

ANNO SEXTO

GULIELMI IV. REGIS.

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CAP. XIV.

An Act to amend the Laws relating to Bankrupts in *Ireland*. [20th *May* 1836.]

WHEREAS it is expedient to amend the Laws relating to Bankrupts, and to consolidate the same so amended in One Act, and to provide Means of administering and distributing the Estate and Effects of Bankrupts other than are now provided by Law: Be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That an Act passed in the Parliament of *Ireland* in the Eleventh and Twelfth Years of the Reign of King *George* the Third, intituled *An Act to prevent Frauds committed by Bankrupts;* and also so much of an Act passed in the Parliament of *Ireland* in the Seventeenth and Eighteenth Years of the Reign of King *George* the Third, intituled *An Act for the Amendment of the Law with respect to Outlawrys, returning Special Juries, and the future Effects of Bankrupts, in certain Cases,* as relates to the Property of Bankrupts; and also an Act passed in the Parliament of *Ireland* in the Seventeenth and Eighteenth Years of the Reign of King *George* the Third, intituled *An Act to exclude Traders from the Benefit of an Act, intituled 'An Act to prevent Frauds committed by 'Bankrupts,' who do not keep regular Books of Account; and for continuing the said Law, and other Purposes;* and also an Act passed in the Parliament of *Ireland* in the Nineteenth and Twentieth Years of the Reign of King *George* the Third, intituled *An Act to explain an Act, intituled 'An Act to prevent Frauds committed by Bankrupts;'*

Statutes repealed: 11 & 12 G. 3. (I.) 17 & 18 G. 3. (I.) 17 & 18 G. 3. (I.) 19 & 20 G. 3. (I.)

and also so much of an Act passed in the Parliament of *Ireland* in the Twenty-first and Twenty-second Years of the Reign of King *George* the Third, intituled *An Act for reviving, continuing, and amending several temporary Statutes*, as relates to Acts relating to Bankrupts; and also so much of an Act passed in the Parliament of *Ireland* in the Twenty-first and Twenty-second Years of King *George* the Third, intituled *An Act for the Relief of Insolvent Persons under a certain Description*, as relates to Bankrupts; and also an Act passed in the Parliament of *Ireland* in the Twenty-sixth Year of the Reign of King *George* the Third, intituled *An Act for the Relief of uncertificated Bankrupts;* and also so much of an Act passed in the Parliament of *Ireland* in the Twenty-eighth Year of the Reign of King *George* the Third, intituled *An Act for continuing the Acts relative to Bankrupts, and for reviving, continuing, and amending certain temporary Statutes*, as relates to Acts relative to Bankrupts; and also an Act passed in the Parliament of *Ireland* in the Thirtieth Year of the Reign of King *George* the Third, intituled *An Act to repeal certain Clauses in an Act passed in the Seventeenth and Eighteenth Years of His Majesty's Reign, intituled 'An Act to exclude Traders from the Benefit of 'an Act, intituled "An Act to prevent Frauds committed by Bankrupts," 'who do not keep regular Books of Account; and for continuing the 'said Law, and other Purposes;'* and also so much of an Act passed in the Parliament of *Ireland* in the Thirty-sixth Year of the Reign of King *George* the Third, intituled *An Act to make perpetual the Laws for preventing Frauds committed by Bankrupts, also for providing a Maintenance for Parish Clerks, and for continuing certain other temporary Statutes*, as relates to Bankrupts; and also an Act passed in the Parliament of *Ireland* in the Thirty-seventh Year of the Reign of King *George* the Third, intituled *An Act for the Relief of uncertificated Bankrupts;* and also an Act passed in the Parliament of *Ireland* in the Thirty-ninth Year of the Reign of King *George* the Third, intituled *An Act for the Relief of uncertificated Bankrupts;* and also an Act passed in the Parliament of *Ireland* in the Fortieth Year of the Reign of King *George* the Third, intituled *An Act for the Relief of uncertificated Bankrupts;* and also an Act passed in the Parliament of the United Kingdom of *Great Britain* and *Ireland* in the Forty-sixth Year of the Reign of King *George* the Third, intituled *An Act to amend the Laws relating to Bankrupts;* and also an Act passed in the Parliament of the United Kingdom of *Great Britain* and *Ireland* in the Forty-ninth Year of the Reign of King *George* the Third, intituled *An Act to alter and amend the Laws relating to Bankrupts*, be and the same are hereby repealed, save so far as the same repeal any other Act: Provided, however, that all Matters heretofore done, or, until this Act shall take effect, to be done, under the said Acts or any of them, shall be as valid and effectual as if the said Acts were still in force.

21 & 22 G. 3. (I.)

21 & 22 G. 3. (I.)

26 G. 3. (I.)

28 G. 3. (I.)

30 G. 3. (I.)

36 G. 3. (I.)

37 G. 3. (I.)

39 G. 3. (I.)

40 G. 3. (I.)

46 G. 3. c. 135.

49 G. 3. c. 121.

Power of present Commissioners to cease; and such Commissions to be proceeded in by

II. And be it enacted, That all Power, Jurisdiction, and Authority of the Commissioners named in any Commission of Bankrupt which shall be subsisting at the Time when this Act shall take effect shall cease and determine, and that every such Commission and all such Power and Authority shall be and is hereby transferred to the Commissioner to be appointed by virtue of this Act; and all further Proceedings

ings shall be thenceforth carried on in like Manner as if such Commission had been originally issued by the Lord Chancellor, pursuant to this Act, to the Commissioner to be appointed by virtue of this Act: Provided always, that nothing herein contained shall render invalid any Proceedings which may have been had under any Commission now subsisting, or which shall have been issued before this Act shall come into operation, or affect or lessen any Right, Claim, Demand, or Remedy which any Person now has thereunder, or upon or against any Bankrupt against whom any such Commission has or shall have issued as aforesaid, except as herein specially enacted.

a Commissioner to be appointed.

Not to invalidate any Proceedings had under such Commissions.

III. And be it enacted, That it shall and may be lawful for the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the Time being to appoint a fit and proper Person, being a Barrister at Law of not less than Ten Years standing at the Bar, to be the Commissioner in all Commissions of Bankrupt to be issued pursuant to this Act, and to be called the Commissioner of Bankrupt; which Commissioner, so to be appointed, shall hold his Office during good Behaviour: Provided always, that it shall be lawful for the Lord Lieutenant or other Chief Governor or Governors for the Time being of *Ireland* to remove such Commissioner upon a Certificate from the Lord Chancellor of some sufficient Reason to be named therein for such Removal.

Lord Lieutenant may appoint Commissioner.

IV. And be it enacted, That all Commissions of Bankrupt issued under the Great Seal of that Part of the United Kingdom of *Great Britain* and *Ireland* called *Ireland*, by virtue of this Act, shall be issued to the said Commissioner; and that such Commissioner shall, before he shall be capable of acting in the Execution of any of the Powers and Authorities given him by virtue of this Act, take an Oath in the Presence of the Lord Chancellor to the Effect following; (that is to say,)

All Commissions of Bankrupt to be issued by such Commissioner.

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

Oath of Commissioner.

And the Commissioner, having once taken the said Oath, shall not again be required to take the same so long as he shall continue in Office.

V. And be it enacted, That in lieu of the Fees now payable for like Matters the said Commissioner shall receive and be paid by the Agent to each Commission the Fee of Three Pounds Sterling for every Sitting under such Commission, and the like Sum for every Conveyance executed by him, and for the Signature to the Bankrupt's Certificate; and the Fees so payable shall, if not paid by the Agent to the Commission, be charged on and paid by the Assignees out of the Estate of the Bankrupt; and if the Commissioner shall directly or indirectly receive from the Creditors or out of the Estate of the Bankrupt any further Sum than as aforesaid, he shall be disabled for ever from acting as such Commissioner of Bankrupt.

Sums to be paid to the Commissioner.

VI. And

Commissioner not to practise, or sit in House of Commons.

VI. And be it enacted, That no Commissioner to be appointed by virtue of this Act shall during his Continuance in such Office practise as a Barrister, or be capable of being elected a Member of the House of Commons.

Sums received by Commissioner to be paid by him into the Bank of Ireland, to the Bankruptcy and Compensation Fund Account.

VII. And be it enacted, That the several Sums directed as aforesaid to be paid to and received by the Commissioner shall be paid by him, at such Times as the Lord Chancellor shall by any Order direct, into the Bank of *Ireland*, to the Credit of the Accountant General of the High Court of Chancery, to a separate Account, to be entitled "The Bankruptcy and Compensation Fund Account;" and all Monies to be so paid in to the said Account shall be subject to such General Orders touching the Payment in, Investment, accounting for, and Payment out of such Monies, for the Purposes herein-after provided, as the Lord Chancellor shall from Time to Time think fit to prescribe; but the same shall not be subject to the Payment of any Poundage to the Usher of the Court of Chancery.

Lord Chancellor may regulate Fees of Officers, &c.

VIII. 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 by and paid to the several Officers concerned in the issuing and suing forth and Execution of every such Commission of Bankruptcy as aforesaid, and upon all Petitions and Proceedings in the Execution thereof, other than such Fees as are hereby ordered, and, if he shall think fit, to direct that any of the said Fees shall be paid in to the Bankruptcy and Compensation Fund Account.

Compensation to existing Commissioners.

IX. And whereas the Duties of the several Persons now acting as Commissioners of Bankruptcy, and of the Messenger of the Commissioners of Bankruptcy in the City of *Cork*, and the Fees and Emoluments accustomed to be received by them, will be abolished by the Provisions of this Act, and it may be just and necessary that in all such Cases Compensation should be made in respect of such Fees so to be abolished; be it enacted, That it shall and may be lawful for the Lords Commissioners of His Majesty's Treasury, by Examination on Oath or otherwise, which Oath they and each of them are and is hereby authorized to administer, to inquire into and ascertain the annual Amount of the lawful Fees and Emoluments of such Commissioners and Messenger received by them, and to award to all and every or to such One or more of the said Commissioners, and to such Messenger, as they shall deem to be entitled to the same an Annuity or Annuities, of such Amount and for such Term as the said Lords of the Treasury shall find to be a fair and reasonable Compensation for the Loss to be sustained by all or any of the said Commissioners or said Messenger by the Abolition of the said Fees, and shall certify the Amount of such Annuities in Writing under their Hands to the Lord Chancellor, who shall thereupon have Power to order the Amount so certified as payable to each Commissioner and said Messenger to be paid out of the Monies standing to the said Bankruptcy and Compensation Fund Account; and the same shall be payable and paid accordingly to the respective Persons aforesaid, without any Deduction whatsoever: Provided always, that the annual Sum to be so payable to any Commissioner or said Messenger

senger shall not exceed Two Thirds of the average annual Amount of the Sums received by them respectively as such Commissioners or Messenger for the last Three Years, or such Portion of that Period as any of them acted as a Commissioner or Messenger, and shall not be paid to any Commissioner or Messenger who at any Time after the Commencement of this Act shall be appointed to and hold any public Office or Employment of an annual Value greater than the Annuity to be so certified as payable to him, so long as any such Office or Employment shall be so held.

Salary to Commissioner to be appointed under this Act.

X. And be it enacted, That from and after the Commencement of this Act there shall be paid and payable, out of the Monies standing to the Bankruptcy and Compensation Fund Account, to the Commissioner of Bankrupt to be appointed by virtue of this Act, the yearly Sum of One thousand five hundred Pounds, which said Sum shall be paid from Time to Time quarterly, free and clear of all Deductions and Taxes whatsoever, on the First Day of *September*, the First Day of *December*, the First Day of *March*, and the First Day of *June* in every Year, by equal Portions, the first Payment thereof respectively to be made on the First Day of *September* next; and that if any such Commissioner shall die, resign, or be removed, his Executors or Administrators, or himself, as the Case may be, shall be entitled to receive such proportionable Part of the Salary as shall have accrued during the Time that such Commissioner shall have executed his Office since the last Payment, and that the Successor of such Commissioner so dying, resigning, or being removed as aforesaid shall be entitled to receive such Portion of his Salary as shall be accruing or shall accrue from the Day of such Death, Resignation, or Removal.

In case of Surplus in Bankruptcy and Compensation Fund Account the Lord Chancellor may order Diminution of the Fees.

XI. And be it enacted, That if at any Time it shall appear to the Lord Chancellor that the Monies standing to the said Bankruptcy and Compensation Fund Account, together with the Fees expectant and to be payable to such Account, shall be sufficient to answer and pay the said Salary and other Payments for the Time being chargeable thereon, and to leave a Surplus, it shall be lawful for the Lord Chancellor to order such Abatement to be made in the Fees made payable by this Act as may to the said Lord Chancellor from Time to Time seem just and reasonable; and in case the Sums to be produced as aforesaid, and standing to the Credit of said Bankruptcy and Compensation Fund Account, shall not be sufficient to discharge the Salary and other Payments chargeable thereon, then such Sum as shall be required to pay the same shall be charged on and paid out of the Fund called "The Suitors Fee Fund"; and such Sum as shall be paid out of the said last-mentioned Fund in discharge of such Salary and other Payments shall be repaid out of the Monies and Securities standing to the Credit of the Bankruptcy and Compensation Fund Account, whenever there shall be a Surplus thereof after discharging the Salary and Payments chargeable thereon.

Commissioner to sit when Business requires it.

XII. And be it enacted, That the said Commissioner shall sit for the Dispatch of Business at all Times, *Sundays*, *Christmas Day*, and *Good Friday* alone excepted, when the Business of the said Commissioner of Bankruptcy shall require it; and that if, from Sickness or

Provision in case of Absence of Commissioner.

other reasonable Cause, to be allowed by the Lord Chancellor, he be absent, then and in every such Case it shall and may be lawful for the Lord Chancellor to appoint a Person, being a Barrister at Law of not less than Ten Years standing, to perform the Duties of such Commissioner during such Absence, upon taking the Oath hereinbefore prescribed for the Commissioner to be appointed by virtue of this Act; and every such Person so appointed to perform the Duty of such Commissioner as aforesaid shall, during the Continuance of such Deputation or Appointment, have all and every the Rights, Powers, and Authorities, and be subject to all the Duties of such Commissioner under this Act; and every such Person who shall be so appointed to act during the Absence of such Commissioner as aforesaid shall receive from the said Bankruptcy and Compensation Fund Account such Proportion, and no more, of the Salary of such Commissioner for and during the Period of his Service, as shall be directed by the Deputation under which he shall be so appointed, and the Residue only shall for such Period be payable to such Commissioner.

A Place at Dublin to be appointed for Sittings and Meetings.

Power to appoint a Register.

XIII. And be it enacted, That it shall be lawful for the Lord Chancellor to appoint a Place in *Dublin* where the Commissioner shall sit, and that as well all Sittings fixed by the Commissioner under Commissions of Bankruptcy, as also all Meetings of Creditors under Commissions which are held in pursuance of public Advertisement, shall be holden at such Place, and that until such Place shall be appointed such Sittings and Meetings shall be held at the *Royal Exchange* at *Dublin*; and that it shall and may be lawful for the Lord Chancellor, if he shall think it necessary for the proper Discharge of the Business of such Court, to appoint some proper Person to act as Register of the said Court, and to direct that a Salary not exceeding Three hundred Pounds *per Annum* shall be paid to him out of the said Bankruptcy and Compensation Fund, and from Time to Time to remove such Register, if he shall think fit, and on his Removal, or on his Resignation or Death, to appoint another Person in his Place.

Lord Chancellor may make General Rules for regulating Sittings, &c.

XIV. And be it enacted, That the Lord Chancellor shall have Power from Time to Time to make General Rules and Orders for regulating the Practice and Sittings of the said Commissioner, and the Conduct of the other Officers and Persons concerned in the suing out or Execution of Commissions of Bankrupt.

Commissioner not to be liable to Actions.

XV. And be it enacted, That no Commissioner to be appointed by virtue of this Act shall be liable to any Action for any thing done by him in the Execution of the Duties and Powers given to him as such Commissioner by virtue of this Act.

All Attornies and Solicitors may practise before the Commissioner.

XVI. And be it enacted, That all Attornies and Solicitors of any of the Superior Courts of Law or Equity at *Dublin* may appear and act as such in any Proceedings before the Commissioner to be appointed by virtue of this Act, without being required to employ Counsel; and in case any Person, not being an Attorney or Solicitor as aforesaid, shall practise before the Commissioner in any such Proceedings as an Attorney or Solicitor, he shall be deemed guilty of

of a Contempt of Court, and shall be liable to all the Penalties consequent thereon; and that all the Laws and Statutes now in force concerning Attornies and Solicitors shall extend, so far as the same may be applicable, to Attornies and Solicitors practising before the Commissioner as aforesaid.

Former Provisions, not hereby repealed, made applicable to this Act.

XVII. And be it enacted, That all the Laws and Statutes not hereby repealed, and Rules and Orders in force before this Act shall come into operation, relating to Bankrupts, or to Commissioners of Bankrupts, or to Proceedings under Commissions of Bankrupt, or to the Subject Matters of such Proceedings, or to the Persons concerned therein or in any way affected thereby, shall in like Manner extend and be construed to extend in every respect, as far as the same may be applicable, to this Act, and to Commissions issued in pursuance thereof, and to all Proceedings under the same, and to all the Subject Matters of such Proceedings, and to all Persons concerned therein or in any way affected thereby, to all Intents and Purposes whatsoever, save and except as may otherwise be directed by this Act.

What Persons shall be deemed Traders liable to become bankrupt.

What Persons not liable.

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

Departing the Realm, absenting, &c., deemed Acts of Bankruptcy.

XIX. And be it enacted, That if any such Trader shall depart this Realm, or, being out of this Realm, shall remain Abroad, or depart from his Dwelling House, or otherwise absent himself, or begin to keep his House, or suffer himself to be arrested for any Debt not due, or yield himself to Prison, or suffer himself to be outlawed, or procure himself to be arrested, or his Goods, Monies, or Chattels to be attached, sequestered, or taken in Execution, or shall make or cause to be made, either within this Realm or elsewhere, any fraudulent Grant or Conveyance of any of his Lands, Tenements, Goods, or Chattels, or make or cause to be made any fraudulent Surrender of any of his Copyhold Lands or Tenements, situate in *England* or *Ireland* or elsewhere, or make or cause to be made any fraudulent Gift, Delivery, or Transfer of any of his Goods or Chattels, every such Trader, doing, suffering, procuring, executing, permitting, making, or

or causing to be made any of the Acts, Deeds, or Matters aforesaid, with Intent to defeat or delay his Creditors, shall be deemed to have thereby committed an Act of Bankruptcy.

Conveyance of all a Trader's Property not to be an Act of Bankruptcy, unless Commission issue within Six Months.

Proviso as to Execution, and Notice in Gazette, &c.

XX. And be it enacted, That where any such Trader shall, after this Act shall have come into effect, execute any Conveyance or Assignment by Deed to a Trustee or Trustees of all his Estate and Effects for the Benefit of all the Creditors of such Trader, the Execution of such Deed shall not be deemed an Act of Bankruptcy unless a Commission issue against such Trader within Six Calendar Months from the Execution thereof by such Trader; provided that such Deeds shall be executed by every such Trustee within Fifteen Days after the Execution thereof by the said Trader, and that the Execution by such Trader and by every such Trustee be attested by an Attorney or Solicitor, and that Notice be given within Two Months after the Execution thereof by such Trader, in case such Trader resides in *Dublin* or within Forty Miles thereof, in the *Dublin Gazette*, and also in Two *Dublin* Daily Newspapers, and in case such Trader does not reside within Forty Miles of *Dublin*, then in the *Dublin Gazette*, and also in One *Dublin* Daily Newspaper, and One provincial Newspaper published near such Trader's Residence; and such Notice shall contain the Date and Execution of such Deed, and the Name and Place of Abode respectively of every such Trustee and of such Attorney or Solicitor.

Lying in Prison 21 Days, and escaping out of Prison, Acts of Bankruptcy.

Proviso as to being in Prison at the passing of this Act.

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

Filing Declaration of Insolvency at the Bankrupt Office an Act of Bankruptcy, after Advertisement in Gazette.

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, signed by such Trader, and attested by an Attorney or Solicitor, that he is insolvent, or unable to meet his Engagements, the said Secretary of Bankrupts shall sign a Memorandum that such Declaration hath been filed, which Memorandum shall be Authority for the Printer of the *Dublin Gazette* to insert an Advertisement of such Declaration therein; and every such Declaration shall, after such Advertisement inserted as aforesaid, be an Act of Bankruptcy committed by such Trader at the Time when such Declaration was filed;

but no Commission shall issue thereupon unless it be sued out within Two Calendar Months next after the Insertion of such Advertisement, and unless such Advertisement shall have been inserted in the *Dublin Gazette* within Eight Days after such Declaration was filed; and no Docket shall be struck upon such Act of Bankruptcy before the Expiration of Four Days next after the Insertion of such Advertisement; and the Gazette containing such Advertisement shall be Evidence to be received of such Declaration having been filed.

Commission must issue within Two Months.

Striking of Docket.

Gazette to be Evidence.

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

Declaration concerted.

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

Trader compounding with Petitioning Creditor an Act of Bankruptcy.

Commission may be superseded or continued.

Penalty on Person so compounding.

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

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

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

Trader having Privilege of Parliament not paying, &c. and not entering an Appearance to the Action within One Month, an Act of Bankruptcy.

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

Trader having Privilege of Parliament, and disobeying Order for Payment of Money, &c., an Act of Bankruptcy.

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

Provisions of 52G.3. c.144. extended to Commissions to be issued under this Act.

XXVIII. And be it enacted, That the Provisions of an Act passed in the Fifty-second Year of the Reign of King *George* the Third, intituled *An Act to suspend and finally vacate the Seats of Members of the House of Commons who shall become Bankrupts, and who shall not pay their Debts in full within a limited Time*, shall extend, as far as the same may be applicable, to every Commission to be issued and to the Commissioner to be appointed by virtue of this Act.

Power to Lord Chancellor to issue Commission.

XXIX. And be it enacted, That the Lord Chancellor shall have Power, upon Petition made to him in Writing against any Trader having committed any Act of Bankruptcy, by any Creditor or Creditors of such Trader whose Debt or Debts shall amount to the Sum or Sums herein-after mentioned, to issue a Commission under the Great Seal of that Part of the United Kingdom of *Great Britain* and *Ireland* called *Ireland* to the Commissioner to be appointed as herein-before mentioned, who shall, by virtue of this Act and of such Commission, have full Power and Authority to take such Order and Direction with the Body of such Bankrupt as herein-after mentioned, as also with all his Lands, Tenements, and Hereditaments, both

both within the Realm and Abroad, as well Copy or Customary-hold as Freehold, whether in *England*, *Ireland*, or elsewhere, which he shall have in his own Right before he became bankrupt, as also with all such Interest in any such Lands, Tenements, and Hereditaments as such Bankrupt may lawfully depart with, and with all his Money, Fees, Offices, Annuities, Goods, Chattels, Wares, Merchandize, and Debts, wheresoever they may be found or known, and to make Sale thereof in manner herein-after mentioned, or otherwise order the same for Satisfaction and Payment of the Creditors of the said Bankrupt.

Petitioning Creditor to make Oath of his Debt, and give Bond to the Lord Chancellor.

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

Power to the Lord Chancellor to assign Bond.

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

Bill of Costs to be taxed by Commissioner.

XXXI. And be it enacted, That the Petitioning Creditor or Creditors shall at his or their own Costs sue forth and prosecute the Commission until the Choice of Assignees; and the Commissioner shall at the Meeting for such Choice ascertain such Costs, and by Writing under his Hand direct the same to be paid to such Petitioning Creditor or Creditors out of the Monies that shall be got in under the Commission; and all Bills of Fees or Disbursements of any Solicitor or Attorney employed under any Commission, for Business done after the Choice of Assignees, shall be settled by the Commissioner, except that so much of such Bills as contain any Charge respecting any Action at Law or Suit in Equity shall be settled by the proper Officer of the Court in which such Business shall have been transacted, and the same so settled shall be paid to such Solicitor or Attorney; provided that any Creditor who shall have proved to the Amount of Twenty Pounds or upwards, if he be dissatisfied with such Settlement by the Commissioner, may have any such Costs and Bills settled by a Master in Chancery.

Creditors may have Bills taxed by a Master.

Amount of Petitioning Creditors Debt.

XXXII. And be it enacted, That no such Commission shall be issued unless the single Debt of such Creditor, or of Two or more Persons

Persons being Partners, petitioning for the same, shall amount to One hundred Pounds or upwards, or unless the Debt of Two Creditors so petitioning shall amount to One hundred and fifty Pounds or upwards, or unless the Debt of Three or more Creditors so petitioning shall amount to Two hundred Pounds or upwards; and that every Person who has given Credit to any Trader for valuable Consideration for any Sum payable at a certain Time, which Time shall not have arrived when such Trader committed an Act of Bankruptcy, may so petition or join in petitioning as aforesaid, whether he shall have any Security in Writing or otherwise for such Sum or not.

May be upon Debt payable at a future Time.

Joint Commissions may be issued against Partners in a Firm.

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

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

Where Second or other Commission is issued, Lord Chancellor may direct that Commissions be proceeded in separately or in conjunction.

XXXIV. And be it enacted, That if after a Commission issued against Two or more Members of a Firm any other Commission or Commissions shall be issued against any other Member or Members of such Firm 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, and all separate Proceedings under such Commission or Commissions shall be stayed; and such Commission or Commissions shall, without affecting the Validity of the First Commission, be annexed to and form Part of the same: Provided always, that the Lord Chancellor may direct such Commission or Commissions to be proceeded on, either separately or in conjunction with the First Commission.

Proceeding in case Petitioning Creditors Debt be insufficient to support Commission.

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

XXXVI. And

XXXVI. And be it enacted, That no Commission shall be deemed invalid by reason of any Act or Acts of Bankruptcy prior to the Debt or Debts of the Petitioning Creditor or Creditors, or any of them, provided there be a sufficient Act of Bankruptcy subsequent to such Debt or Debts. Commission not invalid by reason of any prior Act of Bankruptcy.

XXXVII. And be it enacted, That it shall and may be lawful for the Commissioner, by Writing under his Hand, to summon before him any Person whom he shall believe capable of giving any Information concerning the Trading or any Act or Acts of Bankruptcy committed by the Person or Persons against whom such Commission is issued, and also to require any Person so summoned to produce any Books, Papers, Deeds, Writings, and other Documents in the Possession, Custody, or Power of such Person which may appear to the said Commissioner to be necessary to establish any such Trading or Act or Acts of Bankruptcy; and it shall be lawful for the said Commissioner to examine any such Person upon Oath, by Word of Mouth or Interrogatories in Writing, concerning the Trade of or any Act or Acts of Bankruptcy committed by the Person or Persons against whom such Commission shall have issued; and every such Person so summoned shall incur such Danger or Penalty for not coming before the Commissioner, or for refusing to be sworn and examined, or for not fully answering to the Satisfaction of the said Commissioner, or for refusing to sign or subscribe his Examination, or for refusing to produce or for not producing any such Book, Paper, Deed, Writing, or Document, as is hereby provided as to Persons summoned after the Adjudication of Bankruptcy; and the Commissioner, upon Oath made before him of the Petitioning Creditors Debt or Debts, and of the Trading or Act or Acts of Bankruptcy of the Person or Persons against whom such Commission is issued, shall thereupon adjudge such Person or Persons bankrupt. Commissioner may summon Persons to give Evidence of Trading and Act of Bankruptcy. Adjudication.

XXXVIII. And be it enacted, That the Commissioner, after he shall have adjudged as aforesaid, shall forthwith cause Notice of such Adjudication to be given in the *Dublin Gazette*, and shall thereby appoint Two or more public Sittings for the Bankrupt to surrender and conform, the last of which Sittings shall be on the Forty-second Day hereby limited for such Surrender. Commissioner shall appoint Two Sittings for Bankrupt to surrender.

XXXIX. And be it enacted, That if, by reason of the Demise of the Crown, or of the Death, Resignation, or Removal of the Commissioner, it shall become necessary to renew any Commission, only Half the Fees usually payable upon obtaining Commissions shall be paid for such renewed Commission; and if any Bankrupt shall die after Adjudication the Commissioner may proceed in the Bankruptcy as he might have done if such Bankrupt were living. If Commission abated by Death of the King, &c. only Half Fees to be payable on Renewal.

XL. And be it enacted, That it shall be lawful for any Person appointed by the Commissioner, by his Warrant under his Hand and Seal, to break open any House, Chamber, Shop, Warehouse, Door, Trunk, or Chest of any Bankrupt where such Bankrupt or any of his Property shall be reputed to be, and seize upon the Body or Property of such Bankrupt; and if the Bankrupt be in Prison or in Messenger may break open Bankrupt's Doors, &c. and seize his Body or Property.

Custody it shall be lawful for the Person so appointed as aforesaid to seize any Property (his necessary Wearing Apparel only excepted) in the Custody or Possession of such Bankrupt, or of any other Person in any Prison or Place where such Bankrupt is in Custody.

Messenger may seize Goods in England.

XLI. And be it enacted, That it shall be lawful for the Person so appointed by the Commissioner as aforesaid to break open any House, Chamber, Shop, Warehouse, Door, Trunk, or Chest of such Bankrupt in *England* where any of the Property of such Bankrupt shall be reputed to be, and seize the same, provided the Execution of such Warrant by the Commissioner shall be verified by the Oath of the Person thereby appointed before a Justice of Peace residing in the County where such Property shall be reputed to be, and provided that the Person thereby appointed shall before such Justice depose upon Oath that he is the Person named in such Warrant.

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

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

Execution of such Warrant in Scotland.

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

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

XLIV. And be it enacted, That no Action shall be brought against any Person so appointed by the Commissioner for any thing done in obedience to his Warrant prior to the Choice of Assignees, unless Demand of the Perusal and Copy of such Warrant hath been made or left at the usual Place of Abode of such Person or Persons by the Party or Parties intending to bring such Action, or by his or their Attorney

Attorney or Agent, in Writing, signed by the Party or Parties demanding the same, and unless the same hath been refused or neglected for Six Days after such Demand; and if after such Demand and Compliance therewith, any Action be brought against the Person so appointed as aforesaid, without making the Petitioning Creditor or Creditors Defendant or Defendants, if living, on producing and proving such Warrant at the Trial of such Action the Jury shall give their Verdict for the Defendant, notwithstanding any Defect of Jurisdiction in the Commissioner; and if such Action be brought against the Petitioning Creditor or Creditors and the Person so appointed as aforesaid, the Jury shall, on Proof of such Warrant, give their Verdict for the Person so appointed as aforesaid, notwithstanding any such Defect of Jurisdiction as aforesaid; and if the Verdict shall be given against the Petitioning Creditor or Creditors the Plaintiff or Plaintiffs shall recover his or their Costs against him or them, to be taxed so as to include such Costs as the Plaintiff or Plaintiffs are liable to pay to the Person so appointed as aforesaid.

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

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

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

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

XLVII. And

Power to examine Persons summoned or present at any Sitting.

XLVII. And be it enacted, That upon the Appearance of any Person so summoned or brought before the Commissioner as aforesaid, or if any Person be present at any Sitting of the Commissioner, it shall be lawful for him to examine every such Person upon Oath, either by Word of Mouth or by Interrogatories in Writing, concerning the Person, Trade, Dealings, or Estate of such Bankrupt, or concerning any Act or Acts of Bankruptcy by such Bankrupt committed, and to reduce into Writing the Answers of every such Person; and such Answers so reduced into Writing the Party examined is hereby required to sign and subscribe; and if any such Person shall refuse to be sworn, or shall refuse to answer any lawful Questions put to him by the said Commissioner touching any of the Matters aforesaid, or shall not fully answer to the Satisfaction of the said Commissioner any such lawful Questions, or shall refuse to sign and subscribe his Examination so reduced into Writing as aforesaid (not having any lawful Objection allowed by the said Commissioner), and shall not produce any Books, Papers, Deeds, and Writings and other Documents in his Custody or Power relating to any of the Matters aforesaid, which such Person was required by the Commissioner to produce, and to the Production of which he shall not state any Objection allowed by the said Commissioner, it shall be lawful for the said Commissioner, by Warrant under his Hand and Seal, to commit him to such Prison as he shall think fit, there to remain without Bail until he shall submit himself to the Commissioner to be sworn, and full Answers make to his Satisfaction to all such lawful Questions as shall be put to him, and sign and subscribe such Examination, and produce such Books, Papers, Deeds, Writings, and other Documents as aforesaid in his Custody or Power, to the Production of which no such Objection as aforesaid has been allowed.

Persons refusing to be sworn, &c. may be committed.

Persons suspected to have Bankrupts Property to have Costs for their Attendance.

Witnesses to have Expences tendered.

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

Commissioner may summon the Bankrupt and examine him.

XLIX. And be it enacted, That it shall be lawful for the said Commissioner, by Writing under his Hand, to summon any Bankrupt before him, whether such Bankrupt shall have obtained his Certificate or not; and in case he shall not come at the Time by the Commissioner appointed (having no lawful Impediments made known to the Commissioner at such Time, and allowed by him,) it shall be lawful for the said Commissioner, by Warrant under his Hand and Seal, to authorize and direct any Person or Persons he shall think fit to apprehend and arrest such Bankrupt, and bring him before the Commissioner; and upon the Appearance of such Bankrupt, or if such Bankrupt be present at any Sitting of the said Commissioner, it shall be lawful for him to examine such Bankrupt upon Oath, either by Word of Mouth or on Interrogatories in Writing, touching all

Matters relating either to his Trade, Dealings, or Estate, or which may tend to disclose any secret Grant, Conveyance, or Concealment of his Lands, Tenements, Goods, Money, or Debts, and to reduce his Answers into Writing; which Examination so reduced into Writing the said Bankrupt shall sign and subscribe; and if such Bankrupt shall refuse to be sworn, or shall refuse to answer any Questions put to him by the said Commissioner touching any of the Matters aforesaid, or shall not fully answer to the Satisfaction of the said Commissioner any such Questions, or shall refuse to sign and subscribe his Examination so reduced into Writing as aforesaid, (not having any lawful Objection allowed by the said Commissioner,) it shall be lawful for the said Commissioner, by Warrant under his Hand and Seal, to commit him to such Prison as the Commissioner shall think fit, there to remain, without Bail, until he shall submit himself to the said Commissioner 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.

Bankrupt refusing to be sworn, &c. may be committed.

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

Commissioner may summon and examine the Bankrupt's Wife.

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

Penalty on Gaoler for Escape, 500*l.*

LII. And be it enacted, That if any Person be committed by the Commissioner for refusing to answer or for not fully answering any Question put to him by the said Commissioner he shall in his Warrant of Commitment specify every such Question; provided that if any Person committed by the Commissioner shall bring any Habeas Corpus in order to be discharged from such Commitment, and there shall appear on the Return of such Habeas Corpus any such Insufficiency in the Form of the Warrant whereby such Person was committed, by reason whereof he might be discharged, it shall be lawful for the Court or Judge before whom such Party shall be brought by Habeas Corpus, and such Court or Judge is hereby required, to commit such Person to the same Prison, there to remain until he shall conform, unless it shall be shown to such Court or Judge by the Party committed that he has fully answered all lawful Questions put to him by the Commissioner, or if such Person was committed for refusing to be sworn, or for not signing his Examination, unless it shall appear to such Court or Judge that he had

Questions to be particularly specified in Warrant.

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

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

had a sufficient Reason for the same: Provided also, that such Court or Judge shall, if required thereto by the Party committed, in case the whole of the Examination of the Party so committed shall not have been stated in the Warrant of Commitment, inspect and consider the whole of the Examination of such Party whereof any such Question was a Part, and if it shall appear from the whole Examination that the Answer or Answers of the Party committed is or are satisfactory, such Court or Judge shall and may order the Party so committed to be discharged.

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

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

Limitation of Actions.

LIV. And be it enacted, That every Action brought against any Person for any thing done in pursuance of this Act shall be commenced within Three Calendar Months next after the Fact committed;

General Issue.

and the Defendant or Defendants in any such Action may plead the General Issue, and give this Act and the special Matter in Evidence at the Trial, and that the same was done by Authority of this Act; and if it shall appear so to have been done, or that such Action was commenced after the Time before limited for bringing the same, the

Double Costs.

Jury shall find for the Defendant or Defendants; and if there be a Verdict for the Defendant or Defendants, or if the Plaintiff or Plaintiffs shall be nonsuited, or discontinue his, her, or their Action or Suit after Appearance thereto, or if upon Demurrer Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall recover Double Costs.

Commissioner may appoint Assignees until others are chosen by Creditors.

LV. And be it enacted, That it shall be lawful for the Commissioner, as often as he shall think fit, by Writing under his Hand, to appoint One or more Person or Persons Assignee or Assignees of the Bankrupt's Real and Personal Estate, or of any Part thereof; which Assignee or Assignees shall or may be removed at the Meeting of the Creditors for the Choice of Assignees, if they shall think fit; and such Assignee or Assignees so removed shall deliver up all the Chattels and Effects of the Bankrupt come to his or their Possession, to the

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

Assignees so chosen as herein-after mentioned; and if such first Assignee or Assignees shall not within Ten Days after Notice given of the said Choice of Assignees, and of their Consent to act as such, signified to the first Assignee or Assignees by Writing under the Hands of such Assignees so chosen by the Creditors, make such Delivery as aforesaid, every such Assignee shall forfeit Two hundred Pounds.

LVI. And

Debts, how to be proved:

LVI. And be it enacted, That at the Two or more Sittings appointed by the Commissioner as aforesaid, and at every other Sitting or Meeting by him appointed for Proof of Debts (whereof, and of the Purport whereof, Ten Days Notice shall have been given in the *Dublin Gazette*), every Creditor of the Bankrupt may prove his Debt by his own Oath; and all Bodies Politic and public Companies incorporated, or authorized to sue or bring Actions, either by Charter or Act of Parliament, may prove by an Agent, provided such Agent shall in his Deposition swear that he is such Agent as aforesaid, and that he is authorized to make such Proof; and if any Creditor shall live remote from *Dublin* he may prove by Affidavit sworn before a Master in Chancery, Ordinary or Extraordinary, or if such Creditor shall live out of *Ireland* by Affidavit sworn before a Magistrate where such Creditor shall be residing, and attested by a Notary Public, *British* Minister or Consul; and no Creditor shall pay any Contribution on account of any such Debt; provided that it shall be lawful for the said Commissioner to examine upon Oath, either by Word of Mouth or by Interrogatories in Writing, every Person claiming to prove a Debt under the said Commission, or to require such further Proof, and to examine such other Persons in relation thereto, as he shall think fit.

by Corporations;

by Creditors remote or Abroad.

Creditor may be examined on Oath.

Lord Chancellor may issue extraordinary Commissions for Proof of Debts, &c.

LVII. And be it enacted, That it shall be lawful for the Lord Chancellor, whenever it shall be made appear to him, upon Affidavit or any other sufficient Document, expedient so to do, to direct an extraordinary Commission to issue, upon such Terms as he shall think proper, for Proof of Debts, for the Examination of Witnesses, or any other Purpose relating to any Proceeding in Bankruptcy; and the Commissioner in every such Commission shall, upon taking the Oath herein-before prescribed for the Commissioner to be appointed under this Act, possess the same Powers to compel the Attendance of Witnesses, and to examine them, and to enforce Obedience to such Examination, and the Production of Books, Deeds, Papers, Writings, and other Documents, as the Commissioner appointed under this Act, and such Fees shall be paid on the Proceedings before him as the Lord Chancellor shall direct, and he shall receive out of the Funds in the Bankruptcy or out of such Fees, or both, such Remuneration as the Lord Chancellor shall direct: Provided always, that the Examination of Witnesses under such Commission shall be taken down in Writing, and shall be returned to the Commissioner appointed under this Act.

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

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

LIX. And

Commissioner may order Six Months Wages of Servants or Clerks of Bankrupts to be paid.

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

Apprentices to be discharged from their Indentures.

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

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

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

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

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

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

LXIII. And

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

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

Obligee in Bottomry or Respondentia Bonds, &c. admitted to claim, and, after Loss, to prove.

Persons effecting Insurance admitted to prove Loss.

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

Annuity Creditor admitted to prove.

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

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

LXVI. And be it enacted, That it shall not be lawful for any Person entitled to any Annuity granted by any Bankrupt to sue any Person who may be collateral Surety for the Payment of such Annuity, until such Annuitant shall have proved under the Commission against such Bankrupt for the Value of such Annuity, and for the Payment thereof; and if such Surety, after such Proof, pay the Amount proved as aforesaid, he shall be thereby discharged from all Claims in respect of such Annuity; and if such Surety shall not (before any Payment of the said Annuity subsequent to the Bankruptcy shall have become due) pay the Sum so proved as aforesaid, he may be

sued for the accruing Payments of such Annuity until such Annuitant shall have been paid or satisfied the Amount so proved, with Interest thereon at the Rate of Five *per Cent. per Annum* from the Time of Notice of such Proof and of the Amount thereof being given to such Surety; and after such Payment or Satisfaction such Surety shall stand in the Place of such Annuitant in respect of such Proof as aforesaid to the Amount so paid or satisfied as aforesaid by such Surety; and the Certificate of the Bankrupt shall be a Discharge to him from all Claims of such Annuitant or of such Surety in respect of such Annuity; provided that such Surety shall be entitled to Credit in account with such Annuitant for any Dividends received by such Annuitant under the Commission before such Surety shall have fully paid or satisfied the Amount so proved as aforesaid.

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

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

Interest on Promissory Notes and Bills of Exchange proveable.

LXVIII. And be it enacted, That in all future Commissions against any Person or Persons liable upon any Bill of Exchange or Promissory Note whereupon Interest is not reserved, overdue at the issuing the Commission, the Holder of such Bill of Exchange or Promissory Note shall be entitled to prove for the legal Interest upon the same, to be calculated by the Commissioner, to the Date of the Commission.

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

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

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

LXX. And be it enacted, That no Creditor who has brought any Action or instituted any Suit against any Bankrupt in respect of a Demand prior to the Bankruptcy, or which might have been proved as a Debt under the Commission against such Bankrupt, shall prove a Debt under such Commission, or have any Claim entered upon the Proceedings under such Commission, without relinquishing such Action or Suit; and in case such Bankrupt shall be in Prison or Custody

Custody at the Suit of or detained by such Creditor he shall not prove or claim as aforesaid without giving a sufficient Authority in Writing for the Discharge of such Bankrupt; and the proving or claiming a Debt under a Commission by any Creditor shall be deemed an Election by such Creditor to take the Benefit of such Commission with respect to the Debt so proved or claimed; provided that such Creditor shall not be liable to the Payment to such Bankrupt or his Assignees of the Costs of such Action or Suit so relinquished by him, and that where any such Creditor shall have brought any Action or Suit against such Bankrupt jointly with any other Person or Persons his relinquishing such Action or Suit against the Bankrupt shall not affect such Action or Suit against such other Person or Persons: Provided also, that any Creditor who shall have so elected to prove or claim as aforesaid, if the Commission be afterwards superseded, may proceed in the Action as if he had not so elected, and in bailable Actions shall be at liberty to arrest the Defendant *de novo* if he has not put in Bail below or perfected Bail above, or, if the Defendant has put in or perfected such Bail, to have recourse against such Bail, by requiring the Bail below to put in and perfect Bail above within the First Eight Days in Term after Notice in the *Dublin Gazette* of the superseding such Commission, and by suing the Bail upon their Recognizance if the Condition thereof is broken.

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

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

Commissioner may expunge Proof of Debts.

Persons requiring Investigation to sign Undertaking for Costs.

Application by Petition received.

LXXII. And be it enacted, That at the First Sitting appointed by the Commissioner as aforesaid, or an Adjournment thereof, Assignees of

Choice of Assignees at First Sitting.

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

Commissioner may reject any Person chosen as unfit.

Joint Creditor entitled to prove under separate Commission;

but not to receive Dividend unless Petitioning Creditor.

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

Personal Estate to vest in the Assignees by virtue of their Appointment.

LXXIV. And be it enacted, That when any Person hath been adjudged a Bankrupt, all the present and future Personal Estate of such Bankrupt, wheresover the same may be found or known, and all Property which he may purchase, or which may revert, descend, be devised or bequeathed or come to him, before he shall have obtained his Certificate, and all Debts due or to be due to the Bankrupt, wheresoever the same may be found or known, shall become absolutely vested in or transferred to the Assignee or Assignees for the Time being, whether appointed by the Commissioner or chosen by the Creditors, as herein-before provided, for the Benefit of the Creditors of the Bankrupt, by virtue of such Appointment or Choice as aforesaid, and without any Deed of Assignment for that Purpose; and the Property, Right, and Interest in such Debts shall become vested in and transferred to such Assignees for the Time being as fully as if the Assurance whereby they are secured had been made to such Assignees; and neither the Bankrupt, nor any Person claiming through or under him, shall have Power to recover the same, or to make any Release or Discharge thereof; neither shall the same be attached as the Debt of the Bankrupt by any Person, according to the Custom of the City of *Dublin* or otherwise; but such Assignees for the Time being shall have like Remedy to recover the same, in their own Names, as the Bankrupt himself might have had if he had not been adjudged bankrupt.

LXXV. And

LXXV. And be it enacted, That as often as any such Assignee shall die, or be lawfully removed, and a new Assignee duly appointed or chosen, all such Personal Estate as was then vested in such deceased or removed Assignee shall, by virtue of such Appointment or Choice, vest in the new Assignee, either alone or jointly with the existing Assignee or Assignees, as the Case may require, without any Deed of Assignment for that Purpose.

In case of Death or Removal of Assignee the Personal Estate to vest in the new Assignee.

LXXVI. And be it enacted, That all Lands, Tenements, and Hereditaments (except Copyhold or Customaryhold) in *England*, *Scotland*, *Ireland*, or in any of the Dominions, Plantations, or Colonies belonging to His Majesty, to which any Bankrupt is entitled, and all Interest to which such Bankrupt is entitled in any of such Lands, Tenements, or Hereditaments, and of which he might, according to the Laws of the several Countries, Dominions, Plantations, or Colonies, have disposed, and all such Lands, Tenements, and Hereditaments as he shall purchase, or shall descend, be devised, revert, or come to such Bankrupt, before he shall have obtained his Certificate, and all Deeds, Papers, and Writings respecting the same, shall vest in the Assignee or Assignees for the Time being of such Bankrupt, whether appointed by the Commissioner or chosen by the Creditors of the Bankrupt, as herein-before mentioned, for the Benefit of the Creditors of the Bankrupt, by virtue of such Appointment or Choice as aforesaid, and without any Deed of Conveyance for that Purpose, discharged from any Claim of the Bankrupt or any Person deriving under him.

Real Estate to vest in Assignees by virtue of their Appointment.

LXXVII. And be it enacted, That as often as such Assignee or Assignees shall die, or be lawfully removed, and a new Assignee or Assignees shall be duly appointed or chosen, such of the aforesaid Real Estate as shall remain unsold or unconveyed shall by virtue of such Appointment vest in the new Assignee or Assignees, either alone or jointly with the existing Assignee or Assignees, as the Case may require, without any Conveyance for that Purpose.

In case of Death or Removal of Assignee the Real Estate to vest in the new Assignee.

LXXVIII. And be it enacted, That a Certificate of the Appointment or Choice of such Assignees under the Hand and Seal of the said Commissioner shall be entered of Record in the Office for the Enrolment of Matters relating to Bankruptcy herein-after mentioned; and that the same, when so enrolled, shall be as effectual, to all Intents and Purposes, as if a Deed or Deeds of Assignment or Conveyance of the Personal or Real Estates of such Bankrupt had been executed to the said Assignees, and duly registered or enrolled.

Certificate of Appointment or Choice of Assignees to be enrolled.

LXXIX. And be it enacted, That the Commissioner shall, by Deed indented, and enrolled in any of His Majesty's Courts of Record at *Dublin*, make Sale, for the Benefit of the Creditors, of any Lands, Tenements, and Hereditaments, situate either in *England* or *Ireland* or elsewhere, whereof the Bankrupt is seised of any Estate Tail in Possession, Reversion, or Remainder, and whereof no Reversion or Remainder is in the Crown, the Gift or Provision of the Crown; and every such Deed shall be good against the said Bankrupt and the Issue of his Body, and against all Persons claiming under him after

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

he became bankrupt, and against all Persons whom the said Bankrupt, by virtue of the Provisions of any Act now in force for the Abolition of Fines and Recoveries, and substituting other Assurances in lieu thereof, or any other Means, might cut off or debar from any Remainder, Reversion, or other Interest in or out of any of the said Lands, Tenements, and Hereditaments.

In case of Removal of Assignees, Notice to be given in Gazette, &c.

LXXX. And be it enacted, That in case of the Removal of any Assignee or Assignees the Commissioner shall, in the Two *Dublin* Gazettes next after the Removal of such Assignee or Assignees, cause Advertisements to be inserted giving Notice of such Removal, and directing Persons indebted to the Bankrupt's Estate not to pay any Debt to the Assignee or Assignees so removed.

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

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

Commissioner may sell Copyhold Lands.

LXXXII. And be it enacted, That the Commissioner shall have Power, by Deed indented, and enrolled as aforesaid, to make Sale, for the Benefit of the Creditors, of any Copyhold or Customaryhold Lands of the Bankrupt, either in *England*, *Scotland*, or elsewhere, or of any Interest to which any Bankrupt is entitled therein, and thereby to entitle or authorize any Person or Persons on his Behalf to surrender the same for the Purpose of any Purchaser or Purchasers being admitted thereto.

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

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

Conditional Estates granted by Bankrupt may be redeemed.

LXXXIV. And be it enacted, That if any Bankrupt shall have granted, conveyed, assured, or pledged any Real or Personal Estate, or deposited any Deed, such Grant, Conveyance, Assurance, Pledge, or Deposit, being upon Condition or Power of Redemption at a future Day, by Payment of Money or otherwise, the Assignees may, before the Time of the Performance of such Condition, make Tender

or Payment of Money, or other Performance, according to such Condition, as fully as the Bankrupt might have done; and after such Tender, Payment, or Performance may sell and dispose of such Real or Personal Estate for the Benefit of the Creditors as aforesaid.

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

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

Goods in Possession, &c. of Bankrupt by Consent of the Owner may be sold.

Proviso as to Ships, under 4 G. 4. c. 41.

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

Conveyance by Bankrupt of his Lands or Goods to others, or Delivery of Securities or Transfer of Debts into other Names, void.

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

Distress not to be available for more than One Year's Rent due.

LXXXVIII. And be it enacted, That no Distress for Rent made and levied after an Act of Bankruptcy upon the Goods or Effects of any Bankrupt (whether before or after the issuing of the Commission) shall be available for more than One Year's Rent accrued prior to the Date

Landlord to prove for the Residue.

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

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

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

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

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

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

Assignees may execute Powers previously vested in Bankrupts.

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

Lord Chancellor may order Bankrupt to join in Conveyance.

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

XCIII. And

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

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

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

When the Bankrupt beneficially entitled to Stock.

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

Conveyances, Contracts, &c. made, without Notice, Two Months before Commission valid.

Proviso in Cases where Commission is afterwards superseded.

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

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

What shall be constructive Notice.

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

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

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

Notice to Bodies Corporate, &c.

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

Bonâ fide Purchases, with Notice, not to be impeached.

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

As to Impeachment of Titles to Property sold under Commission.

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

CII. And

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

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

Meeting of Creditors not attended by One Third in Value.

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

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

In Actions by or against any Person acting under Commission, no Proof required at the Trial of Petitioning Creditors Debt, Trading, or Act of Bankruptcy, unless Notice given, &c.

CIV. And be it enacted, That in any Action by or against any Assignee, or in any Action against any Person acting under the Warrant of the Commissioner for any thing done under such Warrant, no Proof shall be required at the Trial of the Petitioning Creditors Debt or Debts, or of the Trading, or Act or Acts of Bankruptcy respectively, unless the other Party in such Action shall, if Defendant, at or before the Time of pleading, and, if Plaintiff, before Issue joined, give Notice in Writing to such Assignee or other Person that he intends to dispute some and which of such Matters; and in case such Notice shall have been given, if such Assignee or other Person shall prove the Matter so disputed, or the other Party admit the same, the Judge before whom the Cause shall be tried may (if he think fit) grant a Certificate of such Proof or Admission; and such Assignee or other Person

Person shall be entitled to the Costs, to be taxed by the proper Officer, occasioned by such Notice; and such Costs shall, if such Assignee or other Person shall obtain a Verdict, be added to his Costs, and if the other Party shall obtain a Verdict shall be deducted from the Costs which such other Party would otherwise be entitled to receive from such Assignee or other Person.

The same in Suits in Equity.

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

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

CVI. And be it enacted, That if the Bankrupt shall not, if he was within the United Kingdom at the issuing of the Commission, within Two Calendar Months after the Adjudication, or, if he was out of the United Kingdom, within Twelve Calendar Months after the Adjudication, have given Notice of his Intention to dispute the Commission, and have proceeded therein with due Diligence, the Depositions taken before the Commissioner at the Time of or previous to the Adjudication of Bankruptcy, of the Petitioning Creditors Debt or Debts, and of the Trading, and Act or Acts of Bankruptcy, shall be conclusive Evidence of the Matters and Things therein respectively contained, so far as relates to the Sufficiency of the Petitioning Creditors Debt or Debts, Trading, and Act or Acts of Bankruptcy, in all Suits at Law or in Equity brought by the Assignees for any Debt or Demand for which the Bankrupt might have sustained any Action or Suit.

If Assignee commence Action for Money due within Time allowed for Bankrupt to dispute, Defendant may pay Money into Court.

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

If Commission afterwards superseded, Persons from whom the Assignees have recovered, on bonâ fide

CVIII. And be it enacted, That all Persons from whom the Assignees shall have recovered any Real or Personal Estate, either by Judgment or Decree, are hereby discharged, in case the Commission be afterwards superseded, from all Demands which may thereafter be made in respect of the same by the Person or Persons against whom such Commission issued, and all Persons claiming under him or them; and all Persons who shall, without Action or Suit, *bonâ fide* deliver up Possession of any Real or Personal Estate

to the Assignees, or pay any Debt claimed by them, are hereby discharged from all Claim of any such Person or Persons as aforesaid in respect of the same, or any Person claiming under him or them, provided such Notice to try the Validity of the Commission had not been given and proceeded in within the Time and in manner aforesaid. paying Assignees, to be discharged from Claims by the Bankrupt.

CIX. And be it enacted, That all Things done pursuant to the Act passed in the Eleventh and Twelfth Years of King *George* the Third, and hereby repealed, whereby it was enacted that the Lord Chancellor should appoint a Place where all Matters relating to Commissions of Bankruptcy should be entered of Record, and should appoint a Person to have the Custody thereof, be hereby confirmed; and the Person appointed by virtue of the said Act of the Eleventh and Twelfth Years of King *George* the Third shall, by himself or his Deputy, to be approved of by the Lord Chancellor, enter of Record all Matters relating to Commissions of Bankruptcy, and have the Custody of the Entries thereof; and he and his Deputy, 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 Order in Writing under the Hand of the Lord Chancellor, on sufficient Cause therein specified; and that all Commissions of Bankruptcy issued before this Act shall take effect, and all Depositions and other Proceedings relating to such Commissions directed to be enrolled and actually entered of Record before this Act shall take effect, shall be deemed and taken to have been well and effectually entered of Record; and the Certificate of such Entry, purporting to be signed by the Person appointed to enter such Proceedings, or by his Deputy, shall be received in Evidence, without Proof of the Appointment or Handwriting of such Person. Office for registering Proceedings in Bankruptcy. Matters enrolled before passing of this Act deemed to be effectually entered of Record, and Certificate thereof Evidence.

CX. And be it enacted, That the Person so appointed by virtue of the said recited Act of the Eleventh and Twelfth Years of King *George* the Third, and his Successors, shall have the Custody and Care of all the said Records, and of all other Records to be entered in pursuance of this Act; and shall, by himself or his Deputy, enter of Record all Matters and Proceedings in Bankruptcy which by this Act, or any Order made in pursuance of it, are or may be directed or required to be entered of Record upon Payment of such Fees as before the passing of this Act he was entitled to receive for the like Business. Custody of Matters entered of Record under former Commissions.

CXI. And be it enacted, That after this Act shall take effect no Commission of Bankruptcy, Adjudication of Bankruptcy, Certificate of the Appointment or Choice of Assignees, or Certificate of Conformity, shall be received as Evidence in any Court of Law or Equity, unless the same shall have been so entered of Record as aforesaid; and every such Instrument shall be so entered of Record, and the Certificate of such Entry indorsed thereon, upon the Application or Behalf of any Party 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 or Writing presented for that Purpose; and the Lord Chancellor may, upon Petition, direct any Depositions, Pro- No Commission, Adjudication, &c. to be received in Evidence, unless entered of Record. Lord Chancellor may

direct other Matters to be entered of Record.

Certificate of Entry endorsed to be Evidence of Entry.

Proceedings, or other Matters relating to Commissions of Bankruptcy to be entered of Record as aforesaid, on the Payment of such Fees as before the passing of this Act were by Law payable for the like Business; and all Persons shall be at liberty to search for any of the Matters so entered of Record as aforesaid; provided that on the Production in Evidence of any Instrument so directed to be entered of Record, having the Certificate thereon purporting to be signed by the Person so appointed as aforesaid, or 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.

Office Copies made Evidence in certain Cases, &c.

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

Provision in case of Death of Witnesses.

CXIII. And be it enacted, That in the event of the Death of any of the Witnesses deposing to the Petitioning Creditors Debt, Trading, or Act of Bankruptcy, under any Commission heretofore issued or heretofore to be issued, the Depositions of such Witnesses, or a Copy thereof, duly authenticated according to the Provisions of the said recited Acts or of this Act, shall be Evidence of the Matters and Things therein respectively contained, so far as relates to the Sufficiency of the Petitioning Creditors Debt, Trading, and Act of Bankruptcy, in all Proceedings at Law or in Equity, as fully and effectually as if the said Matters and Things had been deposed to by the same Witnesses if living.

Proceedings in Bankruptcy purporting to be signed and sealed by the Commissioner to be received as Evidence.

CXIV. Provided always, and be it further enacted, That upon the Production in Evidence of any Commission, Adjudication, Certificate of Appointment or Choice of Assignees, Certificate of Conformity, Deposition, or other Proceeding in Bankruptcy, purporting to be signed and sealed by the said Commissioner, or of any Writing purporting to be a Copy of any such Document, and purporting to be signed and sealed as aforesaid, the same shall be received as Evidence of such Documents respectively, and of the same having been so entered of Record as aforesaid, without any further Proof thereof: Provided nevertheless, that all Commissions, and Proceedings under the same, which may have been entered of Record before the passing of this Act, shall and may, upon the Production thereof, with the Certificate thereon purporting to be signed by the Person so appointed to enter Proceedings in Bankruptcy, or by his Deputy, be received as Evidence of the same having been duly entered of Record; any thing herein contained to the contrary notwithstanding.

CXV. And

CXV. And whereas great Difficulty has arisen to the Assignees of Bankrupts in the Recovery of Small Debts; be it enacted, That in all Cases where the Debt sought to be recovered by the Assignees shall not exceed Twenty Pounds the Certificate of the Appointment or Choice of Assignees, entered of Record as aforesaid, or a Copy thereof signed and sealed as aforesaid, shall be conclusive Evidence of the issuing the Commission, and of the Person named in such Certificate being a Bankrupt, and of the due Appointment or Choice of such Assignees.

Where Debts do not exceed 20*l.* Certificate of Adjudication to be Evidence.

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

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

Sales not liable to Auction Duty.

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

Punishment of Perjury, and false Affirmation or Declaration.

Provision as to Quakers and others.

CXVIII. And

Applications of Forfeitures.

CXVIII. 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, Affirmation, or Declaration hereby directed or authorized, may be sued for by the Assignees in any of His Majesty's Courts of Record; and the Money so recovered (the Charges of Suit being deducted) shall be divided among the Creditors, who shall not by reason thereof be incompetent Witnesses in any Proceedings for the Recovery of such Penalties.

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

Commissioner may summon Assignees, &c.

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

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

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

Commissioner may direct any Money to be invested in Exchequer Bills or in Public Funds.

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

CXXII. And

Assignee disobeying Direction to pay or invest Money, and retaining it, or permitting Co-assignee to retain it or employ it, to be charged 20 per Cent.

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

If Assignee become bankrupt, having Bankrupt's Estate retained, his Certificate shall not discharge his future Effects in respect of it.

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

Commissioner shall audit Accounts of Assignees not sooner than Four Months from the issuing of the Commission, nor later than Six Months from the last Examination.

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

Method of making Dividend.

CXXV. And be it enacted, That the Commissioner shall, not sooner than Four nor later than Twelve Calendar Months from the issuing the Commission, appoint a Sitting (whereof, and of the Purport whereof, he shall give Twenty-one Days Notice in the *Dublin Gazette*) to make a Dividend of the Bankrupt's Estate, at which Sitting all Creditors who have not proved their Debts shall be entitled to prove the same; and the said Commissioner at such Sitting

shall order such Part of the net Produce of the Bankrupt's Estate as he shall think fit to be forthwith divided amongst such Creditors as have proved Debts under the Commission in proportion to their respective Debts, and shall make an Order for a Dividend in Writing under his Hand, and shall cause one Part of such Order to be filed amongst the Proceedings under the Commission, and shall deliver another Part thereof to the Assignees, which Order shall contain an Account of the Time and Place of making such Order, of the Amount of the Debts proved, of the Money remaining to be divided, of how much in the Pound is then ordered to be paid to every Creditor, and of the Money allowed by the Commissioner to be retained by the Assignees, with his Reasons for allowing the same to be so retained; and no Dividend shall be declared unless the Accounts of the Assignees shall have been first so audited as aforesaid, and such Statement delivered by them upon Oath as aforesaid.

No Dividend without previous Audit.

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

CXXVI. And be it enacted, That no Creditor having Security for his Debt, or having made any Attachment in *Dublin* or any other Place by virtue of any Custom there used, of the Goods and Chattels of the Bankrupt, shall receive upon any such Security or Attachment more than a rateable Part of such Debt, except in respect of any Execution or Extent served and levied by Seizure upon, or any Mortgage of or Lien upon any Part of the Property of such Bankrupt before the Bankruptcy; provided that no Creditor, though for a valuable Consideration, who shall sue out Execution upon any Judgment obtained by Default, Confession, or Nil dicit, shall avail himself of such Execution to the Prejudice of other fair Creditors, but shall be paid rateably with such Creditors.

Final Dividend within Eighteen Months, unless Suit depending or Estate standing out.

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

Assignees to file an Account in Bankrupt Office of unclaimed Dividends re-

CXXVIII. And be it enacted, That if any Assignee under any Commission of Bankrupt shall have, either in his own Hands or at any Bankers, or otherwise subject to his Order or Disposition, or to his Knowledge in the Hands or in the Order and Disposition of himself and any Co-assignee or Co-assignees, or of any or either of them, any unclaimed Dividend or Dividends amounting in the whole to the

Sum

Sum of Fifty Pounds, and shall not within Six Calendar Months after this Act shall have taken effect, or Two Calendar Months after the Expiration of One Year after the Declaration and Order for Payment of such Dividend or Dividends made by the Commissioner, either pay to the Creditor or Creditors entitled thereto, or cause a Certificate thereof to be filed in the Office of the Lord Chancellor's Secretary of Bankrupts, containing a full and true Account of the Name or Names of the Creditor or Creditors to whom such unclaimed Dividend or Dividends is or are respectively due, and of the Amount of such Dividend or Dividends respectively, (such Account being signed by the Assignee or Assignees rendering the same, and attested by the Solicitor to the Commission, or the Solicitor to the Assignee or Assignees signing the same,) such Assignee or Assignees shall be charged in account with the Estate of the Bankrupt Interest upon such unclaimed Dividend or Dividends, to be computed from the Time when such Certificate is hereby directed to be filed, at the Rate of Six Pounds *per Centum per Annum*, for such Time as he shall thenceforth retain the same, and also such further Sum as the Commissioner shall think fit, not exceeding in the whole Twenty Pounds *per Centum per Annum*; and the Lord Chancellor or the said Commissioner may order the Investment of any unclaimed Dividend or Dividends in the Public Funds or in any Government Security for or on account of the Creditors entitled, and subject to such Order as the Lord Chancellor may think fit to make respecting the same, who, if he shall think fit, may, after the same shall have remained unclaimed for the Space of Three Years from the Declaration of such Dividends by the Commissioner, order the same to be divided amongst and paid to the other Creditors; and the Proof of the Creditors to whom such Dividends were allotted shall from thenceforth be considered as void as to the same, but renewable as to any future Dividends, to place them *pari passu* with the other Creditors, but not to disturb any Dividends which shall have been previously made.

maining in their Hands.

Penalty on Assignees neglecting.

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

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

No Action for Dividend: Remedy by Petition to the Lord Chancellor.

CXXX. And be it enacted, That if any Person against whom any Commission has been issued or shall hereafter be issued, whereupon such Person hath been or shall be declared bankrupt, shall not, before Three of the Clock upon the Forty-second Day after Notice thereof in Writing to be left at the usual Place of Abode of such Person, or personal Notice in case such Person be then in Prison, and Notice given in the *Dublin Gazette* of issuing of the Commission and of the Sittings of the Commissioner, surrender himself to him, and sign or subscribe such Surrender, and submit to be examined before him from Time to Time upon Oath, or being a Quaker or Moravian or Separatist upon solemn Affirmation or Declaration, or if any such Bankrupt upon such Examination shall not discover all his Real or Personal Estate, and how and to whom, upon what Consideration, and when he disposed

Bankrupt not surrendering and submitting to be examined, or not discovering all his Estate, or not delivering up his Goods, Books, &c., or removing or embezzling to the Amount of 10*l.*, guilty

of Felony, &c.

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

Lord Chancellor may enlarge Time for Bankrupt surrendering.

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

Allowance to Bankrupt for Maintenance.

CXXXII. And be it enacted, That it shall be lawful for the Commissioner, before the Choice of Assignees, and after such Choice for the Assignees with the Approbation of the Commissioner testified in Writing under his Hand, from Time to Time to make such Allowance to the Bankrupt out of his Estate, until he shall have passed his last Examination, as shall be necessary for the Support of himself and his Family.

As to Bankrupts apprehended by Warrant.

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

Bankrupt to deliver up his Books of Accounts to Assignees, upon Oath, and to attend Assignees.

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

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

Allowance for Attendance.

Commitment for Non-attendance.

CXXXV. And be it enacted, That in every Case the Assignees may, with the Consent of the Commissioner, testified by some Writing signed by him, appoint the Bankrupt himself to superintend the Management of the Estate, or to carry on the Trade, for the Benefit of the Creditors, and in all respects or any other respect as they may think fit to aid them in administering the Bankrupt's Estate and Effects, in such Manner and on such Terms as they may think best for the Benefit of the Persons interested in the Estate.

Bankrupt may be appointed to manage his Estate, &c. for Benefit of Creditors.

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

Bankrupt to be free from Arrest during Examination, if not in Custody; and, if arrested, to be discharged on producing Summons.

Penalty on Officer detaining Bankrupt.

CXXXVII. And be it enacted, That it shall be lawful for the Commissioner at the Time appointed for the last Examination of the Bankrupt, or any Enlargement or Adjournment thereof, to adjourn such Examination *sine die*, and he shall be free from Arrest or Imprisonment for such Time, not exceeding Three Calendar Months,

Commissioner may adjourn final Examination of Bankrupt sine die.

as the Commissioner shall, by Indorsement upon such Summons as aforesaid, appoint, with like Penalty upon any Officer detaining such Bankrupt after having been shown such Summons.

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

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

Assignees may appoint Persons to attend Bankrupt in Prison.

Penalty on Persons concealing Bankrupt's Effects.

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

Allowance to Persons making Discovery thereof.

Bankrupt discharged by Certificate of Conformity.

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

Partner not discharged.

Certificate to be signed by Four Fifths in Number and Value of Creditors above 20*l.*; after Six Months by

CXLI. And be it enacted, That such Certificate shall be signed by Four Fifths in Number and Value of the Creditors of the Bankrupt who shall have proved Debts under the Commission to the Amount of Twenty Pounds or upwards, or after Six Calendar Months from the last Examination of the Bankrupt, then either by Three Fifths in Number and Value of such Creditors or by Nine Tenths in Number of such Creditors, who shall thereby testify their Consent to the said Bankrupt's

Bankrupt's Discharge as aforesaid; and no such Certificate shall be such Discharge unless the Commissioner shall, in Writing under his Hand and Seal, certify to the Lord Chancellor that such Bankrupt has made a full Discovery of his Estate and Effects, and in all Things conformed as aforesaid, and that there does not appear any Reason to doubt the Truth or Fulness of such Discovery, and also that the Creditors have signed in manner hereby directed, and unless the Bankrupt make Oath in Writing that such Certificate and Consent were obtained without Fraud, and unless such Certificate shall after such Oath be allowed by the Lord Chancellor, against which Allowance any of the Creditors of the Bankrupt may be heard before the Lord Chancellor.

Three Fifths in Number and Value, or Nine Tenths in Number.

Allowance of by the Lord Chancellor.

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

Proof of Signature of Creditors.

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

Contracts and Securities to induce Creditors to sign void.

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

Bankrupt having obtained his Certificate free from Arrest.

Certificate to be Evidence of Proceedings under Commission.

Bankrupt taken in Execution may be discharged.

CXLV. And be it enacted, That if any Person who shall have been so discharged by such Certificate as aforesaid, or who shall have com-

Where Bankrupt has been bankrupt

before, &c. his future Effects liable.

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

Allowance to Bankrupt in proportion to Dividend.

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

One Partner may receive Allowance though the others are not entitled.

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

Bankrupt not entitled to Certificate or Allowance; and Certificate void in certain Cases.

CXLVIII. And be it enacted, That no Bankrupt shall be entitled to his Certificate or to be paid any such Allowance, and that any Certificate if obtained shall be void, if such Bankrupt shall have lost by any Sort of gaming or wagering in any One Day Twenty Pounds, or within One Year next preceding his Bankruptcy Two hundred Pounds, or if he shall within One Year next preceding his Bankruptcy have lost Two hundred Pounds by any Contract for the Purchase or Sale of any Government or other Stock, where such Contract was not to be performed within One Week after the Contract, or where the Stock bought or sold was not actually transferred or delivered in pursuance of such Contract, or shall, after an Act of Bankruptcy committed, or in contemplation of Bankruptcy, have destroyed, altered, mutilated, or falsified, or caused to be destroyed, altered, mutilated, or falsified, any of his Books, Papers, Writings, or Securities, or made or been privy to the making of any false or

fraudulent Entries in any Book of Account or other Document, with Intent to defraud his Creditors, or shall have concealed Property to the Value of Ten Pounds or upwards, or if any Person having proved a false Debt under the Commission, such Bankrupt, being privy thereto or afterwards knowing the same, shall not have disclosed the same to his Assignees within One Month after such Knowledge.

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

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

Assignees shall, in case of Surplus, account, and pay it to Bankrupt; but in such Case all Debts to carry Interest.

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

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

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

Mode of voting in deciding

CLII. And be it enacted, That in deciding upon such Offer as aforesaid any Creditor whose Debt is below Twenty Pounds shall not be

upon such Composition.

be reckoned in Number, but the Debt due to such Creditor shall be computed in Value; and that any Creditor to the Amount of Fifty Pounds and upwards residing out of *Ireland* shall be personally served with a Copy of the Notice of the Meeting to decide upon such Offer as aforesaid, and of the Purpose for which the same is called, so long before such Meeting as that he may have Time to vote thereat; and such Creditor shall be entitled to vote by Letter of Attorney executed and attested in manner hereby required for such Creditors voting in the Choice of Assignees; and if any Creditor shall agree to accept any Gratuity or higher Composition for assenting to such Offer he shall forfeit the Debt due to him, together with such Gratuity or Composition; and the Bankrupt shall (if thereto required) make Oath before the 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 attain such Assent as aforesaid.

Agents to Commissions to be under Control of Commissioner, and to take Oath.

CLIII. And whereas great Inconveniences have arisen from the Agents or Clerks to Commissions of Bankrupts being considered as Officers belonging to the Assignees appointed under such Commissions, and not subject to the Control or Direction of the Commissioners named in such Commissions, and they have frequently refused to produce the Proceedings under such Commissions to the Commissioners, and in many Instances have refused to obey their Orders; be it enacted by the Authority aforesaid, That every Person who shall act as Agent or Clerk to or who shall take out any Commission of Bankruptcy shall be subject to the Control and Directions of the Commissioner to be appointed by virtue of this Act, and shall before he shall act or be capable of acting as such Agent or Clerk take the Oath following:

Form of Oath of Agent.

'I *A. B.* do swear, That during such Time as I shall be employed as Agent or Clerk to the Commission, or in anywise concerning the Proceedings in a Commission of Bankrupt issued and awarded and now in prosecution against *C. D.*, I will faithfully and honestly, according to the best of my Skill and Knowledge, write, take down, and transcribe all such Depositions and Evidences, as well of the said Bankrupt as of all others who shall be sworn and examined by or before the Commissioner under and by virtue of the said Commission, as I shall by the said Commissioner in the said Commission named be directed to write, take down, or transcribe; and also that I will in like Manner during such Time safely and faithfully preserve and keep from all Kind of Defalcation and Embezzlement all such Depositions, Evidences, and Proceedings while the same shall be by the said Commissioner committed to my Care; and that I will not knowingly suppress or conceal the Truth, or suggest or practise any Falsehood, in respect to any Matter or Thing relating to the said Commission or to the Proceedings thereunder; and that I will, when required by such Commissioner, deliver up to him, or to such Person as he shall appoint, the several Depositions and the Proceedings and Documents in my Custody or Power relating to the said Commission. So help me GOD.'

CLIV. And

CLIV. And be it enacted by the Authority aforesaid, That any Person or Persons acting as Messenger or Messengers, and who shall issue any Commission of Bankruptcy, or when issued out shall act as Agent in such Commission, shall from such Time be considered incapable for ever after of holding the Office of Messenger in any Commission of Bankrupt; and every Messenger shall, before the Commissioner executes his Warrant of Seizure to him, take before the Commissioner the following Oath; (that is to say,) Messengers not allowed to act as Agents; to take an Oath.

'I *A.B.* do swear, That I will faithfully, impartially, and honestly, according to the best of my Skill and Knowledge, execute the several Orders which I shall receive from the Commissioner in the Commission of Bankrupt awarded and issued against *C.D.*; and that I will not knowingly suppress or conceal the Truth, or suggest or practise any Falsehood, in respect to any Matter or Thing relating to the said Commission or any of the Proceedings thereunder; and that I will not by myself, or any other Person in Trust for me, have any Interest, Employment, or Concern in the said Commission in any other Capacity whatsoever except that of Messenger. So help me GOD.' Oath of Messenger.

CLV. And be it enacted, That the Commissioner to be appointed by virtue of this Act shall in all Matters within his Jurisdiction have Power to take the Whole or any Part of the Evidence, either *vivâ voce* on Oath, or upon Affidavits to be sworn before the said Commissioner or a Master Ordinary or Extraordinary in Chancery, as the said Commissioner may in any Case direct, or as the Lord Chancellor may from Time to Time prescribe by any general Rule to be made by virtue of this Act. Commissioner may take Evidence vivâ voce or on Affidavit.

CLVI. And be it enacted, That from and after this Act shall take effect no Commission of Bankrupt shall be superseded by reason only that the Commission has been concerted by and between the Petitioning Creditor, his Solicitor or Agent, or any of them, and the Bankrupt, his Solicitor or Agent, or any of them, save and except where any Petition to supersede a Commission for any such Cause shall have been presented before this Act shall come into operation, and shall be then pending. As to concerted Bankruptcies.

CLVII. And be it enacted, That if any Person employed for any of the Purposes of this Act shall for any thing done or pretended to be done under this Act, or any other Act relating to Bankrupts, or under colour of doing any thing under this Act or any other such Acts, fraudulently or wilfully demand or take, or appoint or allow any Person whatsoever to take for him or on his account, or for or on account of any Person by him named, or in Trust for him or for any other Person by him named, any Fee, Emolument, Gratuity, Sum of Money, or any Thing of Value whatsoever, other than is allowed by this Act and any other such Act as aforesaid, or by any Order of the Lord Chancellor acting under the Authority of this Act or any other such Act as aforesaid, such Person when duly convicted thereof shall forfeit and pay the Sum of Five hundred Pounds, and be rendered incapable Penalty on any Person taking Fees.

incapable and is hereby rendered incapable of holding any Office or Place whatsoever under His Majesty, His Heirs or Successors.

Commissioner may commit Person interrupting Courts, &c.

CLVIII. And be it enacted, That any Commissioner appointed under this Act shall have full Power and he is hereby authorized to commit to Custody in any Prison or Bridewell, for any Term not exceeding One Month, any Person who shall be guilty of any Riot or Disturbance in any Court held by such Commission, or who shall in such Court interrupt the said Commissioner in the Exercise of his Duty.

Offences against this Act.

CLIX. And be it enacted, That any such Offender may be prosecuted either by Information at the Suit of His Majesty's Attorney General, or by Criminal Information before His Majesty's Court of King's Bench, or by Indictment: Provided always nevertheless, that if any Person so employed as aforesaid shall commit any Offence against this Act, it shall and may be lawful for the Lord Chancellor to dismiss the Person so offending from his Employment, upon Proof made before him of such Offence having been committed.

Construction of the Act.

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

Commencement of Act. Limiting its Extent.

CLXI. And be it enacted, That this Act shall commence and take effect from and after the First Day of *July* One thousand eight hundred and thirty-six; and that it shall not extend either to *England* or *Scotland*, except where the same are expressly mentioned.

Act may be altered.

CLXII. And be it enacted, That this Act may be repealed, altered, or amended during this present Session of Parliament.

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