creditors under this Act, shall be liable to any Auction Duty.

Courts may make Rules for facilitating the Relief hereby intended.

LXXX. And be it further enacted, That His Majesty's Supreme Courts of Judicature at *Calcutta*, *Madras*, and *Bombay* respectively, shall respectively have Power to make all necessary and reasonable Rules for facilitating and carrying into Effect within their respective Jurisdictions the Relief intended to be given by this Act in Cases for which sufficient Provision has not been thereby made.

Continuance of Act.

LXXXI. And be it further enacted, That this Act shall continue in force until the First Day of *March* One thousand eight hundred and thirty-three.

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