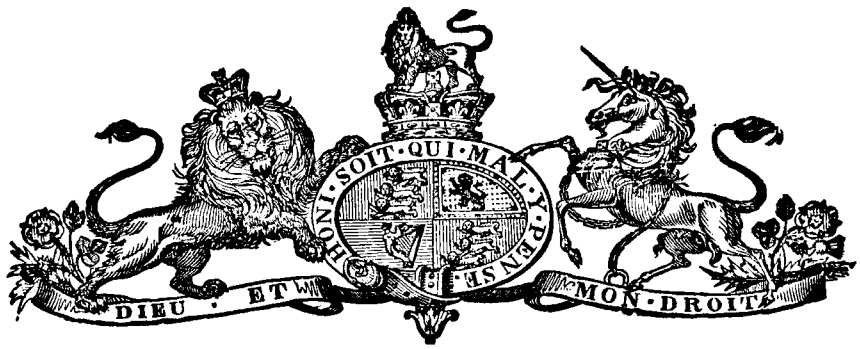


ANNO DUODECIMO & DECIMO TERTIO

VICTORIÆ REGINÆ.

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CAP. CVII.

An Act for the Amendment of the Law of Bankruptcy in *Ireland*. [1st *August* 1849.]

WHEREAS it is expedient to amend the Law of Bankruptcy: And whereas by an Act passed in the Reign of His late Majesty, intituled *An Act to amend the Laws relating to Bankrupts in* Ireland, various Alterations were made in the Administration of the Law of Bankruptcy, which have by Experience been found beneficial; and it is advisable to extend the Provisions and Regulations contained in the said Act: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the Provisions of this Act, unless where otherwise herein specially provided, shall commence and take effect on the First Day of *November* One thousand eight hundred and forty-nine. 6 & 7 W. 4. c. 14. Commencement of this Act.

II. And be it enacted, That all Laws, Statutes, and Usages shall be and the same are hereby repealed, in so far as they may be inconsistent or at variance with the Provisions of this Act: Provided always, that the same shall continue in force in all other respects whatsoever. Laws at variance with this Act repealed.

III. And

Petitioning Creditor's Bond may be dispensed with.

III. And be it enacted, That in every Case of a Petition for the Issue of a Commission of Bankrupt the Lord Chancellor of *Ireland* shall dispense with the Bond now required to be given to him by the Petitioning Creditor, conditioned for proving his Debt, and for proving the Party to have committed an Act of Bankruptcy at the Time of issuing such Commission, and for proceeding upon such Commission, and it shall be lawful to issue the Commission without any such Bond having been given.

Person against whom a Commission has issued, on Proof of probable Cause for believing that he is about to quit Ireland, or to remove or conceal his Goods with Intent to defraud Creditors, may be arrested.

IV. And be it enacted, That whenever any Commission of Bankrupt shall have issued against any Person, and it shall be proved to the Satisfaction of the Commissioners authorized to act in the Prosecution of such Commission, or One of them, that there is probable Cause for believing that such Person is about to quit *Ireland*, or to remove or conceal any of his Goods or Chattels with Intent to defraud his Creditors, unless he be forthwith apprehended, it shall be lawful for such Commissioners or Commissioner to issue a Warrant directed to any Person or Persons such Commissioners or Commissioner shall think fit, whereby such Person or Persons shall have Authority to arrest, and commit to such Prison as the said Commissioners or Commissioner shall think fit, the Person named in such Commission, by his Body, and shall also have Authority to seize his Books, Papers, Monies, Securities for Monies, Goods and Chattels, wheresoever they may be found, and them safely keep until the Expiration of the Time allowed for opening such Commission, or until such Person shall be adjudged bankrupt under such Commission, and be thereupon dealt with under such Commission according to the Laws relating to Bankrupts.

Penalty on Gaoler suffering Bankrupt, &c. to escape.

V. And be it enacted, That if any Gaoler to whose Custody any Bankrupt or other Person shall be committed as aforesaid shall suffer such Bankrupt or other Person to escape or go free until released by the Discharge of the said Commissioners, or One of them, or until such Person is adjudged and declared bankrupt, every such Gaoler shall forfeit Five hundred Pounds, to be recovered as herein-after provided.

Any Person so arrested may apply for his Discharge forthwith.

VI. Provided always, and be it enacted, That it shall be lawful for any Person arrested upon any such Warrant, or for any Person whose Books, Papers, Monies, Securities for Monies, Goods or Chattels, have been seized under any such Warrant, to apply, at any Time after such Arrest or Seizure to such Commissioners or Commissioner, for a Summons for the Petitioning Creditor named in such Commission

to

to show Cause why the Person arrested should not be discharged out of Custody, or why his Books, Papers, Monies, Securities for Monies, Goods and Chattels, should not be delivered up to him; and that it shall be lawful for such Commissioners or Commissioner, at the Time named in such Summons, or at any Adjournment thereof, to make such Order as to them or him shall seem meet, and to direct the Costs of the Application for the Warrant, and of the Warrant, and the Arrest and Detention thereunder, and of all Proceedings consequent thereupon or arising therefrom, or any Part thereof, or of a specific Sum of Money in lieu thereof, to be paid by either Party, and by such Order to direct when and to whom same shall be paid; provided that any such Order may be rescinded or varied by the Lord Chancellor of *Ireland*, on Application made to him by either Party dissatisfied with such Order.

Commissioner may discharge the Person, or not.

Order of Commissioner may be appealed from.

VII. And be it enacted, That no Person shall be liable to become bankrupt by reason of any Act of Bankruptcy committed more than Twelve Months prior to the issuing of any Commission of Bankrupt against him.

No Person liable upon an Act committed more than Twelve Months.

VIII. And be it enacted, That an Act of Bankruptcy committed by a Trader at any Time within One Year of the issuing of a Commission of Bankruptcy against such Trader, whether prior or subsequent to the Debt of the Petitioning Creditor, shall be deemed sufficient to support the Adjudication of Bankruptcy under such Commission, whether issued before or after the passing of this Act.

Act of Bankruptcy committed within a Year sufficient to support Adjudication.

IX. And be it enacted, That the Amount of the Debt or Debts of any Creditor or Creditors petitioning for a Commission of Bankrupt, shall hereafter be as follows; that is to say, the single Debt of such Creditor, or of Two or more Persons being Partners, petitioning for the same, shall amount to Fifty Pounds or upwards, and the Debt of Two Creditors so petitioning shall amount to Seventy Pounds or upwards, and the Debt of Three or more Creditors so petitioning shall amount to One hundred Pounds or upwards; and that every Person who has given Credit to any Trader upon valuable Consideration for any Sum payable at a certain Time, which Time shall not have arrived when such Trader committed an Act of Bankruptcy, may so petition or join in petitioning as aforesaid, whether he shall have had any Security in Writing for such Sum or not.

Requisite Amount of Petitioning Creditor's Debt.

X. And be it enacted, That all Livery Stable Keepers, Coach Proprietors, Carriers, Ship Owners, Auctioneers, Apothecaries, Market Gardeners,

Persons specially named liable to become Bankrupts.

Gardeners, Cowkeepers, Brickmakers, Alum Makers, Limeburners, and Millers shall be deemed Traders, and subject and liable as Traders to this and to the other Statutes relating to Bankrupts.

Power to Commissioner to summon Trader, if Creditor make Affidavit of his Debt, and of his having required Payment.

XI. And be it enacted, That if any Creditor of any Trader within the Meaning of this or any other Statute relating to Bankrupts now or hereafter to be in force shall file an Affidavit in the Office of the Lord Chancellor's Secretary of Bankrupts in *Ireland*, in the Form or to the Effect specified in the Schedule hereunto annexed (A. No. 1.), of the Truth of his Debt, and of the Debtor as he verily believes being such Trader as aforesaid, and of the Delivery to such Trader personally of an Account in Writing of the Particulars of his Demand, with a Notice thereunder requiring immediate Payment thereof, in the Form or to the Effect specified in the said Schedule (A. No. 2.), it shall be lawful for the Commissioners of Bankrupt in *Ireland*, or One of them, to issue a Summons in Writing in the Form or to the Effect specified in the said Schedule (A. No. 3.), calling upon such Trader to appear before them, or One of them, and stating in such Summons the Purpose for which such Trader is called upon by such Summons to appear, as herein-after provided.

Manner of proceeding on Summons of Trader by a Creditor.

XII. And be it enacted, That upon the Appearance of any such Trader so summoned as aforesaid it shall be lawful for such Commissioners, or One of them, to require such Trader to state whether or not he admits the Demand of such Creditor so sworn to as aforesaid, or any and what Part thereof, and if such Trader shall admit such Demand, or any Part thereof, to reduce such Admission into Writing, in the Form or to the Effect specified in the Schedule hereunto annexed (B. No. 1.), and such Admission so reduced into Writing such Trader is hereby required to sign, and the same is thereupon to be filed in the said Office of the Lord Chancellor's Secretary of Bankrupts; and it shall also be lawful for such Commissioners, or One of them, to allow such Trader upon his said Appearance to make a Deposition upon Oath, in Writing under his Hand, to be filed in the said Office of the Lord Chancellor's Secretary of Bankrupts, in the Form specified in the said Schedule (B. No. 2.), that he verily believes he has a good Defence to the said Demand, or to some and what Part thereof.

Trader not attending Summons, or refusing to admit the Demand, and not making

XIII. And be it enacted, That if any such Trader so summoned as aforesaid shall not come before such Commissioners, or One of them, at the Time appointed, (having no lawful Impediment, made known to and proved to the Satisfaction of the said Commissioners, or One of them, at the said Time, and allowed,) or if any such Trader, upon

his Appearance to such Summons as aforesaid, or at any Enlargement or Adjournment thereof, as the Case may be, shall refuse to admit such Demand, and shall not make a Deposition in the Form herein-before mentioned that he believes he has a good Defence to such Demand, then and in either of the said Cases, if such Trader shall not, within Fourteen Days after personal Service of such Summons, or within such enlarged Time as may be granted to him in that Behalf, pay, secure, or compound for such Demand to the Satisfaction of such Creditor, or enter into a Bond, in such Sum and with Two sufficient Sureties as such Commissioners or One of them shall approve of, to pay such Sum as shall be recovered in any Action which shall have been brought or shall thereafter be brought for the recovering of the same, together with such Costs as shall be given in such Action, every such Trader shall be deemed to have committed an Act of Bankruptcy on the Fifteenth Day after Service of such Summons, provided a Commission of Bankrupt shall issue against such Trader within Two Months from the filing of such Affidavit.

Deposition of Belief of a good Defence thereto, and not paying or compounding within a certain Time, or giving Bond for Payment, to be deemed to have committed an Act of Bankruptcy.

XIV. And be it enacted, That if any such Trader so summoned as aforesaid shall upon his said Appearance sign an Admission of such Demand in the Form aforesaid, and shall not within Fourteen Days next after the filing of such Admission pay or tender and offer to pay to such Creditor the Amount of such Demand, or secure or compound for the same to the Satisfaction of the Creditor, every such Trader shall be deemed to have committed an Act of Bankruptcy on the Fifteenth Day after the filing of such Admission, provided a Commission of Bankrupt shall issue against such Trader within Two Months from the filing of such Affidavit.

Trader signing an Admission of Demand in Form prescribed, and not paying, securing, or compounding within a certain Time, an Act of Bankruptcy.

XV. And be it enacted, That if any such Trader so summoned as aforesaid shall upon his said Appearance sign an Admission for Part only of such Demand in the Form aforesaid, and shall not make a Deposition, in the Form herein-before required, that he believes he has a good Defence to the Residue of such Demand, then and in such Case, if such Trader as to the Sum so admitted shall not within Fourteen Days next after the filing of such Admission pay, or tender and offer to pay, to such Creditor the Sum so admitted, or secure or compound for the same to the Satisfaction of the Creditor, and as to the Residue of such Demand shall not within Fourteen Days after Service of such Summons, or within such enlarged Time as may be granted to him in that Behalf, pay, secure, or compound for the same to the Satisfaction of such Creditor, or enter into a Bond in such Sum and with Two sufficient Sureties as such Commissioners or One of them shall approve of, to pay such Sum as shall be recovered in any

Trader admitting Part only of a Demand, and not making Deposition of a good Defence to the Residue, and not paying, securing, or compounding for Sum admitted, and as to Residue not paying or compounding or entering into Bond to pay any Sum recovered, with

Costs, an Act of Bankruptcy.

Action which shall have been brought or shall thereafter be brought for the Recovery of the same, together with such Costs as shall be given in such Action, every such Trader shall be deemed to have committed an Act of Bankruptcy on the Fifteenth Day after Service of such Summons, provided a Commission of Bankrupt shall issue against such Trader within Two Months from the filing of such Affidavit.

What shall be deemed a Refusal of Admission of Debt.

XVI. Provided always, and be it enacted, That if any such Trader so summoned as aforesaid shall upon his Appearance before such Commissioners or Commissioner refuse to sign the Admission in that Behalf required as aforesaid, whatever may be the Nature of his Statement, or whether he makes any Statement or not, it shall be deemed, for the Purposes of this Act, that every such Trader thereby refuses to admit such Demand: Provided always, that it shall be lawful for such Commissioners, or One of them, upon reasonable Cause shown, to enlarge the Time for calling upon such Trader to state whether or not he admits such Demand, or any Part thereof, and for entering into such Bond, or for either of such Matters, for such Time as such Commissioners or Commissioner shall think fit.

Commissioners may enlarge the Time for Admission of Demand.

Admission of Debt signed elsewhere than in Court, if attested by Attorney of Trader, may be filed, and have the same Force as an Admission signed by a Trader on his Appearance before Commissioners under the Summons.

XVII. Provided always, and be it enacted, That an Admission of any Debt made after such Summons as aforesaid, and signed by any such Trader elsewhere than before such Commissioners or Commissioner, may be filed in such Office of the Lord Chancellor's Secretary of Bankrupts, and shall be of the same Force and Effect to all Intents and Purposes as an Admission signed by such Trader so summoned as aforesaid on his Appearance before such Commissioner or Commissioners, provided there be present some Attorney of one of Her Majesty's Superior Courts of Law on behalf of such Trader, especially named by him and attending at his Request, to inform him of the Effect of such Admission before the same is signed by such Trader, and provided also, that such Attorney do subscribe his Name thereto as a Witness to the due Execution thereof, and in such Attestation declare himself to be Attorney for the said Trader, and state therein that he subscribes as such Attorney, and that such Admission shall be made in the Form or to the Effect of Schedule (C.) hereunto annexed; and a Copy of such Admission, purporting to be certified by the said Secretary or his Clerk as a true Copy, shall be received as Evidence of such Admission having been so filed.

Trader summoned on Affidavit of Debt to have such Costs as

XVIII. And be it enacted, That where any Trader against whom an Affidavit of Debt is filed as aforesaid shall be summoned to appear before the said Commissioners or Commissioner, every such Trader

shall have such Costs and Charges against the Party or Parties who filed such Affidavit as such Commissioners or Commissioner in their or his Discretion shall think fit; or the Commissioner may direct the Costs and Charges of either Party of or incident to or attendant upon such Affidavit and Summons to abide the Event of any Action which shall have been brought or shall thereafter be brought for the Recovery of such Demand, or any Part thereof, and in such Case such Costs and Charges shall be Costs in the Cause, and recovered under the Judgment and Execution in such Action.

the Commissioners shall think fit; or Commissioner may direct the Costs to abide the Event of any Action for the Debt.

XIX. And be it enacted, That in every such Action brought after the Commencement of this Act, wherein any such Creditor is Plaintiff and any such Trader is Defendant, and wherein the Plaintiff shall not recover the Amount of the Sum for which he shall have filed an Affidavit of Debt under the Provisions of this Act, such Defendant shall be entitled to Costs of Suit, to be taxed according to the Course of the Court in which such Action shall have been brought; provided that it shall be made appear to the Satisfaction of the Court in which such Action is brought, upon Motion to be made in Court for that Purpose, and upon hearing the Parties by Affidavit, that the Plaintiff in such Action had not any reasonable or probable Cause for making such Affidavit of Debt in such Amount as aforesaid, and provided such Court shall thereupon, by a Rule or Order of the same Court, direct that such Costs shall be allowed to the Defendant, and provided such Costs are duly taxed and ascertained within such Time as shall be directed by such Rule or Order; and the Plaintiff shall, upon such Rule or Order being made as aforesaid, be disabled from taking out any Execution for the Sum recovered in any such Action, unless the same shall exceed, and then in such Sum only as the same shall exceed, the Amount of the taxed Costs of the Defendant in such Action; and in case the Sum recovered in any such Action shall be less than the Amount of the Costs of the Defendant, to be taxed as aforesaid, that then the Defendant shall be entitled, after deducting the Sum of Money recovered by the Plaintiff in such Action from the Amount of his Costs, so to be taxed and ascertained as aforesaid, to take out Execution for such Costs in like Manner as a Defendant may now by Law have Execution for Costs in other Cases.

Wherever a Creditor Plaintiff shall not recover the Amount sworn to in his Affidavit of Debt filed against a Trader, if such Affidavit be made for such Amount without probable Cause, the Trader Defendant shall be entitled to Costs.

XX. And be it enacted, That if any Plaintiff shall recover Judgment in any Action Personal for the Recovery of any Debt or Money Demand in any of Her Majesty's Courts of Record against any such Trader, and shall be in a Situation to sue out Execution upon such Judgment, and there be nothing due from such Plaintiff by way of Set-off

Trader not paying, securing, or compounding for a Judgment Debt, upon which the

Plaintiff might sue out Execution within Fourteen Days after Notice requiring Payment, an Act of Bankruptcy.

Set-off against such Judgment, and such Trader shall not within Fourteen Days after Notice in Writing served upon him, requiring immediate Payment of such Judgment Debt, pay, secure, or compound for the same to the Satisfaction of such Plaintiff, he shall be deemed to have committed an Act of Bankruptcy on the Fifteenth Day after Service of such Notice; provided always, that if such Execution shall in the meantime be suspended or restrained by any Rule, Order, or Proceeding of any Court of Justice having Jurisdiction in that Behalf, no further Proceeding shall be had on such Notice, but that it shall be lawful nevertheless for such Plaintiff, when he shall again be in a Situation to sue out Execution on such Judgment, to proceed again by Notice in manner before directed.

Trader disobeying Order of any Court of Law or Equity, or Order in Bankruptcy or Lunacy, for Payment of Money, after Service of Order for Payment on a peremptory Day fixed, an Act of Bankruptcy.

XXI. And be it enacted, That if any Decree or Order shall be pronounced in any Cause or Matter depending in any Court of Law or Equity, or any Order shall be made in any Matter of Bankruptcy or Lunacy, against any such Trader, ordering such Trader to pay any Sum of Money, and such Trader shall disobey such Decree or Order, same having been duly served upon him, the Person entitled to receive such Sum under such Decree or Order, or interested in enforcing the Payment thereof pursuant thereto, may apply to the Court by which the same shall have been pronounced to fix a peremptory Day for the Payment of such Money, which shall accordingly be fixed by an Order for that Purpose; and if such Trader, being served with such last-mentioned Order Fourteen Days before the Day therein appointed for Payment of such Money, shall neglect to pay, secure, or compound for the same to the Satisfaction of the Person entitled to receive the same, he shall be deemed to have committed an Act of Bankruptcy on the Fifteenth Day after the Service of such Order.

Trader filing a Declaration of Insolvency in the Office of the Secretary of Bankrupts an Act of Bankruptcy.

XXII. And be it enacted, That if any such Trader shall file in the Office of the Lord Chancellor's Secretary of Bankrupts a Declaration in Writing (in the Form or to the Effect of Schedule (D.) hereunto annexed), signed by such Trader and attested by an Attorney or Solicitor, that he is unable to meet his Engagements, every such Trader shall be deemed thereby to have committed an Act of Bankruptcy at the Time of filing such Declaration, provided a Commission of Bankrupt shall issue against such Trader within Two Months from the filing of such Declaration; and a Copy of such Declaration, purporting to be certified by the said Secretary or his Clerk as a true Copy, shall be received as Evidence of such Declaration having been filed.

XXIII. And

XXIII. And be it enacted, That the filing of a Petition by any Trader for an Arrangement between such Trader and his Creditors with the Concurrence of a certain Number thereof, under the Provisions of this Act, shall be accounted and adjudged conclusive Evidence of an Act of Bankruptcy committed by such Trader at the Time of filing such Petition, provided a Commission of Bankruptcy shall be issued against him within Two Months after Notice of such Petition for Arrangement having been filed shall have appeared in the *Dublin Gazette*, as herein-after directed: Provided also, that no Commission of Bankruptcy shall issue unless and until after such Petition for Arrangement shall have been dismissed.

Filing Petition for Arrangement between a Trader Debtor and his Creditors with the Concurrence of a certain Number thereof, to be an Act of Bankruptcy, if Petition dismissed.

XXIV. And be it enacted, That if any single Creditor, or any Two or more Creditors being Partners, whose Debts shall amount to One hundred Pounds or upwards, or any Two Creditors whose Debts shall amount to One hundred and fifty Pounds or upwards, or any Three or more Creditors whose Debts shall amount to Two hundred Pounds or upwards, of any Trader within the Meaning of the Laws respecting Bankrupts, shall file with the proper Officer in the Office of the Lord Chancellor's Secretary of Bankrupts in *Ireland* an Affidavit or Affidavits, to be sworn before any of the Persons authorized by this Act to administer Oaths, that such Debt or Debts is or are justly due to him or them respectively, and that such Debtor, as he or they verily believe, is such Trader as aforesaid, and shall cause him to be served personally with a Copy of such Affidavit or Affidavits, and with a Notice in Writing stating that such Affidavit or Affidavits hath or have been filed in the said Office, pursuant to this Act, and requiring immediate Payment of such Debt or Debts, and if such Trader shall not within Twenty-one Days after personal Service of such Affidavit or Affidavits and Notice, or within such further Time as any Commissioner of Bankrupt shall order, pay such Debt or Debts, or secure or compound for the same to the Satisfaction of such Creditor or Creditors, or enter into a Bond in such Sum and with Two such sufficient Sureties as shall be approved of by any Judge of Her Majesty's Superior Courts at *Dublin*, or any Judge of Assize, or any Assistant Barrister at Quarter Sessions, or any Master in Ordinary of the Court of Chancery in *Ireland*, or any of such Persons as shall be for that Purpose appointed from Time to Time by any General or Special Order of the Lord Chancellor of *Ireland*, or, until such Appointment shall be made, by any perpetual Commissioner appointed for taking Acknowledgments of Deeds by married Women, under the Act for "the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance in *Ireland*," to pay such Sum or Sums as shall be recovered in any Action or Actions which

Manner of making a Debtor a Bankrupt by Affidavit of Debt and Notice to pay.

Creditor to file an Affidavit of Debt,

and serve Notice requiring Payment within Twenty-one Days.

shall have been brought or shall thereafter be brought for the Recovery of the same, together with such Costs as shall be given in the same, or to render himself to the Custody of the Gaoler of the Court in which such Action shall have been or may be brought, according to the Practice of such Court, or within such Time and in such Manner as the said Court or any Judge thereof shall direct, after Judgment shall have been recovered in such Action, then and in any such Case such Trader shall be deemed to have committed an Act of Bankruptcy on the Twenty-second Day after Service of such Affidavit or Affidavits and Notice, provided a Commission of Bankruptcy shall issue against such Trader within Two Calendar Months from the filing of such Affidavit or Affidavits, but not otherwise.

If Commission not proceeded on by Petitioning Creditor within Three Days, any other Creditor may proceed on it.

XXV. And be it enacted, That if any Petitioning Creditor on whose Petition a Commission of Bankruptcy shall have issued shall not proceed within Three Days after the Date of the Commission, or within such extended Time as may be allowed by the said Commissioners or Commissioner, the said Commissioners or Commissioner may, at any Time within Fourteen Days then next following, upon the Application of any Creditor to the Amount required to constitute a Petitioning Creditor, proceed to adjudicate thereon, upon the Proof of the Debt of such Creditor, and of the other Requisites to support such Adjudication; but if neither the Petitioning Creditor nor any Creditor shall within such Fourteen Days apply to the Court to adjudicate, no further Proceeding shall be taken thereon.

If Bankrupt shall not proceed to dispute the Commission, and prosecute with Effect, the Gazette to be conclusive Evidence of the Bankruptcy as against the Bankrupt, and against Persons whom the Bankrupt might have sued had he not been adjudged bankrupt;

XXVI. And be it enacted, That if the Bankrupt shall not (if he were within the United Kingdom at the Date of the Adjudication) within Two Months after the Advertisement of the Bankruptcy in the *Dublin Gazette*, or (if he were in any other Part of *Europe* at the Date of the Adjudication) within Three Months after the Date of such Advertisement, or (if he were elsewhere at the Date of the Adjudication) within Twelve Months after such Advertisement, have commenced an Action or other Proceeding to dispute or annul the Commission, and shall not have prosecuted the same with due Diligence and with Effect, the Gazette containing such Advertisement shall be conclusive Evidence in all Cases as against such Bankrupt, and in all Actions at Law or Suits in Equity brought by the Assignees for any Debt or Demand for which such Bankrupt might have sustained any Action or Suit had he not been adjudged bankrupt, that such Person so adjudged bankrupt became a Bankrupt before the Date and suing forth of such Commission, and that such Commission was sued forth on the Day on which the same is stated

in

in the Gazette to bear Date; saving all Rights which shall have accrued to any such Person as aforesaid previous to the Commencement of this Act, and in respect of which any Proceedings shall be pending at the Time of the Commencement of this Act, which shall be adjudged and determined as if this Act had not been passed.

saving present Rights for which any Proceedings are pending.

XXVII. And be it enacted, That if the Assignees commence any Action or Suit for any Money due to the Bankrupt's Estate before the Time allowed by this Act for the Bankrupt to dispute the Commission shall have elapsed, any Defendant in any such Action or Suit shall be entitled, after Notice given to the Assignees, to pay the same or any Part thereof into the Court in which such Action or Suit is brought, and all Proceedings with respect to the Money so paid into Court shall thereupon be stayed until the Time aforesaid shall have elapsed; and if within that Time the Bankrupt shall not have commenced such Action, Suit, or other Proceeding as aforesaid, and prosecuted the same with due Diligence, the Money shall be paid out of Court to the Assignees, but otherwise shall abide the Event of such Action, Suit, or other Proceeding as aforesaid, and upon such Event shall be paid out of Court either to the Assignees or the Person adjudged bankrupt, as the Court shall direct, and that after such Payment so made into Court it shall not be lawful for the Person so adjudged bankrupt to proceed against the Defendant for Recovery of the same Money.

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

XXVIII. And be it enacted, That One or Two Persons, being Merchants, Brokers, or Accountants, or Persons who are or have been engaged in Trade, and resident in *Ireland*, shall be appointed by the Lord Chancellor to act as Official Assignee or Assignees in all Bankruptcies prosecuted before the said Commissioners of Bankrupt, One of which said Official Assignees shall in all Cases be an Assignee of each Bankrupt's Estate and Effects, together with the Assignee or Assignees to be chosen by the Creditors, such Official Assignee to give such Security, to be subject to such Rules, to be selected for such Estate, and to act in such Manner as the said Commissioners or Commissioner, with the Consent of the Lord Chancellor, shall from Time to Time direct.

Appointment of Official Assignees.

Their Duty.

XXIX. And be it enacted, That if the Security to be given by and for such Official Assignee be by Recognizance, the same shall be acknowledged before the said Commissioners, or One of them, and which Recognizance shall be filed in the Office of the Lord Chancellor's Secretary of Bankrupts, and shall be entered of Record in the Office for the Enrolment of Matters relating to Bankruptcy; or it shall

Commissioners may take Security by Recognizance or of Guarantee Society.

shall be lawful for the said Commissioners, if they shall think fit, to accept, as Security for such Official Assignee or Assignees, the Security of any Guarantee Society established by Charter or Act of Parliament in any Part of *Great Britain* or *Ireland*, in lieu of any other Security.

Official Assignees to receive Bankrupt's Estate and Effects.

XXX. And be it enacted, That all the Personal Estate and Effects, and the Rents and Profits of the Real Estate, and the Proceeds of Sale of all the Estate and Effects, Real and Personal, of the Bankrupt, shall in every Case be possessed and received by such Official Assignee alone, save where it shall be otherwise directed by the said Commissioners or Commissioner; and all Stock in the Public Funds or of any Public Company, and all Monies, Exchequer Bills, or other Public Securities, and all Bills, Notes, and other negotiable Instruments, shall be forthwith transferred, delivered, and paid by such Official Assignee into the Bank of *Ireland*, to the Credit of the said Official Assignee and of the Assignee or Assignees chosen by the Creditors, to be subject to such Order, Rule, and Regulation for keeping of the Account of the said Monies and other Effects, for the Payment and Delivery in, Investments and Delivery out of the same, as the said Commissioners or Commissioner shall direct; and if any such Assignee shall neglect to make such Transfer, Delivery, or Payment, every such Assignee shall be liable to be charged in his Account with such Sum as shall be equal to Interest at the Rate of Twenty Pounds *per Cent. per Annum* on all such Money for the Time during which he shall have so neglected to make such Transfer, Delivery, or Payment.

How to apply same.

Proviso restricting the Authority of the Official Assignee.

XXXI. Provided always, and be it enacted, That nothing herein contained shall extend to authorize any such Official Assignee to interfere with the Assignees chosen by the Creditors, in the Appointment or Removal of a Solicitor or Attorney, or in directing the Time and Manner of effecting any Sale of the Bankrupt's Estate or Effects.

Lord Chancellor may remove Official Assignees, and may fill up Vacancy in their Number.

XXXII. And be it enacted, That it shall be lawful for the Lord Chancellor to remove any Official Assignee, and from Time to Time as any Vacancy may occur in the Number of Official Assignees to appoint some other such Person as aforesaid, or who has acted as the Managing Clerk of an Official Assignee for the Period of Seven Years, to fill any Vacancy so occurring; and in case of the Death or Removal of any Official Assignee who shall have been appointed to act in any Bankruptcy Matter it shall be lawful for the said Commissioners or

Commissioner, subject to any Rules to be made by virtue of this Act, to appoint another Official Assignee to act in the same Bankruptcy Matter in the Place of the Assignee who shall so have become dead or been removed.

Power to appoint Official Assignee to act with the existing Assignees under Commissions now pending, and to whom the latter shall deliver over Effects.

XXXIII. And be it enacted, That in all Bankruptcy Matters which shall be pending at the Time of the passing of this Act it shall be lawful for the said Commissioners or Commissioner, at their or his Discretion, to appoint some One of the aforesaid Official Assignees to act with the existing Assignees, if any, under such Commission, and to direct the existing Assignees to pay and deliver over to such Official Assignee or Assignees all Monies, Books, Papers, and Effects whatsoever in their Possession or Custody as such Assignees; and all the Real and Personal Estate of the Bankrupt under such Commission shall immediately on such Appointment vest in such Official Assignee jointly with the existing Assignees, if any, in like Manner as if the Proceedings in the said Bankruptcy Matter had originally been commenced subsequent to the passing of this Act, without Prejudice to any Action or Suit commenced or any Contract entered into by the existing Assignees at the Time of the passing of this Act.

Official Assignee may act until Creditors Assignee appointed.

May sell the Property, if Commissioner so order, and make Allowance to Bankrupt for his Support.

Property vested in Official Assignee to go to his Successor.

XXXIV. And be it enacted, That until an Assignee shall be chosen by the Creditors of any Bankrupt the Official Assignee, if nominated by the said Commissioners or Commissioner, shall be enabled to act, and shall be deemed to be to all Intents and Purposes a sole Assignee of the Property of such Bankrupt, and, if the said Commissioners or Commissioner shall so order, may sell or otherwise dispose of such Property or any Part thereof, and make such Allowance out of the Property of such Bankrupt for the Support of himself and his Family as the said Commissioners or Commissioner shall direct; and the Property vested in any Official Assignee, alone or jointly with such Assignee chosen by the Creditors, shall not remain in such Official Assignee alone or jointly with such Assignee chosen by the Creditors if such Official Assignee shall resign or be removed from his Office, nor in the Heirs, Executors, or Administrators of such Official Assignee, nor in the surviving Assignee alone in the Case of the Death of such Official Assignee, but all such Property shall in every such Case go to and be vested in the Successors in Office of such Official Assignee, alone or jointly with the Assignee chosen by the Creditors (if any), as the Case may be.

To exempt Official Assignee from

XXXV. And be it enacted, That no Official Assignee shall be deemed personally responsible or liable for any Act done by him,

personal Responsibility.

or by his Order or Authority, in the Execution of his Duty as such Official Assignee, by reason of the Petitioning Creditor's Debt, Trading, and Act of Bankruptcy upon which the Adjudication of Bankruptcy under the Commission shall have been grounded, or of any or either of such Matters, being insufficient to support such Adjudication.

Debtor and Creditor Account to be furnished by Official Assignee to Creditors Assignee before Dividend.

XXXVI. And be it enacted, That, Fourteen Days before a Dividend shall be advertised under any Bankrupt's Estate, there shall be sent by the Official Assignee to each Creditor's Assignee of such Estate a Debtor and Creditor Account between the Official Assignee and such Estate, showing also the Monies remaining uncollected under such Estate, and the Cause of such Monies remaining uncollected, a Copy of which Account shall be delivered to the Bankrupt, or to any Creditor who shall apply for the same, and have proved or claimed a Debt under such Commission, upon his applying for the same to the Official Assignee, and paying such Sum, not exceeding Two Shillings and Sixpence, as shall be settled by the said Commissioners.

Remuneration to Official Assignee.

XXXVII. And be it enacted, That it shall be lawful for the said Commissioners or Commissioner before whom any Person shall be adjudged a Bankrupt, or who shall appoint an Official Assignee under the Power herein-before given for that Purpose, to order and allow to be paid out of the Bankrupt's Estate to the Official Assignee thereof, as a Remuneration for his Services, such Sum of Money as shall appear to such Commissioner, upon Consideration of the Amount of the Bankrupt's Property, and the Nature of the Duties to be performed by such Official Assignee, to be just and reasonable; provided, however, that such Remuneration shall always be made by way of Per-centage on the total Amount of the Monies realized.

Pay, Half Pay, and Pensions of Bankrupts to be applicable for the Benefit of Creditors.

XXXVIII. And be it enacted, That the Commissioners of Bankrupt, or One of them, may order such Portion of the Pay, Half Pay, Salary, Emolument, or Pension of any Bankrupt as on Communication from the said Commissioner to the Secretary of War or the Lords Commissioners of the Admiralty, or the Commissioners of the Customs or Excise, or the Chief Officer of the Department to which such Bankrupt may belong or may have belonged, or under which such Pay, Half Pay, Salary, Emolument, or Pension may be enjoyed by such Bankrupt, or to the Court of Directors of the *East India* Company, they respectively may, under their Hands, or under the Hand of their

respective

respective Chief Secretary or other Chief Officer for the Time being, consent to in Writing to be paid to the Official Assignee, in order that the same may be applied in Payment of the Debts of such Bankrupt; and, such Order and Consent being lodged in the Office of Her Majesty's Paymaster General, or of the Secretary of said Court of Directors, or of any other Officer or Persons appointed to pay or paying any such Half Pay, Salary, Emolument, or Pension, such Portion of the said Pay, Half Pay, Salary, Emolument, or Pension as shall be specified in such Order and Consent shall be paid to such Official Assignee, until the said Commissioners or Commissioner shall make Order to the contrary.

Audits and Dividends to be had and made whenever the Commissioner thinks fit after the Time appointed for the Bankrupt's last Examination

XXXIX. And be it enacted, That it shall be lawful for the Commissioners authorized to act in the Prosecution of any Commission of Bankrupt, or One of them, whenever such Commissioners or Commissioner shall think fit, at or after the Sitting appointed for the last Examination of the Bankrupt named in such Commission, to audit the Assignees Accounts, and to make a Declaration of Dividend under such Commission, subject nevertheless to such Advertisement, and such other Provisions relating to such Audits and Dividends, as are now required in respect of Audits and Dividends under Bankrupts Estates, except such Provisions as relate to the Limitation of Time in any Manner respecting such Audits and Dividends or the Appointment thereof.

Commissioner may order Three Months Wages or Salary to Clerks or Servants.

XL. And be it enacted, That when any Bankrupt under a Commission issued after the Commencement of this Act shall have been indebted at the Time of issuing the Commission against him to any Servant or Clerk of such Bankrupt in respect of the yearly or other Wages or Salary of such Servant or Clerk, it shall be lawful for the Commissioners authorized to act in the Prosecution of such Commission, or One of them, upon Proof thereof, to order so much as shall be so due as aforesaid, not exceeding Three Months Wages or Salary, and not exceeding Thirty Pounds, to be paid to such Servant or Clerk, out of the Estate of such Bankrupt; and such Servant or Clerk shall be at liberty to prove under the Commission for any Sum exceeding such last-mentioned Amount.

Commissioner may order Wages not exceeding 40*s.* to Labourer or Workman.

XLI. And be it enacted, That when any Bankrupt under a Commission issued after the Commencement of this Act shall have been indebted at the Time of issuing the Commission against him to any Labourer or Workman of such Bankrupt in respect of the Wages or Labour of such Labourer or Workman, it shall be lawful for the Commis-

Commissioners authorized to act in the Prosecution of such Commission, or One of them, upon Proof thereof, to order so much as shall be so due as aforesaid, not exceeding Forty Shillings, to be paid to such Labourer or Workman out of the Estate of such Bankrupt; and such Labourer or Workman shall be at liberty to prove under the Commission for any Sum exceeding such last-mentioned Amount.

Search Warrants may be granted.

XLII. And be it enacted, That in all Cases where it shall be made to appear to the Satisfaction of the Commissioners authorized to act in the Prosecution of any Commission of Bankrupt, or One of them, that there is Reason to suspect and believe that Property of any Bankrupt is concealed in any House, Premises, or other Place, not belonging to such Bankrupt, such Commissioners or Commissioner are and is hereby directed and authorized to grant a Search Warrant in the Form or to the Effect in Schedule (H.) hereunto annexed, to any Person appointed by such Commissioners or Commissioner; and it shall be lawful for such Person to execute such Warrant according to the Tenor thereof, and such Person shall be entitled to the same Protection as is allowed by Law in Execution of a Search Warrant for Property reputed to be stolen or concealed.

In Cases of Member of a Firm being bankrupt, Commissioners, upon Application, may authorize Actions or Suits in Name of the Assignee of the Bankrupt and the remaining Partner. Partner to have Notice of such Application, and may show Cause against it. Commissioner may direct Partner to have Part of Proceeds.

XLIII. And be it enacted, That if any Person adjudged bankrupt after the Commencement of this Act shall at the Time of his Bankruptcy be a Member of a Firm, it shall be lawful for the said Commissioners of Bankrupt, or One of them, to authorize the Assignee, upon his Application, to commence or prosecute any Action at Law or Suit in Equity, in the Name of such Assignee and of the remaining Partner or Partners, against any Debtor of the Partnership; and such Judgment, Decree, or Order may be obtained therein as if such Action or Suit had been instituted with the Consent of such Partner; and if such Partner or Partners shall execute any Release of the Debt or Demand for which such Action or Suit is instituted, such Release shall be void; provided that every such Partner shall have Notice given him of such Application, and be at liberty to show Cause against it, and if no Benefit is claimed by him by virtue of the said Proceedings shall be indemnified against the Payment of any Costs in respect of such Action or Suit, in such Manner as such Commissioners or Commissioner, upon his Application, shall direct; and that it shall be lawful for such Commissioners or Commissioner, upon the Application of such Partner, to direct that he may receive so much of the Proceeds of such Action or Suit as such Commissioners or Commissioner shall direct.

XLIV. And

XLIV. And be it enacted, That if any Person adjudged bankrupt after the Commencement of this Act shall not before Three of the Clock upon the Day limited for the Surrender of such Bankrupt, or at the Hour and upon the Day allowed him for finishing his Examination, after Notice thereof in Writing to be left at the usual or last known Place of Abode or Business of such Person, or personal Notice in case such Person be then in Prison, and Notice given in the *Dublin Gazette* of the issuing of the Commission, and of the Sittings of the Commissioners authorized to act in the Prosecution of the Commission against him, surrender himself to such Commissioners, or One of them, and sign or subscribe such Surrender, and submit to be examined before such Commissioners, or One of them, from Time to Time, upon Oath, or if any such Bankrupt upon such Examination shall not discover all his Real and Personal Estate, and how, and to whom, upon what Consideration, and when he disposed of, assigned, or transferred any of such Estate, and all Books, Papers, and Writings relating thereto, (except such Part as shall have been really and *bonâ fide* before sold or disposed of in the way of his Trade, or laid out in the ordinary Expenses of his Family,) or if any such Bankrupt shall not upon such Examination deliver up to the said Commissioners all such Part of such Estate, and all Books, Papers, and Writings relating thereunto, as shall be in his Possession, Custody, or Power, (except the necessary Wearing Apparel of himself, his Wife and Children,) or if any such Bankrupt shall remove, conceal, or embezzle any Part of such Estate to the Value of Ten Pounds or upwards, or any Books of Account, Papers, or Writings relating thereto, with Intent to defraud his Creditors, every such Bankrupt shall be deemed guilty of Felony, and be liable to be transported for Life, or for such Term not less than Seven Years as the Court before which he shall be convicted shall adjudge, or shall be liable to be imprisoned, with or without hard Labour, in any Common Gaol, Penitentiary House, or House of Correction, for any Term not exceeding Seven Years.

Bankrupt not surrendering and submitting to be examined, or making Discovery of his Estate and Effects, or not delivering up his Estate, Books, &c., or concealing, &c. to the Value of 10*l.*, guilty of Felony, and liable to Transportation or Imprisonment, with or without hard Labour.

XLV. And be it enacted, That the Commissioners authorized to act in the Prosecution of any Commission of Bankrupt, or One of them, shall have Power, as often as such Commissioners or Commissioner shall think fit, from Time to Time, to enlarge the Time for the Bankrupt named in such Commission surrendering himself for such Time as such Commissioners or Commissioner shall think fit, so as every such Order be made Six Days at least before the Day on which such Bankrupt was bound to surrender himself; and the said Commissioners or Commissioner shall also have Power, at the Time appointed for the last Examination of a Bankrupt, or any Enlargement or Adjournment thereof, to order that said Bankrupt shall be free from Arrest or Imprisonment for such Time not exceeding Three Months

Commissioner may enlarge the Time for the Bankrupt surrendering himself.

Commissioner may order that Bankrupt shall be free from Arrest for Three Months after

final Examination.

Months as such Commissioner shall from Time to Time, by Endorsement upon the Summons of such Bankrupt, appoint; and if any Officer shall detain any such Bankrupt after he shall have shown such Summons and Endorsement to him such Officer shall forfeit to such Bankrupt, for his own Use, the Sum of Five Pounds for every Day he shall detain such Bankrupt, to be recovered by Action of Debt in any Court of Record at *Dublin* in the Name of such Bankrupt, with full Costs of Suit.

Bankrupt destroying or falsifying any of his Books, &c., or making false Entries, guilty of a Misdemeanor, and liable to Imprisonment, with or without hard Labour.

XLVI. And be it enacted, That if any Bankrupt shall after an Act of Bankruptcy committed, or in contemplation of Bankruptcy or Insolvency, or with Intent to defeat the Object of this or any other Statute relating to Bankrupts, and after the Commencement of this Act, have destroyed, mutilated, altered, or falsified any of his Books, Papers, Writings, or Securities, or made or been privy to the making of any false or fraudulent Entry in any Book of Account or other Document, with Intent to defraud his Creditors, every such Bankrupt shall be deemed to be guilty of a Misdemeanor, and, being convicted thereof, shall be liable to be imprisoned in any Common Gaol or House of Correction for any Term not exceeding Three Years, with or without hard Labour.

Bankrupt within Three Months of his Bankruptcy having obtained Goods on Credit under false Pretence, or removing, concealing, &c. Goods so obtained, guilty of a Misdemeanor.

XLVII. And be it enacted, That if any Bankrupt shall within Three Months next preceding his Bankruptcy, and after the Commencement of this Act, under the false Colour and Pretence of carrying on Business and dealing in the ordinary Course of Trade, have obtained on Credit from any other Person any Goods or Chattels, with Intent to defraud the Owner thereof, or if any Bankrupt shall within the Time aforesaid, with such Intent, have removed, concealed, or disposed of any Goods or Chattels so obtained, knowing them to have been so obtained, every such Person so offending shall be deemed to be guilty of a Misdemeanor, and, being convicted thereof, shall be liable to Imprisonment for any Term not exceeding Two Years, with or without hard Labour.

Bankrupt arrested under Warrant from Commissioner may be committed.

XLVIII. And be it enacted, That it shall be lawful for either of the said Commissioners, by any Warrant under his Hand and Seal authorizing the Person therein named to apprehend and arrest any Bankrupt for disobeying the Summons of the said Commissioners or either of them, to order and direct that such Bankrupt when arrested shall be committed to and detained in such Prison as the said Commissioners shall think fit, there to remain, without Bail, until he shall (when so required) submit himself to One of the said Commissioners to be sworn, and full Answers make to his Satisfaction to such Questions as he shall put to him, and sign and subscribe such Examination.

XLIX. And

XLIX. And be it enacted, That in any Warrant of Committal of any Person by the said Commissioners for refusing to answer any Question, or for not fully answering to the Satisfaction of the said Commissioners, or for refusing to sign and subscribe his Examination, it shall not be necessary to set forth or specify any such Questions, nor any Part of the Examination of the Person so committed, but it shall be sufficient to refer in the said Warrant to the Examination or Deposition of the Person committed as remaining on the File of Proceedings, and to specify in said Warrant the precise Date of the said Examination or Deposition so referred to; provided, however, that in every Case in which any Person shall be so committed for refusing to answer, or for not fully answering any Question put to him, every such Question shall be specified in the Examination or Deposition of the Person committed remaining on the File of Proceedings, and so referred to as aforesaid; and provided also, that a Copy of the said Examination or Deposition so referred to shall be delivered personally to the Person committed within Sixteen Hours next after his actual Committal to Prison; and in default of said Copy being so delivered the Person committed shall be discharged from Custody, either by the said Commissioners, or by the Court or Judge before whom such Person may be brought by Habeas Corpus, with such Costs, if any, as said Commissioners, Court or Judge, may deem just; and, save as herein above provided, no Person shall be discharged from such Custody for mere Matter of Form, but upon the Merits only; and any Warrant for unsatisfactory answering shall be in the Form or to the Effect in Schedule (E.) to this Act annexed; and any Warrant for refusing to answer, or for being guilty of any Riot or Disturbance in any Court held by such Commissioners, or for interrupting in such Court the said Commissioners or Commissioner in the Exercise of their or his Duty, shall be respectively in the Forms or to the Effect in Schedules (F.) and (G.) respectively; and every Messenger or other Person against whom any Action shall be brought for anything done in executing any Warrant of the said Commissioners may plead the General Issue, and give the said Warrant and the special Matter in Evidence: Provided also, that if any Person so committed shall sue forth any Writ of Habeas Corpus in order to be discharged from such Commitment, it shall be lawful for the Court or Judge before whom such Person shall be brought (if thereto required by the Person committed, or by the Assignee of the Bankrupt's Estate,) to inspect and consider the whole of the Examination of such Person so referred to as aforesaid, and if it shall appear from the whole Examination that the Answer or Answers of the Person committed is or are satisfactory, such Court or Judge shall and may order the Person so committed to be discharged.

Warrant of Committal for unsatisfactory answering or refusing to answer need not specify Questions.

Copy of the Examination to be furnished to the Person committed.

L. And

Obstructing the Messenger, &c., a Misdemeanor.

L. And be it enacted, That if any Person shall knowingly and wilfully resist, hinder, or obstruct any Messenger of the said Commissioners in the Execution of his Duty as such Messenger, every such Person so offending shall be deemed guilty of a Misdemeanor, and, being thereof duly convicted, shall be liable to such pecuniary Fine and Imprisonment, with or without hard Labour, as the Court before which such Conviction shall be had may judge fit.

Commissioner may order Release of Bankrupt who may be in Prison at Time of obtaining Protection.

LI. And whereas it occasionally happens that Persons in Prison for Debt who have been adjudged Bankrupts, and who have surrendered under the Commission issued against them, are nevertheless detained in Prison during the Proceedings under the Commission, which occasions great Inconvenience, and it also occasionally happens that Bankrupts whose Certificates have been refused are taken in Execution by Creditors who have not proved their Debts under the Commission, and are detained in Prison, and it is expedient to empower the said Commissioners of Bankrupt to release such Persons, if they shall think fit: Be it enacted, That where any Person has been adjudged bankrupt, and has surrendered under the Commission issued against him and obtained his Protection from Arrest, pursuant to the Practice in Bankruptcy, if such Person shall be in Prison for Debt at the Time of his obtaining such Protection, the Commissioners or Commissioner acting under such Commission may order his immediate Release from Prison, either absolutely or upon such Condition as such Commissioner shall think fit: Provided always, that such Release shall in nowise affect any Rights of the Creditor at whose Suit he may be in Prison against the Debtor, except the Right of detaining him in Prison whilst protected from Imprisonment by Order of the Commissioners or Commissioner.

Commissioner may order Release of Bankrupt in execution under a Ca. Sa., after a certain Term of Imprisonment.

LII. And be it enacted, That if any Bankrupt whose last Examination shall have been adjourned *sine Die*, or whose Certificate shall have been suspended or refused, shall be in Execution or taken in Execution under a Capias ad satisfaciendum at the Suit of any Creditor who might have proved under the Commission, and be detained in Prison, the said Commissioners or Commissioner may order his Release, after he shall have undergone such Term of Imprisonment, not exceeding One Year, as to such Commissioners or Commissioner may seem a sufficient Punishment for such Offences as he may appear to such Commissioner to have been guilty of.

Prosecution against Bankrupt for any Offence under this Act may be

LIII. And be it enacted, That it shall be lawful for the Commissioners or Commissioner authorized to act in the Prosecution of any Commission of Bankrupt issued after the Commencement of this Act, upon the Request in Writing of at least Three Creditors (not being Partners)

Partners) who shall have respectively proved Debts of the Amount of Fifty Pounds or upwards under such Commission, to direct the Assignees of the Bankrupt named in such Commission, if he shall be suspected of or charged with the Commission of any of the Offences specified in this Act, to institute and carry on a Prosecution of such Bankrupt for such Offence, and to order the Costs and Expenses to be incurred in such Prosecution to be paid out of the Estate and Effects of the said Bankrupt, and such Assignees shall thereupon institute and carry on such Prosecution; and in case the said Assignees shall refuse or neglect to institute and carry on to Conviction such Prosecution, having no lawful or reasonable Impediment made known to and allowed by the said Commissioner or Commissioners, the said Commissioner or Commissioners may order the same to be instituted and carried on by the Creditors making such Request as aforesaid, as the said Commissioner or Commissioners may think fit.

ordered by the Commissioner acting in the Prosecution of the Commission.

LIV. And be it enacted, That every Bankrupt who shall have duly surrendered, and in all things conformed himself to the Laws in force at the Time of issuing the Commission against him, shall be discharged from all Debts due by him when he became bankrupt, and from all Claims and Demands made proveable under the Commission, in case he shall obtain a Certificate of such Conformity, so signed and allowed and subject to such Provisions as herein-after mentioned; and no Certificate of such Conformity by any such Bankrupt shall release or discharge such Bankrupt from such Debts, Claims, or Demands, unless such Certificate shall be obtained, allowed, and conformed according to such Provisions: Provided always, that no such Certificate shall release or discharge any Person who was Partner with such Bankrupt at the Time of his Bankruptcy, or was then jointly bound or had made any joint Contract with such Bankrupt; provided also, that nothing herein contained shall affect the Validity of any Certificate allowed by the Lord Chancellor previous to the Commencement of this Act.

Bankrupt may be discharged by Certificate of Conformity in manner herein-after prescribed.

Discharge of Bankrupt not to release or discharge a Partner or Person jointly bound.

LV. Provided always, and be it enacted, That no Bankrupt shall be entitled to such Certificate, and that any such Certificate, if obtained, shall be void, if such Bankrupt shall have lost by any Sort of gaming or wagering in One Day Twenty Pounds, or within One Year next preceding his Bankruptcy Two hundred Pounds, or if he shall, within One Year next preceding his Bankruptcy, have lost Two hundred Pounds by any Contract for the Purchase or Sale of any Government or other Stock, where such Contract was not to be performed within One Week after the Contract, or where the Stock bought or sold was not actually transferred or delivered in pursuance of such Contract, or if such Bankrupt shall after an Act of Bankruptcy,

Bankrupt not entitled to Certificate if he has lost by gaming 20*l.* in One Day, or 200*l.* within One Year, or 200*l.* by Stock Jobbing, or concealed or destroyed Books, &c., or made fraudulent Entries.

or concealed any Property, or permitted fictitious Debts to be proved.

ruptcy, or in contemplation of Bankruptcy, or with Intent to defeat the Object of this or any other Statute relating to Bankrupts, have concealed, destroyed, altered, mutilated, or falsified, or caused to be concealed, destroyed, altered, mutilated, or falsified, any of his Books, Papers, Writings, or Securities, or made or been privy to the making any false or fraudulent Entry in any Book of Account or other Document, with Intent to defraud his Creditors, or shall have concealed any Part of his Property, or if any Person having proved a false Debt under the Commission, such Bankrupt being privy thereto or afterwards knowing the same, shall not have disclosed the same to his Assignees within One Month after such Knowledge.

Mode of obtaining Certificate of Conformity.

LVI. And be it enacted, That it shall be lawful for the Commissioners authorized to act in the Prosecution of any Commission of Bankrupt heretofore issued or hereafter to be issued, or One of them, on the Application of the Bankrupt named in the Commission, to appoint a public Sitting for the Allowance of such Certificate to the Bankrupt named in such Commission, (whereof and of the Purport whereof Twenty-one Days Notice shall be given in the *Dublin Gazette* and to the Solicitor of the Assignees,) and at such Sitting any of the Bankrupt's Creditors may be heard against the Allowance of such Certificate, but it shall not be requisite for such Certificate to be signed by any of the Creditors of such Bankrupt; and such Commissioners or Commissioner, having regard to the Conformity of the Bankrupt to the Laws relating to Bankrupts, and to the Conduct of the Bankrupt as a Trader before as well as after his Bankruptcy, shall judge of any Objection either then made or appearing on the Proceedings against allowing such Certificate, and either find the Bankrupt entitled thereto, and allow the same, or refuse or suspend the Allowance thereof, or annex such Conditions thereto as the Justice of the Case may require: Provided always, that no Certificate shall be such Discharge unless such Commissioners or Commissioner shall, in Writing under Hand and Seal, certify to the Lord High Chancellor of *Ireland* that such Bankrupt has made a full Discovery of his Estate and Effects, and in all things conformed as aforesaid, and that there does not appear any Reason to doubt the Truth or Fulness of such Discovery, and unless the Bankrupt make Oath in Writing that such Certificate was obtained fairly and without Fraud, and unless the Allowance of such Certificate shall, after such Oath, be confirmed by the Lord Chancellor, against which Confirmation any of the Creditors of the Bankrupt may be heard.

Certificate not to be a Discharge unless the Commissioner certify a full Conformity.

Contracts or Securities to induce Creditors to forbear Opposition to be void.

LVII. And be it enacted, That any Contract or Security made or given by any Bankrupt or other Person unto or in trust for any Creditor, or for securing the Payment of any Money due by such Bankrupt at his Bankruptcy, as a Consideration or with Intent to

persuade such Creditor to forbear opposing or to consent to the Allowance or Confirmation of such Certificate, shall be void, and the Money thereby secured or agreed to be paid shall not be recoverable, and the Party sued on such Contract or Security may plead the General Issue, and give this Act and the special Matter in Evidence; and the Certificate obtained by any Bankrupt who shall have made or given or been party or privy to the making or giving any such Contract or Security shall be absolutely null and void.

Penalty for obtaining Money, Goods, &c. as an Inducement to forbear Opposition or consenting to Allowance or Confirmation of Certificate.

LVIII. And be it enacted, That if any Creditor of a Bankrupt shall obtain any Sum of Money, or any Goods, Chattels, or Security for Money, from any Person, as an Inducement for forbearing to oppose or for consenting to the Allowance or Confirmation of the Certificate of such Bankrupt, every such Creditor so offending shall forfeit and lose for every such Offence the Treble Value or Amount of such Money, Goods, Chattels, or Security so obtained, (as the Case may be,) to be recovered as herein-after provided; and the Certificate obtained by any Bankrupt who shall have given or caused to be given, or been party or privy to giving, any Sum of Money, or any Goods, Chattels, or Security for Money, for any of the Purposes above mentioned, shall be absolutely null and void.

Bankrupt having obtained his Certificate free from Arrest.

Certificate to be Evidence of the Bankruptcy and Proceedings.

Bankrupts in Execution may be ordered to be discharged.

LIX. And be it enacted, That any Bankrupt who shall, after such Certificate shall have been confirmed, be arrested, or have any Action brought against him, for any Debt, Claim, or Demand proveable under the Commission against such Bankrupt, shall be discharged, upon entering an Appearance, and may plead in general that the Cause of Action accrued before he became bankrupt, and may give this Act and the special Matter in Evidence; and such Bankrupt's Certificate, and the Confirmation thereof, shall be sufficient Evidence of the Trading, Bankruptcy, Commission, and other Proceedings precedent to the obtaining such Certificate; and if any such Bankrupt shall be taken in Execution or detained in Prison for such Debt, Claim, or Demand, where Judgment has been obtained before the Confirmation of his Certificate, it shall be lawful for any Judge of the Court wherein Judgment has been so obtained, on such Bankrupt producing his Certificate, to order any Officer who shall have such Bankrupt in Custody by virtue of such Execution to discharge such Bankrupt, without exacting any Fee, and such Officer shall be hereby indemnified for so doing.

Bankrupt not liable upon any Promise to pay Debt discharged by Certifi-

LX. And be it enacted, That no Bankrupt, after such Certificate shall have been confirmed, shall be liable to pay or satisfy any Debt, Claim, or Demand for which he shall have been discharged by virtue of such Certificate, or any Part of such Debt, Claim, or Demand,

cate, unless such Promise be in Writing.

Demand, upon any Contract, Promise, or Agreement made or to be made after the suing out of said Commission, unless such Contract, Promise, or Agreement be made in Writing, signed by the Bankrupt, or by some Person thereto lawfully authorized in Writing by such Bankrupt.

Allowance to Bankrupts.

LXI. And be it enacted, That every Bankrupt who shall have obtained his Certificate under any Commission issued after the Commencement of this Act, if the net Produce of his Estate in hand shall by any Order of Dividend (with or without prior Dividend) pay the Creditors who before or at the Time of making such Order have proved Debts under the Commission Ten Shillings in the Pound, shall be allowed and paid Five Pounds *per Centum* out of such Produce, provided such Allowance shall not exceed Four hundred Pounds; and every such Bankrupt, if such Produce shall, with or without prior Dividend, pay such Creditors Twelve Shillings and Sixpence in the Pound, shall be allowed and paid as aforesaid Seven Pounds Ten Shillings *per Centum*, provided such Allowance shall not exceed Five hundred Pounds; and every such Bankrupt, if such Produce shall, with or without prior Dividend, pay such Creditors Fifteen Shillings in the Pound or upwards, shall be allowed and paid as aforesaid Ten Pounds *per Centum*, provided such Allowance shall not exceed Six hundred Pounds; and provided always, that such Allowance as aforesaid shall not be payable to any Bankrupt until after the Expiration of Twelve Months from the Date of the Commission, and such Allowance shall then be payable only in the event of the Dividends paid to the Creditors who at any Time before the Expiration of such Twelve Months shall have proved Debts under the Commission being of the requisite Amount in that Behalf aforesaid, and shall not be payable to any Bankrupt who shall not have been a Trader for at least Twelve consecutive Months before the Date of the Commission; and if at the Expiration of Twelve Months from the Date of the Commission the Dividends paid as aforesaid shall not amount to Ten Shillings in the Pound, or if no Dividend shall have been ordered or paid, it shall be lawful for the Commissioners or Commissioner to allow any Bankrupt, whether he shall or shall not have been a Trader for Twelve Months before the Date of the Commission, so much as the Assignees and Commissioners shall think fit, not exceeding Three Pounds *per Centum*, or Three hundred Pounds.

Allowance not payable till Twelve Months after Date of Commission, and not to be payable to any Bankrupt who has not been a Trader for 12 Months.

Allowance, if at Expiration of 12 Months Dividend paid be under 10*s.*, &c.

One Partner may receive Allowance, though others not entitled.

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

LXIII. And

Interest upon Debts when proveable, though not reserved or agreed for.

LXIII. And be it enacted, That upon all Debts or Sums certain whereupon Interest is not reserved or agreed for, overdue at the issuing of the Commission of Bankruptcy, and proveable thereunder, and payable at a certain Time or otherwise, the Creditors shall be entitled to prove for Interest, to be calculated to the Date of the Commission of Bankruptcy, at a Rate not exceeding the current Rate of Interest, from the Time when such Debts or Sums certain were payable, if such Debts or Sums be payable by virtue of some written Instrument at a certain Time, or, if payable otherwise, then from the Time when Demand of Payment shall have been made in Writing, so as such Demand shall give Notice to the Debtor that Interest will be claimed from the Date of such Demand until the Time of Payment.

Duplicate Copy of Schedule deposited with the Registrars by Bankrupt before final Examination, and open to Inspection.

LXIV. And be it enacted, That at least Eight Days before the Day appointed for the final Examination of any Bankrupt he shall, in addition to the Copy of his Schedule which he shall have furnished to the Assignee, furnish to and deposit with the Registrars of the Court of Bankruptcy a Duplicate Copy of said Schedule; and such Copy shall be produced by the said Registrars, at such Time and Place as the said Commissioners shall by any General Rule or Order direct, to any Person applying for Liberty to peruse same, and paying to the said Registrars for such Liberty a Fee of One Shilling.

When Proceedings cease, File to be deposited with the Registrars.

LXV. And be it enacted, That when and so soon as the Proceedings under any Commission shall cease, whether by a final Dividend being struck, or the Commission being superseded, or otherwise, the Assignees and Agent to such Commission, or such of them as shall have the Custody of the same, shall thereupon deposit with the Registrars of the said Court of Bankruptcy the File of Proceedings under such Commission, and such File shall from Time to Time thereafter be produced for Inspection or Perusal to said Assignees and Agent, or to such other Person only as the said Commissioners or Commissioner shall order or direct; and for every such Production thereof the said Registrars shall be entitled to a Fee of One Shilling; and said Registrars and each of them shall be responsible for the safe keeping of all Files so deposited with them.

Registrars of Court of Bankruptcy to hold Office during good Behaviour.

LXVI. And be it enacted, That the Registrars of the Court of Bankruptcy, and their Successors, who shall be from Time to Time appointed by the Lord Chancellor as a Vacancy shall arise, shall continue in their respective Offices so long as they shall respectively behave themselves well, and shall not be removed, except by

Writing under the Hand of the Lord Chancellor, on sufficient Cause therein specified.

Commissioners may permit Mortgagees to bid at Sale.

LXVII. And be it enacted, That the said Commissioners or Commissioner of Bankrupt may, in their or his Discretion, permit any Mortgagee to bid at any Sale of the mortgaged Premises which shall take place before the said Commissioners or Commissioner.

Goods seized under Attachments shall be delivered up.

LXVIII. And be it enacted, That all Goods and Chattels of any Bankrupt which shall at the Date and issuing of the Commission against him be under Seizure by virtue of any Attachment shall, upon Demand, be delivered up by all Persons having the Custody of same to any Person appointed by said Commissioners or either of them, or to the Assignee or Assignees of the Bankrupt's Estate.

Before whom Affidavits are to be sworn.

LXIX. And be it enacted, That all Affidavits to be made or used in Matters of Bankruptcy, or under or by virtue of any Statute relating to Bankrupts, or of this Act, shall and may be sworn before the Commissioners of Bankrupt, or One of them, or before either of the Registrars of the Court of Bankruptcy in *Ireland*, or before any Master in Ordinary of the High Court of Chancery in *Ireland*, or before the Examiner of any such Master in Ordinary, or before any Master Extraordinary of the High Court of Chancery in *Ireland*, or, in *England* or *Scotland*, before any Commissioner appointed by the Court of Chancery in *Ireland* for taking Affidavits in *England* or *Scotland* or any Part thereof, or before a Magistrate of the County, City, Town, or Place where any such Affidavit shall be sworn, or elsewhere before a Magistrate, and attested by a Notary, or before a *British* Minister, Consul, or Vice Consul.

Rules to be made for regulating the Forms of Proceedings and Practice to be observed in prosecuting Commissions.

LXX. And be it enacted, That it shall be lawful for the Commissioners of Bankrupt, acting together, to make from Time to Time, subject to the Sanction and Confirmation of the Lord Chancellor, General Rules and Orders for regulating the Forms of Proceedings (where not provided for by this Act) and the Practice to be observed in the Prosecution of Commissions of Bankrupt or other Proceedings under this Act, and from Time to Time to amend and vary the same, subject to such Sanction and Confirmation.

Warrants to be under Hand and Seal; and every Summons to be in Writing

LXXI. And be it enacted, That every Warrant issued by any Commissioner authorized to act in the Prosecution of any Commission of Bankrupt shall be under the Hand and Seal of One of the Commissioners acting in the Prosecution of such Commission; and every Summons

Summons issued by any such Commissioner shall be in Writing under the Hand of One of such Commissioners. under the Hand of a Commissioner.

LXXII. And be it enacted, That if in any Case it shall be shown by Affidavit, to the Satisfaction of the Commissioners or Commissioner authorized to act in the Prosecution of any Commission of Bankrupt, by whom, or One of them, any Notice, Order, or Summons shall have been issued, that the Party to whom such Summons is directed is keeping out of the way, and cannot be personally served with such Notice, Order, or Summons, and that due Pains have been taken to effect such personal Service, it shall be lawful for such Commissioners or Commissioner to order, by Indorsement upon such Notice, Order, or Summons, that the Delivery of a Copy of such Notice, Order, or Summons to the Wife or Servant or some adult Inmate of the House or Family of the Party at his usual or last known Place of Abode or Business, and explaining the Purport thereof to such Wife, Servant, or Inmate, shall be equivalent to personal Service; and in every such Case the Service of such Notice, Order, or Summons in pursuance of such Order shall be and be deemed and taken to be of the same Force and Effect to all Intents and Purposes as if a Copy of such Notice, Order, or Summons had been delivered to the Party in Person. How Summons may be served where the Party is keeping out of the way.

LXXIII. And be it enacted, That any Bankrupt or other Person who shall upon any Examination upon Oath or Affirmation before the Commissioners or Commissioner authorized to act in the Prosecution of any Commission of Bankrupt, or in any Affidavit or Deposition or solemn Affirmation authorized or directed by this or any other Act relating to Bankrupts, wilfully and corruptly give false Evidence, or wilfully and corruptly swear or affirm anything which shall be false, being convicted thereof, shall be liable to the Penalties of wilful and corrupt Perjury. Punishment of Persons giving false Evidence, or swearing or affirming anything which shall be false.

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

LXXV. And be it enacted, That all Bills of Fees and Disbursements of any Solicitor or Attorney employed under any Commission of Bankrupt, for Business done under such Employment, shall be taxed and ascertained by the Registrars of the Court of Bankruptcy, or All Bills of Solicitors and Attorneys to be taxed by One of the Registrars of the Court of

Bankruptcy, subject to Review.

or One of them, subject to Review of One of the Commissioners of Bankrupt: Provided always, that so much of such Bills as contain any Charge respecting any Action at Law or Suit in Equity shall be taxed and ascertained by the proper Officer of the Court in which such Business shall have been transacted.

Bills of Auctioneers, Appraisers, Valuers, and Accountants to be settled in the same Manner.

LXXVI. And be it enacted, That all Bills of Charges, Fees, and Disbursements of any Auctioneer, Appraiser, Broker, Valuer, or Accountant employed by any Assignee or Messenger under any Commission of Bankrupt, for Business done under such Employment, shall be settled by the Registrars of the Court of Bankruptcy, or One of them, subject to Review in the same Manner as aforesaid relating to Bills of Solicitors and Attorneys, and the Amount of the Bills so settled, and no more, shall be paid to or recoverable by such Auctioneer, Appraiser, Broker, Valuer, or Accountant.

Power to Commissioner, with Consent of Creditors, to remove Creditors Assignee, and appoint another in his Stead.

LXXVII. And be it enacted, That it shall be lawful for the Commissioners of Bankrupt, or One of them, when he or they shall think fit so to do, upon the Application of any Creditor, to appoint a public Sitting, by Notice in the *Dublin Gazette* requiring the Creditors to attend and vote as to the Removal or Continuance of any Assignee of the Bankrupt's Estate and Effects previously chosen by the Creditors; and at the Sittings so appointed, or any Adjournment thereof, all the Creditors who have proved Debts under the Commission to the Amount of Ten Pounds or upwards shall be entitled to vote, and also any Person authorized by Letter of Attorney from any such Creditor or Creditors, upon Proof, by an Affidavit duly sworn, of the Execution thereof; and in case the major Part in Value of the said Creditors present at such Sitting vote for the Removal of such Assignee, the said Commissioners, or One of them, shall have Power to remove such Assignee, and to proceed to the Choice and Appointment of a new Assignee or Assignees in the Room and Stead of the Assignee or Assignees so removed, in like Manner as if such Assignee had been removed by Order of the Lord Chancellor.

Personal and Real Estate of Bankrupt to vest in the new Assignee by virtue of Appointment. 6 & 7 W. 4. c. 14.

LXXVIII. And be it enacted, That all such and the like Rights and Powers, all such Real and Personal Estate, as are by a certain Act passed in the Sixth Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to amend the Laws relating to Bankrupts in* Ireland, given to or declared to vest in a new Assignee appointed in the Stead of any removed Assignee, shall by virtue of such Choice and Appointment as aforesaid, and without any Deed of Assignment or Conveyance being necessary for that Purpose, be possessed, enjoyed, and vested in the new Assignee

chosen and appointed in the Stead of the Assignee removed by the said Commissioners, except so far as is otherwise provided by this Act; and the Person who has been removed from being Assignee shall be bound to account as fully, and to obey the Orders of the said Commissioners as fully and effectually, and be liable to all the like Pains and Penalties, as if he still continued Assignee.

The removed Assignee shall fully account.

LXXIX. And be it enacted, That whenever, upon the Death or Removal of any Assignee, a new Assignee shall be chosen and appointed, no Action, Suit, or other Proceeding, at Law or in Equity, shall be thereby abated, but the Court in which any Action, Suit, or Proceeding shall be depending shall and may, upon the Suggestion of such Death or Removal and new Choice, allow the Name or Names of the new Assignee or Assignees to be substituted in the Place of the former, and such Action, Suit, or Proceeding shall be prosecuted or carried on by or against and in the Name or Names of the said new Assignee or Assignees, in the same Manner as if he or they had originally been a Party or Parties thereto.

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

LXXX. And be it enacted, That it shall be lawful for the Commissioners of Bankrupt to order when, and by whom, and to whom the Costs of any Proceedings had or taken in the Court of Bankruptcy, or of any Matter therein, or of any Proceedings under or in pursuance of any Order of the said Commissioners, shall be paid; and the Commissioner may order, if he think fit, that any Person or Witness apprehended or brought up under any Warrant of the Commissioners or either of them shall pay the Costs of and incident to apprehending him and bringing him up, and that he be detained in Custody till the same shall have been paid, or till he be discharged by Order of the said Commissioner or of some other competent Court.

Costs may be awarded by Commissioner of Bankrupt.

Persons brought up by Warrant may be ordered to pay the Costs of bringing them up.

LXXXI. And be it enacted, That all Orders of the said Commissioners of Bankrupt or either of them, whereby any Sum of Money, or any Costs, Charges, or Expenses, shall be payable, shall and may be enforced as if the same were Orders of the High Court of Chancery in *Ireland* by Writs sued out of the said Court of Chancery, and returnable therein in such Form as Writs used to enforce Decrees or Orders of the said Court of Chancery, or as near thereto as may be, or in such Form as the Lord Chancellor shall from Time to Time think fit to order; and the Execution of such Writs shall be enforced in such and the same Manner as the Execution of Writs of Execution is now enforced, or as near thereto as the Circumstances of the Cases will admit.

Orders of Commissioners of Bankrupt for Payment of Money or Costs to be enforced by Writs out of Chancery.

LXXXII. And

Persons capable of giving Evidence respecting Trading or Act of Bankruptcy, or suspected of having Bankrupt's Property, and being in Prison, may be brought for Examination under Warrant from Commissioners of Bankrupt.

LXXXII. And be it enacted, That when any Person believed capable of giving any Information concerning the Trading or any Act of Bankruptcy committed by the Person against whom any Commission is issued, or any Person known or suspected to have any of the Estate of a Bankrupt in his Possession, or to be indebted to the Bankrupt, or to be capable of giving Information concerning the Person, Trade, Dealing, or Estate of a Bankrupt, is in Prison or in Custody under any Process, Attachment, Execution, Commitment, or Sentence, the said Commissioners of Bankrupt, or One of them, may, by Warrant under their or his Hand, directed to the Party in whose Custody such Person is confined, cause such Person to be brought before them at any Sitting for Examination, and such Warrant of the said Commissioners, or One of them, shall be lawful Authority for bringing up such Person.

Bankrupts in Custody in England or Scotland or Ireland to be brought before the Commissioners.

LXXXIII. And be it enacted, That whenever any Bankrupt is in Prison or in Custody, in *England*, in *Scotland*, or in *Ireland*, under any Process, Attachment, Execution, Commitment, or Sentence, the said Commissioners, or One of them, may, by Warrant under their or his Hand, directed to the Person in whose Custody such Bankrupt is confined, cause such Bankrupt to be brought before them, or One of them, at any Sitting; and if any such Bankrupt is desirous to surrender, he shall be so brought up, and the Expense thereof shall be paid out of his Estate, and such Warrant of the said Commissioners or Commissioner shall be a lawful Authority for bringing up such Bankrupt.

Depositions, &c. under Commissions may be entered of Record, without Order of Lord Chancellor being necessary.

LXXXIV. And be it enacted, That all or any Part of any Depositions, Proceedings, or other Matters relating to Commissions of Bankruptcy shall, with the Permission in Writing of the said Commissioners of Bankrupt, or One of them, upon the Application or Behalf of any Person interested therein, and on Payment of such Fees as before the passing of this Act were by Law payable for the like Business, without any Petition presented for that Purpose, and without any Order of the Lord Chancellor, be entered of Record in like Manner as same have hitherto been entered of Record upon an Order of the Lord Chancellor made in that Behalf; and on the Production in Evidence of any Instrument so entered of Record, having a Certificate thereon purporting to be signed by the Person heretofore appointed to enter such and the like Proceedings, or by his Deputy, or their Successors, the same shall, without any Proof of such Signature, be received as Evidence of such Instrument having been so entered of Record as aforesaid; and the Fee of One Shilling, and no more, shall be payable to the Person so appointed as aforesaid, and his Successors, for every Search made for Matter so entered of Record as aforesaid.

Certificate of Entry endorsed to be Evidence of the Entry.

Fee of 1*s.* payable on Search for any such Record.

Where Second or other Commission is issued against One or more Partners, Proceedings under Second Commission shall be stayed, and form Part of First Commission, if Chancellor so order.

LXXXV. And be it enacted, That if, after a Commission issued against One or more Members of a Firm, any other Commission or Commissions shall be issued against any other Member or Members of such Firm, immediately after the Adjudication under such other Commission or Commissions, all the Estate, Real and Personal, of such Person or Persons declared bankrupt under such other Commission or Commissions, shall become vested in and transferred to the Assignees under the First Commission or Commissions, in the same Manner as if they had been appointed Assignees under such other Commission or Commissions, according to the Provisions of this Act or any other Act in force concerning Bankrupts, and all separate Proceedings under such other Commission or Commissions shall be stayed, and such other Commission or Commissions shall, without affecting the Validity of the First Commission, be annexed to and form Part of the same: Provided always, that the Lord Chancellor may direct such other Commission or Commissions to be proceeded on either separately or in conjunction with the First Commission.

Three Fifths in Number and Value of Creditors of Bankrupt may accept a Composition.

LXXXVI. And be it enacted, That at any Meeting of Creditors after the Schedule of a Bankrupt shall have been furnished, and placed on the File of Proceedings, (of which Meeting, and of the Purport of which, Notice shall be given as herein-after directed,) if the Bankrupt or his Friends shall make an Offer of Composition or Security for such Composition, which Three Fifths in Number and Value of the Creditors assembled at such Meeting (personally or by some Person authorized to vote by Letter of Attorney), and who shall have proved a Debt amounting to at least Twenty Pounds, shall agree to accept, another Meeting for the Purpose of deciding upon such Offer shall be appointed, whereof such Notice as is herein-after directed shall be given; and if at such Second Meeting Three Fifths in Number and Value of the Creditors then present, or represented by Attorney, and who have proved Debts as aforesaid, shall also agree to accept such Offer, the Lord Chancellor shall and may (upon such Acceptance being testified by them in Writing, and the Acceptance thereof, and that Notice of each of such Meetings was duly given, certified by the said Commissioners of Bankrupt or One of them,) supersede the said Commission.

Mode of voting in deciding upon such Composition.

LXXXVII. And be it enacted, That in deciding upon such Offer as aforesaid any Creditor whose Debt is below Twenty Pounds shall not be reckoned in Number, but the Debt due to such Creditor shall be computed in Value; and if any Creditor shall agree to accept any Gratuity or higher Composition for assenting to such Offer he shall forfeit the Debt due to him, together with such Gratuity or Composition; and the Bankrupt shall (if thereto required) make Oath before

before the Commissioner that there has been no such Transaction between him, or any Person with his Privity, and any of the Creditors, and that he has not used any undue Means or Influence with any of them to obtain such Assent as aforesaid.

How Notice shall be given to the Creditors.

LXXXVIII. And be it enacted, That Notice of each of such Meetings shall be inserted in the *Dublin Gazette* Twenty-one Days before the Day of Meeting; and a Copy of such Notice shall be served Twenty-one Days at least before the Day of Meeting upon every Schedule Creditor, as well as upon every Creditor who has proved a Debt, and who shall be resident in *Dublin* or within Ten Miles thereof, or whose Debt shall amount to One hundred Pounds or upwards, wheresoever resident; and Notice to every Creditor whose Debt shall not amount to One hundred Pounds, and who shall not be resident in *Dublin* or within Ten Miles thereof, shall be given by Advertisement in the *Dublin Gazette* as aforesaid, and by sending, addressed to every such last-mentioned Creditor, by the General Post, pre-paid, a true Copy of each such Notice, Twenty-three Days at least before the Day appointed for such Meeting, the Address and Delivery of which Copies respectively at the Post Office into which the same respectively shall be put being verified by the Affidavit of an Attorney of One of Her Majesty's Courts of Law at *Dublin*, and the Name and Address of the Attorney sending the same being inserted at Foot of every such Copy.

Creditors who have received Notice bound to accept the Composition agreed to,

LXXXIX. And be it enacted, That every Creditor named in the Schedule of the Bankrupt (to whom Notice of each of such Meetings shall have been given in manner herein-before provided), and whether he shall or shall not have proved his Debt under the Commission, shall be bound to accept of such Composition so agreed to.

Any Debtor unable to meet his Engagements with his Creditors, and unable to obtain their Consent to a Deed of Composition, may, with the Concurrence of Two Thirds in Number and Value, petition the Commissioners.

XC. And whereas it is desirable to facilitate Arrangements between Debtors and their Creditors: Be it enacted, That any Debtor unable to meet his Engagements with his Creditors, and unable to obtain the Consent of the whole of his Creditors to any Deed of Composition, may, with the Concurrence of Two Thirds in Number and Value of his Creditors (testified by their signing his Petition), present a Petition to the said Commissioners of Bankrupt, setting forth a full Account of his Debts, and the Consideration thereof, and the Names, Residences, and Occupations of his Creditors, and also a full Account of his Estate and Effects, whether in possession, reversion, or expectancy, and of all Debts and Rights due to or claimed by him, and of all Property, of what Kind soever, held in trust for him, and also setting forth that he is unable to meet his Engagements with his Creditors, and the true Cause of such Inability, and

and that he is unable to obtain the Consent of all his Creditors to a Composition, and setting forth such Proposal as he is able to make for the future Payment or the Compromise of such Debts or Engagements, and that Two Thirds in Number and Value of his Creditors have assented to such Proposal, and praying that such Proposal (or such Modification thereof as by the Majority of his Creditors shall be determined) shall be carried into effect under the Superintendence and Control of the said Commissioners, and that he may in the meantime be protected from Arrest.

Petition to be in Form in Schedule (I.), and supported by Affidavit.

XCI. And be it enacted, That every such Petition shall be in the Form in Schedule (I.), and be filed with the Registrars of the said Court of Bankruptcy, and the Date of filing shall be endorsed thereon, and there shall be filed therewith an Affidavit in the Form in Schedule (K.); and on filing of each of such Documents there shall be paid to the said Registrars a Fee of Five Shillings.

Commissioners privately to examine into Matter of Petition, and if satisfied may allow the same de bene esse, and appoint Meeting of Creditors, and may grant Protection during Examination, and after Allowance de bene esse of Petition.

XCII. And be it enacted, That upon the filing of any such Petition the said Commissioners, or One of them, shall privately examine into the Matter thereof, and for that Purpose shall have Power to summon and examine upon Oath such Petitioning Debtor, or any Creditor concurring in his Petition, or any Witness produced by him, or any Person claiming to be a Creditor of such Petitioning Debtor, or any other Person or Persons whom it shall appear advisable to examine; and if the Commissioner shall be satisfied of the Truth of the several Matters alleged in such Petition, and that the Debts of such Petitioning Debtor have not been contracted by reason of any Manner of Fraud or Breach of Trust, or without reasonable Probability at the Time of Contract of being able to pay the same, or by reason of any Judgment in any Prosecution for Breach of the Revenue Laws, or in any Action for Breach of Promise of Marriage, Seduction, Criminal Conversation, Libel, Slander, Assault, Battery, Malicious Arrest, Malicious Prosecution of a Bankruptcy, or Malicious Trespass, and that such Petitioning Debtor has made a full Disclosure of his Debts and Credits, Estate and Effects, and is desirous of making a *bonâ fide* Arrangement with all his Creditors, and that his Proposal to that Effect is reasonable and proper to be executed under the Direction of the said Commissioners, it shall be lawful for the said Commissioners, or One of them, to allow such Petition *de bene esse*, and in such Case the said Commissioners or Commissioner shall cause Notice of the filing of such Petition, and of the Allowance thereof *de bene esse*, to be advertised in the *Dublin Gazette*, and to direct that a Meeting of all the Creditors of such Petitioning Debtor shall be held, at such Time and Place as the said Commissioners or Commissioner shall appoint, and Notice of such Meeting shall be given to

every such Creditor not less than Twenty-one Days before the same is held, such Notice to be sent or given in manner herein-after directed.

How Notice shall be given to the Creditors.

XCIII. And be it enacted, That Notice of such Meeting shall be inserted in the *Dublin Gazette* Twenty-one Days before the Day of Meeting, and a Copy of such Notice shall be served Twenty-one Days at least before the Day of Meeting upon every Creditor who shall be resident within Ten Miles of the Town or Place where the Petitioning Debtor last carried on Trade or Business, or whose Debt shall amount to One hundred Pounds or upwards, wheresoever resident; and Notice to every Creditor whose Debt shall not amount to One hundred Pounds, and who shall not be resident within Ten Miles of the Place of Business of the Petitioning Debtor, shall be given by Advertisement in the *Dublin Gazette* as aforesaid, and by sending, addressed to every such last-mentioned Creditor, by the General Post, pre-paid, a true Copy of each such Notice, Twenty-three Days at least before the Day appointed for such Meeting, the Address and Delivery of which Copies respectively at the Post Office into which the same respectively shall be put being verified by the Affidavit of an Attorney of One of Her Majesty's Courts of Law at *Dublin*, and the Name and Address of the Attorney sending the same being inserted at Foot of every such Copy.

Commissioner to examine into Matter of Petition.

If Resolution of Creditors not confirmed, Petition shall be dismissed, and Protection cease.

XCIV. And be it enacted, That the said Commissioners, or One of them, both during the Examination into the Matter of the Petition and after the Allowance thereof *de bene esse*, shall have Power to grant such Petitioning Debtor Protection from Arrest for such Time as the said Commissioners or Commissioner shall think fit; and if it shall appear to the said Commissioners or Commissioner, on such Examination into the Matter of the Petition, or at any Time before the Confirmation by the said Commissioners or Commissioner of the Resolution of Creditors, as herein-after provided, that such Petition is within any of the Terms of Disqualification above mentioned, or if the Proposal of the Petitioner, or some Modification thereof, be not agreed to by the required Number of Creditors at the Meetings, and in manner herein provided and approved of, and confirmed by the said Commissioners, or One of them, such Petition shall be dismissed, and any Protection granted to the Petitioner shall thereby cease and determine.

Commissioners may renew Protection, and if Petitioning Debtor be in

XCV. And be it enacted, That the said Commissioners or Commissioner may renew such Protection from Time to Time as they or either of them shall think fit, and if the Petitioning Debtor be in Prison or in Custody for Debt may order his immediate Release,

or may, by Warrant under their or his Hand, directed to the Person in whose Custody such Petitioning Debtor is confined, cause such Petitioning Debtor to be brought before them, or One of them, at any Sitting, or before the Person presiding at any Meeting of the Creditors of such Petitioning Debtor, and the Expense of bringing him up shall be paid out of his Estate; and such Warrant of the said Commissioners or Commissioner shall be a lawful Authority for bringing up such Petitioning Debtor.

Custody may order Release, &c.

XCVI. And be it enacted, That the said Commissioners, or One of them, shall appoint a fit and proper Person, being a Registrar or Official Assignee of the said Court of Bankruptcy, or One of the principal Creditors of the Petitioning Debtor, to preside at any Meeting of the Creditors of the Petitioning Debtor, and to report the Resolutions thereof to the said Commissioners.

Commissioners to appoint a President.

XCVII. And be it enacted, That if at such Meeting of Creditors whereof Notice shall have been given as herein-before directed the major Part in Number and Value, or Nine Tenths in Value or Nine Tenths in Number whose Debts exceed Twenty Pounds, shall personally, or by their Attorneys thereto duly authorized, assent to the Proposal of such Petitioning Debtor or to any Modification thereof, the President shall appoint another Meeting of the Creditors, to be held not earlier than Fourteen nor later than Twenty-eight Days from such First Meeting, of which Second Meeting, and of the Purpose thereof, and of the Place of holding same, Notice in Writing shall be personally served on every Creditor who was not present by himself or his Attorney duly authorized at such First Meeting, Seven clear Days at least before the Day appointed for such Second Meeting: Provided always, that the said Commissioners of Bankrupt, or One of them, may order in any special Case that Service of such Notice at the last Place of Abode or Business of any Creditor shall be deemed good Service.

If at First Meeting major Part in Number and Value, or Nine Tenths in Value, or Nine Tenths in Number, whose Debts exceed 20*l*., assent, another Meeting to be called.

XCVIII. And be it enacted, That if at the Second Meeting of Creditors Three Fifths in Number and Value, or Nine Tenths in Number or Nine Tenths in Value whose Debts exceed Twenty Pounds, present personally or by Attorneys thereto duly authorized, shall agree to accept such Arrangement or Composition as was assented to at the First Meeting, and shall reduce the Terms thereof into Writing, and sign the same, such Resolution or Agreement (subject to such Confirmation as is next herein-after mentioned) shall thenceforth be binding and of full Force as well against the Petitioning Debtor as against all Persons who were Creditors at the Date of his Petition, and who had Notice of the said several Meetings of Creditors:

If at Second Meeting Three Fifths in Number and Value of all the Creditors present agree to accept, &c., Resolution to be binding on all, provided One full Third in Number and Value be present.

ditors: Provided, however, that such Resolution or Agreement shall not be valid unless One full Third in Number and Value of all the Creditors of such Petitioning Debtor were present at such Second Meeting, either in Person or by their Attorneys duly authorized.

Creditors to vote according to Balance due to them on Account fairly stated.

XCIX. And be it enacted, That in all Matters wherein Creditors shall vote, or wherein the Assent or Dissent of Creditors shall be exercised, in pursuance of or in carrying into effect this Act, in relation to any Arrangement between a Debtor and his Creditors, every Creditor shall be accounted such (in Value) in respect of such Amount only as upon an Account fairly stated between the Parties, after allowing the Value of mortgaged Property, and other such available Securities and Liens, as shall appear to be the Balance due; and that all Disputes arising in such Matters concerning any such Amount shall, upon Application duly made in that Behalf, be examined into by the said Commissioners, or One of them, who shall have Power to determine the same, and, if it seem fit, to refer the Examination thereof to an Official Assignee: Provided always, that the Amount in respect of which any such Creditor shall vote in any such Matter shall not be conclusive of the Amount of his Debt for any ulterior Purposes, in pursuance of the Provisions of this Act.

Resolution to be submitted to the Commissioners, and the Commissioners, if they think it reasonable, after hearing Creditors for and against, to approve and confirm the same, and to cause it to be filed, and to grant Certificate of Protection.

C. And be it enacted, That within Fifteen Days next after the passing of such Resolution or Agreement the same shall be submitted to the said Commissioners of Bankrupt, and if the said Commissioners, or One of them, if they or he shall think the same reasonable and proper to be executed, after hearing such Creditors, by themselves, their Counsel or Attorneys, as may desire to be heard, either for or against such Resolution or Agreement, shall approve and confirm the same, and cause it to be filed with the Registrars of said Court of Bankruptcy, and shall grant to the Petitioning Debtor a Certificate of such Approval and Confirmation, and shall from Time to Time endorse on such Certificate a Protection from Arrest, and such Petitioning Debtor shall be free from Arrest at the Suit of any Person being a Creditor at the Date of his Petition, and having had such several Notice or Notices as aforesaid; and any Officer arresting such Petitioning Debtor at the Suit of any such Creditor, and on Sight of such Certificate and Protection not releasing such Petitioning Debtor, shall be liable to such Penalty as is by this or any other Act in force in *Ireland* provided respecting Bankrupts in the like Case: Provided always, that no such Protection shall be valid in favour of any Petitioning Debtor who shall be proved to have been about to abscond from *Ireland*, or who has concealed or is concealing any Part of his Estate or Effects, nor against any Creditor whose Debt is not truly specified in the Petition, nor against any Creditor whose Debt has

has been contracted by reason of any manner of Fraud or Breach of Trust.

Estate to vest in Trustee, if any be appointed.

CI. And be it enacted, That from and after the Date of the Approval and Confirmation of such Resolution or Agreement all the Estate and Effects of the Petitioning Debtor shall vest in the Trustee (if any such shall be appointed) by virtue of such Resolution, as fully as if such Trustee were an Assignee under any Bankruptcy; and every such Trustee may sue and be sued as if he were such Assignee.

Resolution to be enrolled, and Copy of it to be Evidence.

CII. And be it enacted, That such Resolution shall be entered of Record in the Office for the Enrolment of Matters relating to Bankruptcy, and the same, when so enrolled, shall be as effectual, and a certified Copy thereof as admissible in Evidence, as is now a Certificate of Appointment of an Assignee or a certified Copy thereof.

Trustee to file Account every Six Months, or oftener, if required.

CIII. And be it enacted, That every such Trustee shall, once at least in every Six Months, or oftener if the said Commissioners or One of them shall require it, produce to the said Commissioners or Commissioner, on Oath, a full and true Account of all Monies, Property, and Effects of such Petitioning Debtor which have come to his Hands, and of the Disposal thereof; and the said Commissioners or Commissioner shall examine the same, and shall certify the Result of such Examination, and, if need be, order Payment to the Creditors of such Petitioning Debtor, according to the Terms of the Resolution or Agreement.

If Petitioning Debtor has not made a true Discovery, &c., he may be summoned and examined.

CIV. And be it enacted, That if it shall at any Time appear to the said Commissioners or Commissioner, on the Representation of the Trustee or of any Two Creditors, that the Petitioning Debtor has not made a true Discovery of his Estate and Effects, or has not duly accounted for any subsequently acquired Property (if required by the true Intent and Meaning of the Resolution or Agreement), or has wilfully made any false Return of Creditors, it shall be lawful for said Commissioners, or either of them, to summon such Petitioning Debtor, and to examine him upon Oath touching such Matters; and such Summons and Examination shall be enforced in such Manner as the summoning and Examination of Bankrupts.

If any Difficulty arise as to Execution of Resolution, &c., a Special Meeting may be called.

CV. And be it enacted, That in case any Difficulty shall arise in the Execution of the said Resolution or Agreement it shall be lawful for the said Commissioners, or One of them, to cause a special Meeting of the Creditors to be assembled at such Time and Place, and on such Notice given or advertised, as such Commissioners shall appoint;

appoint; and the Resolution of the Majority of the Creditors at such Meeting, to confirm, alter, or annul the whole or any Part of such Resolution or Agreement, shall be as valid as if it had been Part of the original Resolution or Agreement: Provided, however, that if One Third in Number and Value of the Creditors of such Petitioning Debtor do not attend such Meeting, the Resolution thereof shall not be valid unless the same is approved and confirmed by One of the said Commissioners.

When Resolution or Agreement has been carried into effect, Commissioner to give Petitioning Debtor a Certificate thereof, and such Certificate to operate as a Certificate of Conformity.

CVI. And be it enacted, That so soon as the said Resolution or Agreement shall have been carried into effect, and the Creditors of the Petitioning Debtor shall have been satisfied according to the Tenor thereof, the said Commissioners, or One of them, shall, after such Notice to the Creditors, by Advertisement in the *Dublin Gazette* or otherwise, as the said Commissioners or Commissioner shall think fit to direct, give to the Petitioning Debtor a Certificate under the Hand and Seal of the said Commissioners or Commissioner in the Form in Schedule (L.), setting forth the filing of the Petition, the Resolution or Agreement of the Creditors, and that the said Resolution or Agreement has been fully carried into effect, and such Certificate shall thenceforth operate to all Intents and Purposes as fully as if the same were a Certificate of Conformity under a Bankruptcy.

Commissioners, on being satisfied that Trustee has fully performed his Trust, to give him a Certificate, which shall be a full Release and Acquittance.

CVII. And be it enacted, That the said Commissioners, or One of them, on being satisfied that the Trustee has fully performed his Trust, shall give to him a Certificate thereof in the Form in the Schedule (M.), and such Certificate shall be a full Release and Acquittance to such Trustee, both in Law and Equity, for all Matters done by him as such Trustee; and it shall be lawful for such Trustee to receive for his Services in the Execution of his said Trust such Sum of Money as the major Part in Number and Value of the Creditors shall appoint, subject to the Approval and Allowance of the said Commissioners.

Nothing contained in 3 & 4 Vict. c. 105. shall entitle a Judgment Creditor to any Preference over other Creditors.

CVIII. And be it declared and enacted, That nothing contained in an Act passed in the Session held in the Third and Fourth Years of the Reign of Her present Majesty, intituled *An Act for abolishing Arrest on Mesne Process in Civil Actions, except in certain Cases, for extending the Remedies of Creditors against the Property of Debtors, and for the further Amendment of the Law and the better Advancement of Justice in* Ireland, shall operate or extend to give any Preference or Priority to any Judgment Creditor of or to any Security or Securities by Judgment obtained against any Person or Persons who has or have become or may hereafter become bankrupt.

CIX. Pro-

Saving such Judgments as have been the Subject of some legal Decision before the passing of this Act.

CIX. Provided, however, and be it enacted, That nothing herein contained shall extend or be construed to extend to or affect any Act done before the passing of this Act under the Authority of any Court, or to render valid or invalid any Judgment or Security by Judgment declared valid or invalid by any Court of competent Jurisdiction before the passing of this Act, or to affect any Security or Securities by Judgment obtained before the First Day of *July* in the Year of our Lord One thousand eight hundred and thirty-six, and before the Bankrupt became a Trader liable to become a Bankrupt.

Judgments shall before 1st Day of November 1849 be entered on all Warrants of Attorney executed on or before 1st Nov. 1840, if not already entered.

CX. And whereas by the said last-mentioned Act it is enacted, that from and after the First Day of *November* One thousand eight hundred and forty every Warrant of Attorney to confess Judgment in any personal Action, or a true Copy thereof, and of the Attestation thereof, and of the Defeazance and Endorsement thereon (if any), shall be filed in manner therein directed, or Judgment thereon entered, within Twenty-one Days after the Execution of such Warrant of Attorney: And whereas Doubts have arisen whether it is necessary that any Warrants of Attorney should be filed or Judgments thereon entered unless such Warrants were executed on or subsequent to the said First Day of *November* One thousand eight hundred and forty: Be it therefore enacted, That Judgment shall on or before the First Day of *November* One thousand eight hundred and forty-nine be entered in One of Her Majesty's Courts of Record in *Dublin* upon all Warrants of Attorney which were executed on or before the said First Day of *November* One thousand eight hundred and forty, and which have not been filed in manner aforesaid within Twenty-one Days after the Execution thereof, or on which Judgment has not already been entered; and in case Judgment is not entered upon any such Warrant of Attorney before said First Day of *November* One thousand eight hundred and forty-nine, any Judgment entered thereupon subsequent thereto, and any Execution issued thereon, shall be deemed fraudulent and void against the Assignees appointed or to be appointed under any Commission of Bankrupt issued or to be issued against the Person who shall have given such Warrant of Attorney, and against the Provisional or other Assignee or Assignees of such Person, if an Insolvent Debtor; and such Assignee or Assignees shall be entitled to recover back and receive, for the Use of the Creditors of such Bankrupt or Prisoner, all and every the Monies levied or Effects seized under and by virtue of such Judgment and Execution.

Otherwise such Warrants of Attorney shall in certain Cases be deemed fraudulent and void.

Pleas of Confession and Consents for Judgment to

CXI. And be it enacted, That from and after the Commencement of this Act the Provisions, Regulations, and Directions contained in

be filed within 21 Days.

in the said Act of the Third and Fourth Years of Her present Majesty, in reference to the filing of Warrants of Attorney to confess Judgments, or Copies thereof, and the numbering, entering, and searching for the same, shall be applicable and deemed and construed to apply equally to any Plea of Confession, Cognovit actionem, and all manner of Acknowledgments or Consents for Judgments, and Copies thereof respectively, in any Suit or Proceeding in any of the Superior Courts of Law in *Ireland*, and to the numbering and entering of and searching for the same, as fully and effectually as if such Pleas of Confession, Cognovits, Acknowledgments, and Consents for Judgments, or the Copies thereof, had been expressly mentioned in the said Act, and required to be filed; and if at any Time after Twenty-one Days next after the Execution or signing of any Plea of Confession, Cognovit actionem, Acknowledgment, or Consent for Judgment, a Commission of Bankrupt shall be issued against the Person who, by himself or his Attorney, shall have given such Plea, Cognovit, Acknowledgment, or Consent for Judgment, under which he shall be duly found and declared a Bankrupt, or if any such Person shall be imprisoned for Debt, and upon a Petition to the Court for the Relief of Insolvent Debtors in *Ireland* a Vesting Order shall be made under the Provisions of any Act for the Relief of Insolvent Debtors in *Ireland*, then and in such Case, unless such Plea, Cognovit, Acknowledgment, or Consent for Judgment, or a Copy thereof, shall have been (within Twenty-one Days from the Execution or signing thereof, or within Twenty-one Days from the Commencement of this Act,) duly filed, pursuant to the Provisions of the said herein-before recited Act of the Third and Fourth Years of Her present Majesty's Reign, or of this Act, or unless within the said Twenty-one Days Judgment shall have been entered thereon, and such Judgment duly registered in the Office of the Registrar of Judgments, according to the Provisions of an Act passed in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled *An Act for the Protection of Purchasers against Judgments, Crown Debts, Lis Pendens, and Commissions of Bankruptcy; and for providing One Office for the registering of all Judgments in* Ireland; *and for amending the Laws in* Ireland *respecting Bankrupts and the Limitation of Actions*, such Plea of Confession, Cognovit, Acknowledgment, or Consent for Judgment, and the Judgment and Execution thereon, shall be deemed fraudulent and void against the Assignees under such Commission, and against the Provisional or other Assignee of such Prisoner, and such Assignee or Assignees shall be entitled to recover back and receive, for the Use of the Creditors of such Bankrupt or Prisoner, all and every the Monies levied or Effects seized under and by virtue of such Judgment and Execution.

In what Case Pleas of Confession, &c. deemed fraudulent and void.

7 & 8 Vict. c. 90.

CXII. And

Fee of only One Shilling to be paid on searching.

CXII. And be it enacted, That from the Commencement of this Act, instead of the Fee of Sixpence hitherto payable to the Masters of the said Superior Courts for every Search against each Person, there shall be payable a Fee of One Shilling and no more for each Search, whether some only or all of the Books shall be searched, and whether the Search shall be against One or more Persons.

All other Judgments shall be registered.

CXIII. And be it enacted, That if at any Time after Twenty-one Days from the entering or signing of any Judgment whatever in any of the said Superior Courts (save and except Judgments entered upon or by virtue of Warrants of Attorney, Pleas of Confession, or Consents for Judgments, which Warrants of Attorney, Pleas of Confession, or Consents for Judgments, or Copies thereof, shall have been duly filed, under the Provisions of this Act or of the herein-before recited Act of the Third and Fourth Years of the Reign of Her present Majesty,) a Commission of Bankrupt shall be issued against the Person against whom such Judgment shall be entered or obtained, under which he shall be duly found and declared a Bankrupt, or if such Person shall be imprisoned for Debt, and upon a Petition to the Court for Relief of Insolvent Debtors in *Ireland* a Vesting Order shall be made, under the Provisions of any Act for the Relief of Insolvent Debtors in *Ireland*, then and in such Case, unless such Judgment shall have been duly registered within Twenty-one Days from the entering or signing thereof in the said Office of the Registrar of Judgments, such Judgment, and any Execution thereon, shall be deemed fraudulent and void, against the Assignees under such Commission, and against the Provisional or other Assignee of such Prisoner, and such Assignee or Assignees shall be entitled to recover back and receive, for the Use of the Creditors of such Bankrupt or Prisoner, all and every the Monies levied or Effects seized under and by virtue of such Judgment and Execution.

Petitions of Appeal to be filed within 21 Days.

CXIV. And be it enacted, That every Petition of Appeal from any Judgment, Order, or other Decision of either of the said Commissioners of Bankrupt shall be filed in the Office of the Lord Chancellor's Secretary of Bankrupts, within Twenty-one Days next after the Day on which such Judgment, Order, or other Decision is made or pronounced, and not afterwards; and that on the Hearing of each Petition of Appeal the only Documents or Evidence to be relied on or admissible shall be such as were produced or given before the Commissioner whose Judgment, Order, or Decision is appealed from.

Evidence on Hearing.

Affidavits, &c. not liable to Stamp Duty.

CXV. And be it enacted, That all Affidavits and other Writings whatsoever, and all Advertisements inserted in the *Dublin Gazette*, relating

relating to any Proceedings under or in pursuance of this Act, shall not be liable to any Stamp Duty or other Duty whatsoever.

Lord Chancellor to settle Fees, &c.

CXVI. And be it enacted, That it shall and may be lawful for the Lord Chancellor from Time to Time to settle and regulate the Fees which shall be taken and paid upon all Matters and Proceedings done, had, or taken, or to be done, had, or taken, under or in pursuance of this Act, or of any of the Powers hereby given, or in the Execution thereof, other than such Fees as are hereby ordered to be paid, and, if he shall think fit, to direct that any of the said Fees shall be paid into the "Bankruptcy and Compensation Fund Account."

Secretary of Bankrupts, Registrars, and other Officers to be deemed Officers of the Court of Chancery.

CXVII. And be it enacted, That the Secretary of Bankrupts, Registrars, Provisional Assignees, and all other Officers appointed or to be appointed under the said recited Acts or this Act, except the Commissioners of Bankrupt, shall, from and after the passing of this Act, be deemed and considered to be Officers of the Court of Chancery in *Ireland*, and subject and liable to the like Incapacity of acting as Attornies or Solicitors, and to the same Liabilities and Penalties as to Removal from Office for Misconduct, and as regards the exacting or taking any Fee or Sum of Money not allowed by Law, and generally in all respects as any Officer of the said Court is or may be by Law liable or subject to.

Construction of Act.

CXVIII. And be it enacted, That the Words and Expressions herein-after mentioned, which in their ordinary Signification have a more confined or a different Meaning, shall in this Act, except where the Nature of the Provision or the Context of the Act shall exclude such Construction, be interpreted as follows; that is to say, the Words "Her Majesty" shall mean also and include the Heirs and Successors of Her Majesty; and the Words "Lord Chancellor" shall mean also and include the Lord Chancellor, Lord Keeper and Lords Commissioners for the Custody of the Great Seal of *Ireland*, for the Time being; the Words "Commissioners" and "Commissioner" shall mean "Commissioners of Bankrupt," or One of them; and the Word "Month" shall mean a Calendar Month; and the Word "Oath" or "Affidavit" shall include Affirmation and Declaration where by Law such Affirmation or Declaration is required or allowed to be taken in place of an Oath; and the Word "Creditor" shall mean and include all Joint Stock Banking Companies and Corporate Bodies; and every Affidavit or Oath necessary to be made by any Creditor may be made by the Public Officer authorized to sue or be sued or to make Oaths by and on behalf of such Joint Stock Banking Company, or by the Secretary or Deputy Secretary of any Corporate Body; and the Schedules hereto annexed shall be considered and construed as Part of this

Act;

Act; and every Word importing the Singular Number only shall extend and be applied to several Persons or Things as well as one Person or Thing, and Bodies Corporate as well as Individuals; and every Word importing the Plural Number shall extend and be applied to one Person or Thing as well as several Persons or Things; and every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male; and that this Act shall apply to Aliens, Denizens, and Women, both to make them subject thereto and to entitle them to all the Benefits given thereby; and that this Act shall not extend to either *England* or *Scotland*, except where the same are expressly mentioned; and that this Act, and all other Acts in force or to be in force concerning Bankrupts, shall be construed together as Parts of one and the same Statute, in the most beneficial Manner for promoting the Benefit of Creditors of Bankrupts, and the Ends thereby and hereby intended.

CXIX. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament. Act may be amended, &c.

SCHEDULES referred to by the foregoing Act.

Section XI.

SCHEDULE (A.)

No. 1.

Affidavit for summoning a Trader Debtor.

A.B. of and *C.D.* of severally make Oath and say, and first this Deponent *A.B.* for himself saith, That *E.F.* of [*describe fully*] is justly and truly indebted to this Deponent in the Sum of Pounds for, *&c.* [*stating the Nature of the Debt with Certainty and Precision*]; and this Deponent further saith, that the said *E.F.*, as this Deponent verily believes, is a Trader within the Meaning of the Statutes relating to Bankrupts, or some or One of them, and resides at and that an Account in Writing of the Particulars of the Demand of the said *A.B.*, amounting to the said Sum of Pounds, with a Notice thereunder written in the Form prescribed by the Statute in that Case made and provided, purporting to require immediate Payment of the said Debt, is hereunto annexed; and this Deponent *C.D.* for himself saith, that he did on the Day of instant [*or* last] personally serve the said *E.F.* with a true Copy of said Account and Notice.

Sworn, *&c.*

No. 2.

Particulars of Demand and Notice requiring Payment.

To *E.F.* of

The following are the Particulars of the Demand of the Undersigned *A.B.* of against you the said *E.F.*, amounting to the Sum of Pounds [*here copy Account*].

Take notice, That I the said *A.B.* hereby require immediate Payment of the said Sum of Pounds. Dated this Day of in the Year of our Lord

(Signed) *A.B.*

No. 3.

No. 3.

Summons of Trader Debtor.

THESE are to will and require you to whom this Summons is directed personally to be and appear before the Commissioners of Bankrupt, or One of them, at the Court of Bankruptcy at the Four Courts Inns Quay, Dublin, on the Day of at o'Clock; and you are hereby informed, that the Purpose for which you are thus summoned to appear before the said Commissioners or Commissioner is to ascertain, in Manner and Form prescribed by the Statute in that Case made and provided, whether or not you admit the Demand of *A.B.* of (who claims of you the Sum of Pounds for a Debt), or any and what Part thereof, or whether you verily believe that you have a good Defence to the said Demand, or to any and what Part thereof; and hereof you are not to fail, at your Peril. Given under my Hand, the Day of in the Year of our Lord .

(Signed) *J.K.*
Commissioner.

To *E.F.* of .

SCHEDULE (B.)

Section XII.

No. 1.

Admission of Debt by Trader Debtor.

Court of Bankruptcy, Dublin.
Day of .

WHEREAS I the undersigned *E.F.* of am summoned to appear before this Honourable Court for the Purpose of stating, in manner prescribed by the Statute in that Case made and provided, whether or not I admit the Demand of *A.B.* of (who claims of me the said *E.F.* the Sum of Pounds for a Debt), or any and what Part thereof, or whether I verily believe that I have a good Defence to the said Demand, or to any and what Part thereof: Be it known, That I the said *E.F.* hereby confess that I am indebted to the said *A.B.* in the said Sum of Pounds [*or* in part of the said Sum of Pounds, that is to say, in the Sum of Pounds].

(Signed) *E.F.*

Admitted before me, *J.K.*
Commissioner.

No. 2.

Deposition by Trader Debtor of Belief of good Answer to Creditors Demand, or some Part thereof.

Court of Bankruptcy, Dublin, Day of A.D.
E.F. of being sworn, on the Day and Year and at the Place aforesaid, upon his Oath saith, That he verily believes he has a good Defence to the Demand [*or* to Pounds, Part of the Demand] herein-after mentioned of *A.B.* of who claims of the said *E.F.* the Sum of Pounds for a Debt alleged to be due and owing from the said *E.F.* to said *A.B.*, as stated in the Affidavit of the said *A.B.* filed in the Office of the Lord Chancellor's Secretary of Bankrupts, and bearing Date the Day of

Sworn before me,

E.F. *J.K.*
Commissioner.

Section XVII.

SCHEDULE (C.)

Admission of Debt by Trader Debtor, signed out of Court.

I the undersigned *E.F.* of do hereby confess, That I am indebted to *A.B.* of in the Sum of Pounds.

(Signed) *E.F.*

Dated this Day of A.D.

Witness,
G.H., Attorney for the said *E.F.*, and subscribing Witness to the Execution hereof as such Attorney.

Section XXII.

SCHEDULE (D.)

Declaration of Insolvency by Trader.

I the undersigned *E.F.* of do hereby declare, That I am unable to meet my Engagements.

Dated this Day of in the Year of our Lord

(Signed) *E.F.*

Witness,
G.H., Attorney of the Court of

SCHE-

SCHEDULE (E.)

Section XLIX.

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

Court of Bankruptcy, Dublin.

In the Matter of Bankrupt. } WHEREAS *E.F.* the said Bankrupt [*or C.H.* of in the County of] was on the Day of duly sworn and examined in this Court before me, the Commissioner of Bankrupt whose Name and Seal are hereunto subscribed and affixed:

And the said was again on the Day of duly sworn and examined before me the same Commissioner, as by the Examination and Deposition of the said now on the File of Proceedings in this Matter will appear:

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

These are therefore to authorize and require you my Messenger to whom this my Warrant is directed, immediately upon the Receipt hereof, to take into your Custody the said and him safely convey to Her Majesty's Prison of and him there to deliver to the Governor of the said Prison, who is hereby authorized and required to receive the said into his Custody there, and him safely keep and detain, without Bail, until he shall submit himself to the Commissioners of Bankrupt, and sign and subscribe his said Examination and Deposition, [*or* and full Answers make,] to the Satisfaction of said Commissioners to such Questions as shall be propounded to him.

Done at the said Court, this Day of 18 .

J.K.
Commissioner.

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

SCHEDULE (F.)

Section XLIX.

Warrant for refusing to be sworn or to answer.

Court of Bankruptcy, Dublin.

In the Matter of Bankrupt. } WHEREAS *E.F.* of *or C. H.* of being present in this Court on this Day of was by me, the Commissioner of Bankrupt whose Name and Seal are hereunto subscribed and affixed,

required

required to submit to be duly sworn and examined, pursuant to the Statutes relating to Bankrupts but the said then and there refused to be sworn [*or* refused to answer the Questions put to him by the said Commissioner]:

These are therefore to authorize and require you my Messenger to whom this my Warrant is directed, immediately upon Receipt hereof, to take into your Custody the said and him safely to convey to Her Majesty's Prison of and him there to deliver to the Governor of the said Prison, who is hereby authorized and required to receive the said into his Custody there, and him safely keep and detain, without Bail, until he shall submit himself to the Commissioners of Bankrupt to be sworn, and full Answers make to their Satisfaction to such Questions as shall be propounded to him.

Done at the said Court, this Day of 18 .

J.K.
Commissioner.

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

Section XLIX.

SCHEDULE (G.)

Warrant of Committal for disturbing or interrupting the Court, 6 W. 4. Cap. 14. Sec. 158.

Court of Bankruptcy, Dublin.

In the Matter of Bankrupt. } WHEREAS at a Sitting in this Matter duly holden in the said Court on the Day of 18 , before me, the Commissioner of Bankrupt whose Name and Seal are hereunto subscribed and affixed, *E.F., &c.* [*or G.H., &c.*] was guilty of Riot [*or* of Disturbance,] [*or* did interrupt me the said Commissioner in the Exercise of my Duty]:

These are therefore to authorize and require you my Messenger to whom this my Warrant is directed, immediately upon the Receipt hereof, to take into your Custody the said and him safely convey to Her Majesty's Prison of and him there to deliver to the Governor of the said Prison, who is hereby authorized and required to receive the said into his

his Custody, and him safely keep and detain for One Calendar Month [*or* for Days from this Date].

Done at the said Court, this Day of 18 .

J. K.
Commissioner.

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

SCHEDULE (H.)

Section XLII.

Search Warrant.

Court of Bankruptcy, Dublin, Day of A.D.

In the Matter of a Bankrupt. } WHEREAS by Evidence duly taken upon Oath it hath been made to appear to the Satisfaction of me, the undersigned Commissioner of Bankrupt acting in the Prosecution of a Commission of Bankruptcy now in Prosecution against *A.B.* of in the County of bearing Date the Day of that there is Reason to suspect and believe that Property of the said *A.B.* is concealed in the House of one *C.D.* of in the County of such House not belonging to the said Bankrupt:

These are therefore, by virtue of the Act intituled "An Act for the "Amendment of the Law of Bankruptcy in Ireland," to authorize and require you, with necessary and proper Assistants, to enter in the Daytime into the House and Premises of the said *C.D.* situate at aforesaid, and there diligently to search for the said Property, and if any Property of the said Bankrupt shall be there found by you on such Search, that you seize the same, and keep Possession thereof until it be disposed of and dealt with according to the Provisions of the Laws made and in force concerning the Disposition of the Estate and Effects of Bankrupts.

Done at the said Court, this Day of
in the Year of our Lord 18 .

J.K.
Commissioner.

To
W.W., Assistant Messenger of
the Court of Bankruptcy, and
his Assistants.

Section XCI.

SCHEDULE (I.)

Petition for Arrangement to the Commissioners of Bankrupt.

The humble Petition of

Showeth,

That your Petitioner, being a Debtor unable to meet his Engagements with his Creditors, petitions the Commissioners of Bankrupt under the Provisions of the "Act for the Amendment of the Law of "Bankruptcy in Ireland," with the Concurrence of Two Thirds in Number and Value of his Creditors, as is testified by their signing this his Petition:

That the following is a full Account of your Petitioner's Debts, and the Consideration thereof, and the Names, Residences, and Occupations of his Creditors, and also a full Account of your Petitioner's Estate and Effects, whether in possession, reversion, or expectancy, and of all Debts and Rights due to or claimed by him, and of all Property, of what Kind soever, held in trust for him; viz.

Name of Creditor.	Residence.	Occupation.	When Debt contracted, and Consideration thereof.	Amount of Debt.

That the Inability of your Petitioner to meet his Engagements with his Creditors arises from

That for the future Payments or Compromise of such Debts and Engagements your Petitioner proposes

and Two Thirds in Number and Value of your Petitioner's Creditors having assented to such Proposal:

Your Petitioner therefore prays, that such Proposal (or such Modification thereof as by the Majority of his Creditors may be determined) may be carried into effect under the Superintendence and

Control

Control of the Commissioners of Bankrupt, and that he may in the meantime be protected from Arrest.

And your Petitioner shall ever pray, &c.

Signed by the Petitioner in the
Presence of

Solicitor in the Matter of this Petition.

CONCURRING CREDITORS.

Signature.	Amount.

SCHEDULE (K.)

Section XCI.

Affidavit in support of Petition for Arrangement.

Court of Bankruptcy, Day of A.D.
of in the of
the Petitioner named in the Petition hereunto annexed, maketh Oath and saith, That the several Allegations in the said Petition are true.
Sworn at this Day of
One thousand eight hundred and forty before me,

SCHEDULE (L.)

Section CVI.

Certificate to Petitioning Debtor.

Court of Bankruptcy, Dublin, Day of A.D.
WHEREAS of a Debtor unable to meet his Engagements with his Creditors, did on the Day of with the Concurrence of Two Thirds in Number and Value of his Creditors, present his Petition to the Commissioners of Bankrupt under the Provisions of "the Act for the Amendment of "the Law of Bankruptcy in Ireland," praying that a certain Proposal therein contained, or such Modification thereof as by the Majority of his Creditors might be determined, should be carried into effect, under the Superintendence and Control of the said Commissioners, and the said Petition has been duly filed with the Registrars of said Court: And whereas One of the said Commissioners acting in the Matter of the said Petition, caused such Meetings of the Creditors of the said to be held as are directed by the said Act: And whereas a certain Resolution

Resolution or Agreement was duly assented to at such Meetings of the Creditors, which the said Commissioners, thinking the same to be reasonable, and proper to be executed, under the Direction of the said Commissioners, caused to be filed and entered of Record as by said Act directed: And whereas I am satisfied that the said has fully performed his Part of the said Resolution and Agreement, I hereby certify the several Matters aforesaid, under my Hand and Seal, this Day of 18 .

J.K.
Commissioner.

Section CVII.

SCHEDULE (M.)

Certificate to Trustee.

Court of Bankruptcy, Dublin, Day of A.D.

WHEREAS of a Debtor unable to meet his Engagements with his Creditors, did on the Day of with the Concurrence of Two Thirds in Number and Value of his Creditors, present his Petition to the Commissioners of Bankrupt under the Provisions of "the Act for the Amendment "of the Law of Bankruptcy in Ireland," praying that a certain Proposal therein contained should be carried into effect, under the Superintendence and Control of the said Commissioners, and the said Petition has been duly filed with the Registrars of said Court: And whereas One of the said Commissioners acting in the Matter of the said Petition, caused certain Meetings of the Creditors of the said to be held pursuant to the said Act: And whereas a certain Resolution or Agreement was duly assented to at such Meetings of Creditors, which the said Commissioners, thinking the same to be reasonable, and proper to be executed, under the Direction of the said Commissioners, caused to be filed and entered of Record as by said Act directed: And whereas the said Resolution or Agreement has been fully carried into effect, and I am satisfied that the Trustee appointed to carry the said Resolution or Agreement into effect, has fully performed his Trust, I hereby certify the same under my Hand and Seal, this Day of 18 .

J.K.
Commissioner.

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