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5.438.

Bankruptcy Bill.

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PROCEEDINGS IN BANKRUPTCY.

Petition for
adjudication
in bank-
ruptcy.

Adjudication.

6. A single creditor, or two or more creditors if the debt due to such single creditor, or the aggregate amount of debts due to such several creditors, from any debtor, amount to a sum of not less than fifty pounds, may present a petition to the Court, praying that the debtor be adjudged a bankrupt, and alleging as the ground for such adjudication any one or more of the following acts or defaults, herein-after included under the expression "acts of bankruptcy:"

- (1.) That the debtor has made a conveyance or assignment of all his real and personal estate to a trustee or trustees for the benefit of his creditors :
- (2.) That the debtor has made a fraudulent conveyance, gift, delivery, or transfer of his real or personal estate, or any part thereof :
- (3.) That execution issued against the debtor on any legal process for the purpose of obtaining payment of not less than twenty pounds has in the case of a trader been levied by seizure and sale of his goods, and in the case of a person not being a trader been returned unsatisfied in whole or in part :
- (4.) That the creditor presenting the petition has served in the prescribed manner on the debtor a demand under his hand requiring him to pay a sum due, of an amount of not less than fifty pounds, and stating that in the event of non-compliance with the demand a petition will be filed against him praying that he may be adjudicated a bankrupt, and the debtor being a trader has for the space of seven days, or not being a trader has for the space of three weeks, succeeding the service of such demand, neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor :

But no person shall be adjudged a bankrupt on any of the above grounds unless the act of bankruptcy on which the adjudication is grounded has occurred within two months before the presentation of the petition for adjudication ; moreover, the debt of the petitioning creditor must be a liquidated sum payable at the time when the petition is filed, and must not be a secured debt.

The expression "a trader" shall, for the purposes of this Act, include any person using the trade of merchandise by way of bargaining, exchange, barter, brocage, commission, consignment, or

otherwise, in gross or by retail ; and any person who, either for himself or as agent or factor for others, seeks his living by buying and selling, or buying and letting for hire, goods or chattels, or by the workmanship or the conversion of goods or commodities ; but a
 5 farmer, grazier, common labourer, workman for hire, or receiver general of taxes shall not, nor shall a member of any partnership, association, or company which cannot be adjudged bankrupt under this Act, be deemed as such a trader for the purposes of this Act.

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7. A petition praying that a debtor may be adjudged a bankrupt,
 10 in this Act referred to as a bankruptcy petition, shall be served on such debtor. At the hearing the Court shall require proof of the debt of the petitioning creditor, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one or more of the alleged acts of bankruptcy, and, if satisfied with such
 15 proof, shall adjudge the respondent to be bankrupt. The Court may adjourn the petition, either conditionally or unconditionally, for the procurement of further evidence, or for any other just cause. The Court shall, if dissatisfied with the case made by the petitioner, dismiss the petition, with or without costs, as the Court thinks just.

Proceedings on petition.

20 8. Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such amount as would justify the petitioner in filing a bankruptcy petition against him, and states that he is willing, if required by the Court, to give such security as the Court may think fit, for
 25 payment to the petitioner of any debt which may be established against him in due course of law, and of the costs of establishing such debt, the Court, upon security (if any is required) being given, shall stay all proceedings on the petition for such time as may be required for trial of the question relating to such debt, either before
 30 the Court itself, or some other competent tribunal.

Proceedings if debt of petitioning creditor is contested.

9. A copy of an order of the Court adjudging the debtor to be bankrupt shall forthwith be published in the London Gazette, and be advertised locally in such manner (if any) as the Court may direct, and the date of such order shall be the date of the adjudica-
 35 tion for the purposes of this Act.

Advertisement of order of adjudication.

10. The bankruptcy of a debtor shall be deemed to have relation back to and to commence at the time of the act of bankruptcy being completed on which the order is made adjudging him to be bankrupt, and when more acts of bankruptcy than one are alleged
 40 in a petition the order shall state the particular act of bankruptcy on which the order is made.

Definition of commencement of bankruptcy.

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Creditors
bound by
bankruptcy
proceedings.

Power of
Court, after
presentation
of petition,
to restrain
suits, &c.
and appoint
receiver.

11. Where a debtor has been adjudicated a bankrupt, no creditor to whom the debtor is indebted in respect of any debt provable under the bankruptcy shall have any remedy in respect of such debt except in manner directed by this Act.

12. The Court may, at any time after the presentation of a bankruptcy petition against the debtor, restrain further proceedings in any action, suit, execution, or other legal process against the debtor, upon such terms as the Court may think just. The Court may also, at any time after the presentation of such petition, appoint a receiver of the real and personal property of the debtor against whom the petition is presented, or of any part of such real and personal property.

Appointment of Trustee.

Meeting of
creditors for
appointment
of persons to
administer
bankrupt's
property.

13. When an order has been made adjudging a debtor bankrupt, herein-after referred to as an order of adjudication, the property of the bankrupt shall become divisible amongst his creditors in proportion to the debts proved by them in the bankruptcy; and for the purpose of effecting such division the Court shall summon a general meeting of his creditors, and the creditors assembled at such meeting shall and may do as follows :

1. They shall, by resolution, appoint some fit person, being a creditor, to fill the office of trustee of the property of the bankrupt, at such remuneration as they may determine, subject to any prescribed regulations :
2. They shall, subject as aforesaid, by resolution, declare the security to be given by the person so appointed before he enters on the office of trustee :
3. They shall, by resolution, appoint some other fit persons, not exceeding five in number, and being creditors qualified to vote at such first meeting of creditors as is in this Act, mentioned, to form a committee of inspection for the purpose of superintending the administration by the trustee of the bankrupt's property :
4. They may, by resolution, give directions as to the manner in which the estate is to be administered by the trustee, and it shall be the duty of the trustee to conform to such directions.

Descriptions
of bankrupt's
property
divisible
amongst
creditors.

14. The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars :

- (1.) Property held by the bankrupt on trust for any person :

(2.) Such rights of action as would not pass to the executors or administrators of the bankrupt if he were dead : A.D. 1869.

(3.) The tools (if any) of his trade, or, to a value not exceeding ten pounds, the necessary wearing apparel of himself, his wife and children :

But it shall comprise the following particulars :

(4.) All such property, real and personal, as may belong to or be vested in the bankrupt at the commencement of the bankruptcy, or may be acquired by or devolve on him during its continuance :

(5.) The capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property, real and personal, as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or during its continuance, except the power to appoint to an ecclesiastical benefice :

(6.) All goods and chattels being in the possession, order, or disposition of the bankrupt by the consent and permission of the true owner, of which goods and chattels the bankrupt is reputed owner, or of which he has taken upon himself the sale or disposition as owner.

15. The general meeting of creditors to be summoned as aforesaid by the Court, and hereafter referred to as the first meeting of creditors, shall be held in the prescribed manner and subject to the prescribed regulations as to the quorum, adjournment of meeting, and all other matters relating to the conduct of the meeting or the proceedings thereat. Regulations as to first meeting of creditors.

Provided that,—

1. The meeting shall be presided over by the registrar :

2. No person shall be entitled to be present or to vote as a creditor unless previously thereto he has in the prescribed manner proved a debt provable under the bankruptcy to be due to him :

3. A creditor shall not vote at the said meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained :

4. A secured creditor shall, for the purpose of voting, be deemed to be a creditor only in respect of the balance (if any) due to him after deducting the value of his security ; and the amount of such balance shall, until the security be realized, be determined by the trustee. He may, however, at or

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previously to the meeting of creditors, give up the security to the trustee, and thereupon he shall rank as a creditor in respect of the whole sum due to him :

5. A "secured creditor" shall in this Act mean any creditor holding any mortgage, charge, or lien on the bankrupt's estate as security for a debt due to him, or any creditor holding the security of a third person for the payment of a debt due to him from the bankrupt :
6. Votes may be given either personally or by proxy :
7. An ordinary resolution shall be decided by a majority in number and value of the creditors present personally or by proxy at the meeting and voting on such resolution :
8. A special resolution shall be decided by a majority in number, and five sixths in value, of the creditors present personally or by proxy at the meeting and voting on such resolution. 15

Devolution
of property
on trustee.

16. Until a trustee is appointed by the creditors the registrar shall be the trustee for the purposes of this Act, and immediately upon the order of adjudication being made the property of the bankrupt shall vest in him. On the appointment of a trustee by the creditors the property shall forthwith pass to and vest in the trustee so appointed. 20

The expression "trustee," when used in this Act, shall include the person for the time being filling the office of trustee, whether he be the registrar or not; but when the registrar holds the office of trustee he shall, in the administration of the property of the bankrupt, apply to the Court for directions as to the mode of administering such property, and shall not take possession thereof unless directed by the Court. 25

Evidence of
appointment
of trustee.

17. The appointment of a trustee by the creditors shall be reported to the Court, and the Court, upon being satisfied that the requisite security has been entered into by him, shall give a certificate declaring him to be trustee of the bankruptcy named in the certificate, and such certificate shall be conclusive evidence of the appointment of the trustee, and such appointment shall date from the date of the certificate. When the registrar holds the office of trustee, or when the trustee is changed, a like certificate of the Court may be made declaring the person therein named to be trustee, and such certificate shall be conclusive evidence of the person therein named being trustee. 30 35

General Provisions affecting Administration of Property.

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18. The bankrupt shall, to the utmost of his power, aid in the realization of his property, and the distribution of the proceeds amongst his creditors. He shall give such inventory of his property, such list of his creditors and of their debts, submit to such examination in respect of his property or affairs or his creditors, attend such meetings of his creditors, wait at such times on the trustee, execute such powers of attorney, conveyances, deeds, and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the trustee, or may be prescribed by rules of Court, or be directed by the Court by any special order or orders made in reference to any particular bankruptcy, or made on the occasion of any special application by the trustee or any creditor.

Conduct of bankrupt.

If the bankrupt fail to perform the duties imposed on him by this section, or if he fail to deliver up possession to the trustee of any part of his real or personal property, which vests in the trustee under this Act, and which may for the time being be in the possession or under the control of such bankrupt, he shall be guilty of a contempt of Court, and be punished accordingly.

19. The trustee shall, in the administration of the property of the bankrupt and in the distribution thereof amongst his creditors, have regard to any directions that may be given by the creditors at any general meeting, or by the committee of inspection, and any directions given by the creditors at any general meeting shall be deemed to override any directions given by the committee of inspection.

Conduct of trustee, and appeal to Court against trustee.

Subject to the provisions of this Act, and to such directions as aforesaid, the trustee shall exercise his own discretion in the management of the estate, and its distribution amongst the creditors. The trustee may from time to time summon general meetings of the creditors for the purpose of ascertaining their wishes; he may, also apply to the Court, in manner prescribed by rules of Court, for directions in relation to any particular matter arising under the bankruptcy.

The bankrupt, or any creditor, debtor, or other person aggrieved by any act of the trustee, may apply to the Court, and the Court may confirm, reverse, or modify the act complained of, and make such order on the premises as it thinks just. The Court may from time to time, during the continuance of a bankruptcy, summon general meetings of the creditors for the purpose of ascertaining

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The trustee shall, in relation to and for the purpose of acquiring and retaining possession of the property of the bankrupt, be in the same possession in all respects as if the Court were the Court of 5 Chancery, and he were a receiver of such property appointed by the Court, and the Court may, on his application, enforce such acquisition or retention of property accordingly.

Regulations
as to general
meetings of
creditors
subsequent
to first meet-
ing.

20. The provisions of this Act with respect to the first general meeting of creditors shall apply to any subsequent general meeting 10 of creditors, with this exception, that subsequent meetings of creditors may be summoned by the trustee, or by a member of the committee of inspection, and that such meetings may, unless otherwise directed by the Court in the case of meetings summoned by the Court, be presided over by any person chosen by the creditors assembled 15 at such meeting, and that any creditor the value of whose debt has been ascertained subsequently to such first meeting shall be allowed to be present and to vote thereat.

Dealings with Bankrupt's Property.

Possession of
property by
trustee.

21. Where any portion of the property of the bankrupt consists 20 of stock, shares, shares in ships, or any other property transferable in the books of any company, office, or person, the right to transfer such property shall be absolutely vested in the trustee. Where any portion of such estate consists of copyhold or customary property, or any like property passing by surrender and admittance or in any similar manner, the trustee may deal with 25 such property in the same manner as if such property had been duly surrendered or otherwise conveyed to such uses as the trustee may appoint; and any appointee of the trustee shall be admitted or otherwise invested with the property accordingly. 30

Where any portion of the property of the bankrupt consists of things in action, the trustee may institute any action, suit, or other proceeding for the recovery of such things either in his own name or in the name of the bankrupt; and if he institute the same in his own name, such things shall, for the purpose 35 of such action, suit, or other proceeding, be deemed to be assignable in law, and to have been duly assigned to the trustee.

The trustee shall, as soon as may be after his appointment, take possession of the deeds, books, and documents of the bankrupt, and all other property capable of manual delivery or of actual 40 possession.

22. Where any property vested in the trustee by virtue of this Act consists of leaseholds burdened with onerous covenants, of unmarketable shares in companies, of unprofitable contracts, or of any other property that is unsaleable by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the trustee may, by writing under his hand, disclaim such property, and upon the execution of such disclaimer the property disclaimed shall, if the same is a contract, be deemed to be determined, but if any other species of property it shall, unless the Court otherwise orders, revert to the person or company entitled to require the performance of such onerous acts, or the payment of such sum of money for all the estate and interest of the bankrupt therein, but any person injured by the operation of this section shall be deemed a creditor of the bankrupt to the extent of such injury, and may accordingly prove a debt against his property.

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Disclaimer
as to onerous
property.

23. The trustee shall not be entitled to disclaim any property in pursuance of this Act in cases where an application has been made to him by any person interested in such property, and the trustee has for a period of not less than fourteen days after the receipt of such application declined or neglected to give notice whether he disclaims the same or not.

Limitation
of time for
disclaimer.

24. Subject to the provisions of this Act, the trustee shall have power to do the following things :

Power of
trustee to
deal with
property.

- (1.) To carry on the business of the bankrupt so far as may be necessary for the beneficial winding up of the same :
- (2.) To bring or defend any action, suit, or other legal proceeding relating to the property of the bankrupt :
- (3.) To bar any estate tail of which the bankrupt is beneficially seised to the same extent as the bankrupt might have barred the same ; and for that purpose sections fifty-six to seventy-three (both inclusive) of the Act of the session of the third and fourth years of the reign of King William the Fourth (chapter seventy-four), “ for the abolition of “ fines and recoveries, and for the substitution of more “ simple modes of assurance,” shall extend and apply to proceedings in bankruptcy under this Act as if those sections were here re-enacted and made applicable in terms to such proceedings :
- (4.) To execute any powers the right to execute which is vested in him under this Act, and all powers of attorney, deeds, and other instruments expedient or necessary for the purpose of carrying into effect the provisions of this Act :

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- (5.) To sell all the real and personal property and things in action by this Act vested in him by public auction or private contract, with power, if he thinks fit, to transfer the whole thereof to any person or company, or to sell the same in parcels : 5
- (6.) To give receipts for any money received by him effectually discharging the person paying such monies from all responsibility in respect of the application thereof :
- (7.) To prove, rank, claim, and draw a dividend in the matter of the bankruptcy or sequestration of any debtor of the 10 bankrupt :
- (8.) With the consent of the committee of inspection, to refer any dispute to arbitration.

To allow
bankrupt to
manage pro-
perty.

25. The trustee may, with the approbation of the committee of inspection, appoint the bankrupt himself to superintend the 15 management of the estate, or to carry on the trade of the bankrupt (if any) for the benefit of the creditors, and in any other respect to aid in administering the estate in such manner and on such terms as the creditors direct.

Power of
trustee to
compromise,
&c.

26. The trustee may, with the sanction of a special resolution of 20 the creditors assembled at any meeting of which notice has been given specifying the object of such meeting, do all or any of the following things :

- (1.) Mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his 25 debts :
- (2.) Sell by auction or private contract all or any book debts due or growing due to the bankrupt, and the goodwill of his business :
- (3.) Compromise all debts, whether present or future, certain or 30 contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any debtor or person apprehending liability to the bankrupt, upon the receipt of such sums, payable at such times, and generally upon such terms as may be agreed upon : 35
- (4.) Make such compromise or other arrangement as the trustee may think expedient with creditors, or persons claiming to be creditors in respect of any debts provable under the bankruptcy :
- (5.) To divide in its existing form amongst the creditors, accord- 40 ing to its estimated value, any property which from its peculiar nature or other special circumstances cannot advantageously be realized by sale.

27. The trustee shall pay all sums from time to time received by him into the Bank of England, or some other prescribed bank; and if he at any time keep in his hands any sum exceeding fifty pounds for more than ten days he shall be subject to the following liabilities; that is to say, A.D. 1869.
Trustee to
pay moneys
into bank.

(1.) He shall pay interest at the rate of twenty pounds per centum per annum on the excess of such sum above fifty pounds as he may retain in his hands :

10 (2.) Unless he can prove to the satisfaction of the Court that his reason for retaining the money was innocent, he shall, on the application of any creditor, be dismissed from his office by the Court, and shall have no claim for remuneration, and be liable to any expenses to which the creditors may be put by or in consequence of his dismissal.

15 *Payment of Debts and Distribution of Assets.*

28. All debts to which the bankrupt is liable at the date of the order of adjudication, whether present or future, certain or contingent, with the exception of debts involving demands in the nature of unliquidated damages, shall be provable in the prescribed manner by the creditors under the bankruptcy, a just estimate being made according to the rules of Court for the time being in force, so far as the same may be applicable, of the value of all such debts as may be subject to any contingency, or, for some other reason, do not bear a certain value. Description
of debts
provable in
bankruptcy.

25 29. If the bankrupt is at the date of the order of adjudication liable, by reason of any contract or promise, to a demand in the nature of unliquidated damages, the Court may, on the application of any person interested in such demand, direct such damages to be assessed, with the consent of all the parties interested, before the Court itself, without the intervention of a jury, or, if such parties do not consent, by a jury either before itself or any other competent court, and may give all necessary directions for such purpose, and the amount of damages when assessed shall be provable as a debt under the bankruptcy. Special pro-
ceedings in
case of
certain
unliquidated
damages.

35 30. The debts herein-after mentioned shall be paid in priority to all other debts. Between themselves such debts shall rank equally, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves; that is to say, Preferential
debts.

40 (1.) All parochial or other local rates due from him at the time of adjudication, and having become due and payable

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within six months next before such time, all assessed taxes, land tax, and property or income tax assessed on him up to the fifth day of April next before the time of adjudication, and not exceeding in the whole one year's assessment; with this proviso, that the bankrupt shall not be liable to be assessed to taxes after such fifth day of April in respect of any article kept and used for the purposes of trade at or before the time of adjudication, and sold under the bankruptcy, and not kept or used by the bankrupt after such fifth day of April: 10

- (2.) All wages or salary due to any clerk or servant in the employment of the bankrupt at the time of adjudication, not exceeding three months wages or salary, and not exceeding fifty pounds; all wages due to any labourer or workman in the employment of the bankrupt at the time of adjudication, and not exceeding one month's wages: 15

Save as aforesaid, all debts provable under the bankruptcy shall be paid *pari passu*.

Preferential
claim
in case of
apprentice-
ship.

31. Where at the time of the presentation of the petition for adjudication any person is apprenticed or is an articulated clerk to the bankrupt, the adjudication shall be a complete discharge of the indenture of apprenticeship or articles of agreement; and if any money has been paid by or on behalf of such apprentice or clerk to the bankrupt as a fee, the Court, on proof thereof, may, on the application of the apprentice or clerk, or of some person on his behalf, if it thinks fit, order such sum as the Court thinks reasonable to be paid by the trustee out of the bankrupt's property to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the indenture or articles before the commencement of the bankruptcy, and to the other circumstances of the case. 20 25 30

Where it appears expedient to a trustee he may, on the application of any apprentice or articulated clerk to the bankrupt, or any person acting on behalf of such apprentice or articulated clerk, instead of acting under the preceding provisions of this section, transfer the indenture of apprenticeship or articles of agreement to some other person. 35

Power for
landlord to
distrain for
rent.

32. The landlord or other person to whom any rent is due from the bankrupt may at any time, either before or after the commencement of the bankruptcy, distrain upon the goods or effects of the bankrupt for the rent due to him from the bankrupt, with this 40

limitation, that if such distress for rent be levied after the commencement of the bankruptcy it shall be available only for one year's rent accrued due prior to the commencement of the bankruptcy, but the landlord or other person to whom the rent may be
 5 due from the bankrupt may prove under the bankruptcy for the overplus due for which the distress may not have been available.

A.D. 1869.

33. The trustee, with the consent of the creditors, testified by a resolution passed in general meeting, may from time to time, during the continuance of the bankruptcy, make an allowance to
 10 the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate.

Allowance to bankrupt for maintenance or service.

34. Where there has been a mutual credit between the bankrupt and any creditor, any debt due previously to the commencement
 15 of the bankruptcy from the bankrupt to such creditor may be set off against any debt due to the bankrupt from such creditor, and the balance shall according to the circumstances be admitted to proof against the estate of the bankrupt, and be payable by the creditors to the estate of the bankrupt.

Mutual credits.

35. A creditor holding a specific security on the property of the bankrupt, or on any part thereof, may, on giving up his security,
 20 prove for his whole debt.

Provision as to secured creditor.

He shall also be entitled to a dividend in respect of the balance due to him after realizing or giving credit for the value of his
 25 security, provided that such security be realized or credit given for the same within the prescribed time.

A creditor holding security and not complying with the foregoing conditions shall be excluded from all share in any dividend; moreover it shall be lawful for the Court, on the application of the
 30 trustee, to cause such security to be realized, and after satisfying out of the proceeds, if sufficient, the debt due to the creditor, to pay the overplus, if any, to the trustee.

Dividends.

36. The trustee shall from time to time, when he has realized a
 35 sufficient sum of money from the property of the bankrupt, declare a dividend amongst the creditors who have proved their debts, and shall distribute the same accordingly; and in the event of his not declaring a dividend for the space of six months, he shall summon a meeting of the creditors, and explain to them his reasons for not
 40 declaring the same.

Distribution of dividends.

A.D. 1869.

Provision
for creditors
residing at a
distance, &c.

37. In the calculation of a dividend it shall be obligatory on the trustee to make provision for debts appearing from the bankrupt's statements, or otherwise, to be due to persons resident in places so distant from the place where the trustee is acting, that in the ordinary course of communication they have not had sufficient time to tender their proofs, or to establish them if disputed, and also for debts, the subject of claims not yet determined. 5

Right of
creditor who
has not
proved debt
before de-
claration of
a dividend.

38. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any monies for the time being in the hand of the trustee any dividend or dividends he may have lost before such monies are made applicable to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein. 15

Final
dividend.

39. When the trustee has converted into money all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of inspection, be collected without needlessly protracting the bankruptcy, he shall declare a final dividend, and give notice of the time at which it will be distributed. 20

Bankrupt
entitled to
surplus.

40. The bankrupt shall be entitled to any surplus remaining after payment of all his creditors in full, and payment of the costs, charges, and expenses of the bankruptcy.

No action
for dividend.

41. An action for a dividend shall not lie against the trustee, but if the trustee refuses to pay any dividend the Court may, if it thinks fit, order payment thereof, with interest payable by the trustee personally for the time that it is withheld, and with the costs of the application. 25

Discharge of Bankrupt.

Conclusion
of bank-
ruptcy.

42. Where the whole property of the bankrupt has been distributed amongst his creditors, or so much thereof as can, in the joint opinion of the trustee and committee of inspection, be collected without needlessly protracting the bankruptcy, the trustee shall make a report to the Court in reference to such distribution of the property, and the Court, if satisfied that the whole of the property of the bankrupt has been distributed amongst his creditors, or so much thereof as can be collected without needlessly protracting the bankruptcy, shall make an order that the bankruptcy has closed, and the bankrupt shall, on application to the Court, be entitled to an order of discharge, provided— 30 35 40

(1.) That he has given up all his property to the creditors, with the exception of such portion thereof as he is entitled to retain under this Act; and,

(2.) That a dividend of not less than ten shillings in the pound has been paid out of his estate, or might have been paid except through the negligence or fraud of the trustee, or that a special resolution of his creditors in general meeting has been passed to the effect that his bankruptcy has in their opinion arisen from unavoidable misfortune, and they desire that a discharge should be accorded to him.

A.D. 1869.

43. An order of discharge shall release the bankrupt from all debts provable under the bankruptcy, with the exception of—

Effect of
order of
discharge.

(1.) Any debt due to the Crown :

(2.) Any debt with which the bankrupt stands charged at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence :

And he shall not be discharged from such excepted debts unless the Commissioners of the Treasury certify in writing their consent to his being discharged therefrom. The order of discharge shall be sufficient evidence of the bankruptcy, and of the validity of the proceedings thereon, and in any proceedings that may be instituted against such bankrupt in respect of any debt from which he is released by such order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

44. The order of discharge shall not release any person who, at the time of adjudication, was a partner with the bankrupt, or was jointly bound or had made any joint contract with him.

Exception
of joint
debtors.

45. The creditors may, if they think fit, by special resolution, direct the trustee to set apart out of the produce of his estate a certain portion for the maintenance of the bankrupt after his discharge, instead of distributing the whole amongst his creditors.

Possible
allowance to
bankrupt
after dis-
charge.

Release of Trustee.

46. When the bankruptcy is closed the trustee shall call a meeting of the creditors to consider an application to be made to the Court for his release. At the meeting the trustee shall lay before the assembled creditors an account showing the manner in which the bankruptcy has been conducted, with a list of the unclaimed dividends, if any, and of the property, if any, outstanding, and shall inform the meeting that he proposes to apply to the Court for a release.

Release of
trustee.

A.D. 1869.

The creditors assembled at the meeting may express their opinion as to the conduct of the trustee, and they, or any of them, may appear before the Court and oppose the release of the trustee.

The Court, after hearing what, if anything, can be urged against the release of the trustee, shall grant or withhold the release 5 accordingly, and if it withhold the release shall make such order as it thinks just, charging the trustee with the consequences of any act or default he may have done or made contrary to his duty, and shall suspend his release until such charging order has been complied with, and the Court thinks just to grant the release of the trustee. 10

Duty of trustee as to unclaimed dividends and outstanding property.

47. Unclaimed dividends, and any other monies arising from the property of the bankrupt, remaining under the control of the trustee at the end of the bankruptcy of any bankrupt shall be accounted and paid over to such account as may be directed by the rules of Court; and any parties entitled thereto may claim the 15 same in manner directed by such rules. The trustee shall also deliver a list of any outstanding property of the bankrupt to the prescribed persons, and the same shall, when practicable, be got in and applied for the benefit of the creditors in manner prescribed by the rules of Court. 20

Effect of release of trustee.

48. The order of the Court releasing the trustee of a bankruptcy shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee of such bankrupt; but such order may be revoked by the Court on proof 25 that it was obtained by fraud.

Status of undischarged Bankrupt.

Status of undischarged bankrupt.

49. A person who has been made bankrupt and has not obtained his discharge shall, from and after the close of his bankruptcy, be liable to all debts subsisting against him in the same manner as if 30 no bankruptcy had taken place, with the following exceptions:

- (1.) Any sum paid to any creditor under the bankruptcy shall be deemed to have been paid on behalf of the bankrupt, and shall diminish proportionally the amount of debt due to such creditor: 35
- (2.) Any creditor of the debtor so made bankrupt may grant to such debtor a release of any portion of a debt provable under the bankruptcy, either gratuitously or upon such terms as may be agreed upon between them, and the debtor to whom such release is granted shall be a creditor 40 on his own estate in respect of the debt so released, in the same manner as if that estate belonged to another person, and the debt released were a debt incurred by the owner

of such estates, which debt had been duly assigned for a valuable consideration to the person to whom the release is granted, subject to this qualification, that a debtor to whom a debt has been released in manner aforesaid shall not, in the event of a subsequent bankruptcy, be entitled to vote in respect of such debt :

- (3.) No portion of a debt proveable under the bankruptcy shall be enforced against the person so made bankrupt until the expiration of five years from the close of the bankruptcy ; and during that time, if he pay to his creditors such additional sum as will, with the dividend paid out of his property during the bankruptcy, make up ten shillings in the pound, he shall be discharged in the same manner as if a dividend of ten shillings in the pound had originally been paid out of his property ; but if he fail to pay such additional sum then at the expiration of such period of five years the balance remaining due of any such debt may be enforced against him in the same manner as if no such bankruptcy had taken place.

20

Audit.

50. The accounts of the trustee shall be audited by an officer to be called the Comptroller in Bankruptcy.

Audit by
comptroller
in Bank-
ruptcy.

- 51.** The first and any subsequent comptroller shall be appointed by the Lord Chancellor, and hold office during his pleasure. The comptroller shall be provided with such office in London, and with such assistance by way of clerks, messengers, and other officers, as may be directed by the Lord Chancellor, with the approval of the Treasury. The clerks, messengers, and other officers in the office of the comptroller shall be appointed and dismissible by the comptroller, and there shall be paid to them respectively such salaries as may be approved by the Treasury.

Appoint-
ment of
comptroller.

- The comptroller shall be deemed to be a permanent officer of the Civil Service within the meaning of the Superannuation Act, but the clerks, messengers, and other officers in his service shall, although paid out of public moneys, be deemed to be the servants of the comptroller, and not permanent civil servants of Her Majesty.

Subject to the provisions of this Act, the comptroller shall perform such duties as may be assigned to him and conform to such directions as may be given to him by the Lord Chancellor.

- 52.** Every trustee of a bankrupt shall from time to time, as may be prescribed, and not less than once during the bankruptcy,

Return of
accounts to
comptroller.

[50.]

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A.D. 1869. — transmit to the comptroller a statement showing the proceedings in such bankruptcy up to the date of the statement containing the prescribed particulars, and made out in the prescribed form; and any trustee failing to transmit accounts in compliance with this section shall be deemed guilty of a contempt of court, and be punishable accordingly. 5

Duty of
comptroller.

53. The comptroller shall examine the statement transmitted to him, and shall call the trustee to account for any misfeasance, neglect, or omission which may appear on such statement, and may require the trustee to make good any loss the estate of the bankrupt may have sustained by such misfeasance, neglect, or omission. If the trustee fail to comply with such requisition of the comptroller, the comptroller may report the same to the Court; and the Court, after hearing the explanation, if any, of the trustee, shall make such order in the premises as it thinks just. 15

Powers of
comptroller.

54. The comptroller may at any time require any trustee to answer any inquiry made by him in relation to any bankruptcy in which such trustee is engaged, and may, if he think fit, examine on oath such trustee or any other person concerning such bankruptcy, and any trustee or other person, when examined on oath by the comptroller, shall, if he wilfully make any false statement, be guilty of perjury. 20

CONSTITUTION AND POWERS OF COURT.

Description of Court.

Court to
consist of
London
Court and
County
Courts.

55. Subject to the provisions of this Act with respect to the existing Courts having jurisdiction in bankruptcy, and their officers, the following provisions shall take effect from and after the commencement of this Act; that is to say, 25

If the person sought to be adjudged a bankrupt reside or carry on business within the London Bankruptcy District as herein- after defined, or be not resident in England, then "the Court" shall mean, for the purposes of this Act, the Court of Bankruptcy in London as constituted by this Act, and hereinafter referred to as the London Bankruptcy Court: 30

If the person sought to be adjudged a bankrupt, being resident in England, do not reside or carry on business within the London Bankruptcy District, then "the Court" shall, subject to the provisions herein-after contained for removing the proceedings to the London Bankruptcy Court, mean the county court of the district in which such person resides or carries on business, herein-after referred to as the local Bankruptcy Court. 35 40

56. The London Bankruptcy District shall, for the purposes of A.D. 1869. this Act, comprise the following places; that is to say, the city of London and the liberties thereof, and all such parts of the metropolis and other places as are situated within the district of a metropolitan county court.

Definition of
the London
Bankruptcy
District.

57. The London Bankruptcy Court shall from and after the commencement of this Act consist of a judge, to be called the Chief Judge in Bankruptcy, and of such registrars not exceeding in number, clerks, ushers, and other subordinate officers, as may be determined by the Chief Judge with the sanction of the Treasury.

Constitution
of the
London
Bankruptcy
Court.

The office of Chief Judge in Bankruptcy shall be filled by such one of the puisne judges of Her Majesty's Superior Courts of Common Law at Westminster as may, with his assent, be assigned to hold such office by the Lord Chancellor; the judge so assigned shall hold the office of Chief Judge in Bankruptcy in addition to the office of judge in the court to which he belongs, but he shall not, during such time as he acts as Chief Judge in Bankruptcy, be required to perform any of the duties of judge in the court to which he belongs.

58. Her Majesty may, if an additional judge is required, appoint an additional puisne judge to any one of the Courts of Queen's Bench, the Common Pleas, and the Exchequer; the judge so appointed shall, as to rank, salary, pension, attendant officers, jurisdiction, and all other privileges and duties of a judge, stand in the same position as the other puisne judges of the Court to which he is attached. Any puisne judge appointed to any of the said Courts in pursuance of or after the passing of this Act shall, when required by the Lord Chancellor, perform the duties of Chief Judge in Bankruptcy.

Power of the
Crown to
appoint a
new com-
mon-law
judge if
required.

59. Subject as aforesaid, the registrars, clerks, ushers, and other subordinate officers shall be appointed by the Chief Judge for the time being, and may be removed by him and others appointed in their stead if the judge is of opinion that they are negligent, unskilful, or untrustworthy in their performance of their duties, or ought in his opinion to be removed for any other just cause.

Appointment
of registrars
and other
officers.

60. Subject as aforesaid, there shall be paid, out of moneys provided by Parliament, to the registrars, clerks, ushers, and other subordinate officers such salaries as the Chief Judge with the sanction of the Treasury may determine.

Salaries
of officers.

61. Subject as aforesaid, the Lord Chancellor may order to be paid to any of the said registrars, clerks, ushers, or other subordinate officers.

Pensions to
officers.

A.D. 1869. *dinate officers who is disabled by permanent infirmity from the performance of the duties of his office, or has served as an officer of the said London Bankruptcy Court for twenty years and is desirous of resigning, such superannuation allowance, to be paid out of moneys to be provided by Parliament, as the Treasury may award, 5 having regard to any general order for the time being in force regulating the pensions, compensations, and allowances to be made to persons in respect of their having held civil offices in Her Majesty's service.*

Powers of registrar.

62. All acts and things by this Act authorized or required to be done by or to the registrar may be done within the district of each court having jurisdiction in bankruptcy by or to the registrar of that court, or by or to such other person as may be appointed for that purpose by such court. 10

Duties of subordinate officers of court.

63. Subject as aforesaid, the registrars, clerks, ushers, and other subordinate officers shall perform such duties as may from time to time be assigned to them by the Chief Judge with the assent of the Lord Chancellor. 15

Jurisdiction of the London Court of Bankruptcy.

64. The London Court of Bankruptcy shall continue to be a court of law and of equity and a principal court of record, and the Chief Judge in Bankruptcy shall have all the powers, jurisdiction, and privileges possessed by any judge of Her Majesty's Superior Courts of Common Law at Westminster, or by any judge of Her Majesty's High Court of Chancery, and the orders of such judge may be enforced accordingly. The Chief Judge in Bankruptcy may sit in chambers, and when in chambers shall have the same jurisdiction and exercise the same powers as if sitting in open court. 20 25

Jurisdiction of county court judges.

65. Every judge of a local Court of Bankruptcy shall, for the purposes of this Act, in addition to his ordinary powers as a county court judge, have all the powers and jurisdiction of a judge of one of Her Majesty's High Court of Chancery, and the orders of such judge may be enforced accordingly. 30

Powers of Court to delegate authority to registrar.

66. The Chief Judge in Bankruptcy and every judge of a local Court of Bankruptcy may delegate to the registrar or to any other officer of his court such of the powers vested in him by this Act as it may be expedient for the judge to delegate to him, having regard to rules of Court and to any restrictions that may be imposed in respect of such delegation by the Lord Chancellor. 35

Appeal from Courts.

67. Every Court having jurisdiction in bankruptcy under this Act may review, rescind, or vary any order made by it in pursuance of 40

this Act. Any person aggrieved by any order of a local Bankruptcy Court in respect of a matter of fact or of law made in pursuance of this Act may appeal to the Chief Judge in Bankruptcy, and it shall be lawful to such judge to alter, reverse, or confirm such
 5 order as he thinks just. Any order made by the Chief Judge in Bankruptcy, whether in respect of a matter brought before him on appeal or not, shall, if the question be one of fact, be conclusive, but if the question be one of law be subject to reversal, confirmation, or modification by the Court to which he is attached as a
 10 common law judge, and also, with the leave of the judge, by the House of Lords, but no appeal shall be entertained under this Act except in conformity to such rules of court as may for the time being be in force in relation to such appeal.

68. Subject to the provisions of this Act, every Court having
 15 jurisdiction in bankruptcy under this Act shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, arising in any case of bankruptcy coming within the cognizance of such Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing com-
 20 plete justice or making a complete distribution of property in any such case; and no such Court as aforesaid shall be subject to be restrained in the execution of its powers under this Act by the order of any other Court, nor shall any appeal lie from its decisions, except in manner directed by this Act; and if in any proceeding in
 25 bankruptcy there arises any question of fact which the parties desire to be tried before a jury instead of by the Court itself, or which the Court thinks ought to be tried by a jury, the Court may direct such trial to be had, and such trial may be had accordingly, in the London Court of Bankruptcy, in the same manner as if it
 30 were the trial of an issue in one of the superior Courts of Common Law, and in the County Court in the manner in which jury trials in ordinary cases are by law held in such Court.

Enforcement
of warrant
and orders of
Courts.

Orders and Warrants of Court.

69. Any order made by a Court having jurisdiction in bank-
 35 ruptcy in England under this Act shall be enforced in Scotland and Ireland in the Courts having jurisdiction in bankruptcy in such countries respectively, in the same manner in all respects as if such order had been made by the Courts which are hereby required to enforce the same; and in like manner any order made by the Court
 40 in Scotland having jurisdiction in bankruptcy shall be enforced in England and Ireland, and any order made by the Court having jurisdiction in bankruptcy in Ireland shall be enforced in England and Scotland by the Courts respectively having jurisdiction in bank-

General
power of
Bankruptcy
Courts.

A.D. 1869.

ruptcy in the division of the United Kingdom where the orders made require to be enforced, and in the same manner in all respects as if such order had been made by the Court required to enforce the same in a case of bankruptcy within its own jurisdiction.

Courts in
England to
be auxiliary
to other
Courts, &c.

70. Any Court having jurisdiction in bankruptcy under this Act shall be auxiliary for proof of debts, examination of persons and witnesses on oath, and other purposes, to Courts and officers having jurisdiction in bankruptcy or insolvency in Scotland or Ireland, or in any other part of the British dominions, and to any British Court elsewhere having jurisdiction in bankruptcy or insolvency; and those Courts and officers shall severally in like manner be auxiliary to the Courts having jurisdiction in bankruptcy under this Act. 5 10

Examination
in Scotland
or Ireland.

71. Any Court having jurisdiction in bankruptcy in England under this Act may, if it thinks fit, order that a person named in the order being in Scotland or in Ireland shall be examined there. 15

Warrants of
Bankruptcy
Courts.

72. Any warrant of a Court having jurisdiction in bankruptcy in England under this Act may be enforced in Scotland, Ireland, the Isle of Man, the Channel Islands, and elsewhere in Her Majesty's dominions, in the same manner and subject to the same privileges in and subject to which a warrant issued by any justice of the peace against a person for an indictable offence against the laws of England, may be executed in such countries respectively in pursuance of the Acts of Parliament in that behalf; and any search warrant issued by a Court having jurisdiction in bankruptcy under this Act for the discovery of any property of a bankrupt may be executed in the same manner and subject to the same privileges in and subject to which a search warrant for property supposed to be stolen may be executed according to law. 20 25

Commitment
to prison.

73. Where any Court having jurisdiction in bankruptcy under this Act commits any person to prison the commitment may be to such convenient prison as the Court thinks expedient, and if the gaoler of any prison refuses to receive any prisoner so committed he shall be liable for every such refusal to a penalty not exceeding one hundred pounds. 30 35

General Rules.

General
rules to be
made by
Court.

74. The Lord Chancellor, with the advice of the chief judge in bankruptcy, may from time to time make, and may from time to time revoke and alter, general rules, in this Act described as rules of Court, for the effectual execution of this Act, and of the objects thereof, and the regulation of the practice and procedure of bankruptcy petitions and the proceedings thereon. 40

Any general rules made as aforesaid may prescribe regulations

as to service of bankruptcy petitions; as to the valuing of any debts provable in a bankruptcy; as to the imposition of any fees on bankruptcy proceedings by stamps or otherwise; as to the giving or withholding interest or discount on or in respect of debts or
 5 dividends; as to the funds out of which costs are to be paid, and the amount and taxation thereof; as to the remuneration by percentage or otherwise of the trustee, and the security to be given by him; and as to any other matter or thing, whether similar or not to those above enumerated, in respect to which it may be expedient to
 10 make rules for carrying into effect the objects of this Act; and any rules so made shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if they were enacted in the body of this Act.

Any rules made in pursuance of the section shall be laid before
 15 Parliament within three weeks after they are made, if Parliament be then sitting; and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament.

Until rules have been made in pursuance of this Act, and so far as such rules do not extend, the principles, practice, and rules on
 20 which Courts having jurisdiction in bankruptcy have heretofore acted in dealing with bankruptcy proceedings shall be observed by any Court having jurisdiction in bankruptcy cases under this Act.

Liquidation by Arrangement.

25 **75.** The following regulations shall be made with respect to the liquidation by arrangement of the affairs of the debtor: Regulations
as to liqui-
dation by
arrange-
ment.

(1.) The affairs of a debtor may be liquidated by arrangement, and his property distributed amongst his creditors without
 30 an adjudication in bankruptcy, on the prescribed proof being made to the registrar that such liquidation has been assented to by a majority in number and five sixths in value of all his creditors, and that a trustee has been appointed with or without a committee of inspection:

(2.) The assent of the creditors may be given either by a vote at
 35 a general meeting, or in writing, or partly in one way and partly in the other:

(3.) The creditors entitled to give such assent shall be such
 40 creditors only as would be qualified to vote under the Act at a first general meeting of creditors if the debtor were adjudged a bankrupt:

(4.) Any property of a debtor which would be divisible among his creditors if he were made bankrupt shall be divisible among them under a liquidation by arrangement:

A.D. 1869.

- (5.) The certificate of the registrar in respect of the appointment of any trustee in the case of a liquidation by arrangement shall be of the same effect as a certificate of the Court to the like effect in the case of a bankruptcy, and the property of the debtor shall, from and after the date of such certificate, vest in the trustee :
- (6.) The date of the appointment of the trustee by the creditors shall be deemed to be the commencement of the liquidation :
- (7.) Subject as in this Act mentioned, a liquidation by arrangement of a debtor's affairs shall be conducted in all respects as if such debtor had been adjudicated a bankrupt, and a trustee had been appointed by the first meeting of creditors ; and all the provisions of this Act shall apply accordingly, substituting for the word "bankrupt" the expression "debtor whose affairs are under liquidation," and for the word "bankruptcy" the expression "liquidation by arrangement :"
- (8.) Where no committee of inspection is appointed the trustee may act on his own discretion without any reference to such committee : 20
- (9.) The trustee shall not, in a liquidation by arrangement, have power to disclaim any property of the debtor :
- (10.) The creditors in general meeting may prescribe the bank into which the trustee is to pay any monies received by him, and the sum which he may retain in his hands : 25
- (11.) The Court shall not, except in case of fraud or misconduct, interfere with any resolution of the creditors in general meeting, or with the discretion of the trustee as duly exercised in pursuance of this Act :
- (12.) The provisions of this Act with respect to the discharge of a bankrupt, to the release of the trustee, and to the audit of accounts shall not apply in the case of a debtor whose affairs are under liquidation by arrangement ; but the discharge of the debtor and the release of the trustee may be granted by a special resolution of the creditors in general meeting, and the accounts audited in pursuance of such resolution, at such time and in such manner and upon such terms and conditions as the creditors think fit : 30 35
- (13.) The trustee shall report to the registrar the discharge of the debtor, and a certificate of such discharge given by the registrar shall have the same effect as an order of discharge given to a bankrupt under this Act : 40
- (14.) Rules of court may be made in relation to proceedings on the occasion of liquidation by arrangement in the same

manner and to the same extent and of the same authority as in respect of proceedings in bankruptcy : A.D. 1869.

- (15.) If it appear to the Court on satisfactory evidence that the liquidation by arrangement cannot, in consequence of legal difficulties, or of there being no trustee for the time being, or of any other sufficient reason, proceed without injustice or undue delay to the creditors, the Court may adjudge the debtor a bankrupt, and proceedings may be had accordingly.

10

SUPPLEMENTAL PROVISIONS.

As to Proceedings in Bankruptcy.

76. The following regulations shall be made with respect to proceedings in bankruptcy ; namely :

- (1.) Where two or more bankruptcy petitions are presented the Court may consolidate the proceedings, or any of them, upon such terms as the Court thinks fit : Supple-
mental regu-
lations as to
proceedings
in bank-
ruptcy.
- (2.) Where proceedings against the same debtor are instituted in more Courts than one the London Court of Bankruptcy may, on the application of any creditor, direct the transfer of such proceedings to the London Court of Bankruptcy, or to any local Bankruptcy Court in which any such proceedings may have been instituted :
- (3.) Where the petitioner does not proceed with due diligence on his petition the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of a petitioning creditor :
- (4.) Where the creditors resolve by a special resolution that it will be more convenient that the proceedings in any local Bankruptcy Court should be transferred to the London Court or to some other local Court, or where the judge of a local Court certifies that in his opinion the bankruptcy would be more advantageously conducted in the London Court or in some other local Court, the petition shall be transferred to and all subsequent proceedings thereon had in the London Court or such other local Court :
- (5.) Subject to the provisions of this Act, every Court having original jurisdiction in bankruptcy shall be deemed to be the same Court, and to have jurisdiction throughout England ; and cases may be transferred from one Court to another in such manner as may be prescribed by the rules of Court :

40

A.D. 1869.

(6.) When a debtor who has been adjudicated a bankrupt dies, the Court may, if it think fit, order that the proceedings in the matter be continued as if he were alive :

(7.) If it appear to the Court at any time during the continuance of the bankruptcy of a debtor that it is probable that the property of such debtor will not produce a sum exceeding fifty pounds after deducting the costs of realizing such property, the Court shall make an order stating such to be the case, and annulling the order of adjudication and all proceedings that have taken place in the course of the bankruptcy ; and such order and proceedings shall be null and void accordingly, without prejudice to any acts which may have been duly done or payments duly made in the course of such bankruptcy :

(8.) The Court may, at any time, on proof to its satisfaction that proceedings in bankruptcy ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the Court may think just.

Consequences of annulling of adjudication.

77. Whenever any adjudication in bankruptcy is annulled all sales and dispositions of property and payments duly made, and all acts theretofore done, by the trustee or any person acting under his authority, or by the Court, shall be valid, but the property of the debtor who was adjudged a bankrupt shall in such case revert to him upon such terms and subject to such conditions, if any, as the Court may declare by order.

Formal defects not to invalidate proceedings.

78. No proceeding on the occasion of a bankruptcy or of a liquidation by arrangement under this Act shall be invalidated by any formal defect in such proceeding, or by any irregularity therein, unless the Court before whom such proceeding is brought is of opinion that substantial injustice has been caused by such defect or irregularity, and that such injustice cannot be remedied by any order of such Court.

As to Trustees and Committee of Inspection.

Regulations as to trustees, &c.

79. The following regulations shall be made with respect to the trustee and committee of inspection :

(1.) The creditors may, if they think fit, appoint more persons than one to the office of trustee, and where more than one are appointed they shall declare whether any act required or authorized to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are hereby included under the term "trustee," and shall be joint tenants of the property of the bankrupt. The creditors may also appoint persons to act as trustees

in succession in the event of one or more of the persons first named declining to accept the office of trustee :

- 5 (2.) If any vacancy occur in the office of trustee by death, resignation, or otherwise, the creditors in general meeting shall fill up such vacancy, and a general meeting for the purpose of filling up such vacancy may be convened by the continuing trustee, if there be more than one, or by the registrar on the requisition of any creditor :
- 10 (3.) If, through any cause whatever, there is no trustee acting during the continuance of a bankruptcy, the registrar, or some other person appointed by the Court, shall act as such trustee :
- 15 (4.) The Court may, upon cause shown, remove any trustee, and appoint another person to fill his office :
- (5.) If a trustee be adjudged bankrupt, he shall cease to be trustee, and the registrar shall call a meeting of creditors for the appointment of another trustee in his place :
- 20 (6.) The property of the bankrupt shall pass from trustee to trustee, including under that term the registrar when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment, or transfer whatever, in the same manner as if the first trustee in a bankruptcy, inclusive as aforesaid, were a corporation sole, and the other trustees were his successors :
- 25 (7.) The certificate of appointment of a trustee shall, for all purposes of any law in force in any part of the British dominions requiring registration, enrolment, or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled, and recorded accordingly :
- 30 (8.) Any member of the committee of inspection may resign his office by notice in writing signed by him, and delivered to the trustee :
- 35 (9.) Any member may also be removed by a special resolution at any meeting of creditors of which seven days previous notice has been given, stating the object of the meeting :
- (10.) On any vacancy occurring in the office of a member of the committee of inspection by removal, death, resignation, or otherwise, the trustee shall convene a meeting of creditors for the purpose of filling up such vacancy :
- 40 (11.) The continuing members of the committee of inspection may act, notwithstanding any vacancy in their body :

A.D. 1869.

(12.) No defect or irregularity in the election of a trustee or of a member of the committee of inspection shall vitiate any act bonâ fide done by him; and no act or proceeding of the trustee or of the creditors shall be invalid by reason of any failure of the creditors to elect all or any members 5 of the committee of inspection :

(13.) If a member of the committee of inspection become a bankrupt his office shall thereupon become vacant.

Power of Court, on failure of creditors, to appoint trustee.

80. The registrar may adjourn the first meeting of creditors from time to time and from place to place, subject to the directions of the Court; but if, at such first meeting of creditors or at some adjournment thereof, no trustee is appointed by reason of the prescribed quorum not being present, or for any other reason whatever, the Court shall annul the adjudication, unless it deems it expedient for special reasons to carry on the bankruptcy with the aid of the registrar as trustee. Moreover, if at any time during the bankruptcy no new trustee is appointed by the creditors to fill a vacancy in that office, the Court may either carry on the bankruptcy with the aid of the registrar as trustee or annul the order of adjudication, as it thinks just. 10 15 20

Power of Court, on petition of creditors, to appoint a committee of inspection.

81. Where there is no committee of inspection, any act or thing or any direction or consent by this Act authorized or required to be done or given by such committee may be done or given by the Court on the application of the trustee.

As to Power over Bankrupt.

25

Post letters addressed to bankrupt.

82. The Court, upon the application of the trustee, may from time to time order that, for such time as the Court thinks fit, not exceeding three months from the date of the order of adjudication, post letters addressed to the bankrupt at any place or any of the places of which he is described in the bankruptcy petition, shall be re-directed, sent, or delivered by the postmaster general or the officers acting under him, to the trustee or otherwise as the Court directs, and the same shall be done accordingly. 30

Arrest of bankrupt under certain circumstances.

83. The Court may, by warrant addressed to any constable or person named in such warrant, cause a bankrupt to be arrested, and any books, papers, moneys, goods, and chattels in his possession to be seized, and him and them to be safely kept until such time as the Court may order, under the following circumstances : 35

(1.) If, after a petition of bankruptcy is filed against him, it appear to the Court that there is probable reason for believing that he is about to go abroad or to quit his place of residence with a view of avoiding service of the 40

petition, or of avoiding appearing to the petition, or of
avoiding examination in respect of his affairs, or otherwise
delaying or embarrassing the proceedings in bankruptcy : A.D. 1869.

- (2.) If, after a petition in bankruptcy has been filed against him,
5 it appear to the Court that there is probable cause for
believing that he is about to remove his goods or chattels
with a view of preventing or delaying such goods or
chattels being taken possession of on account of his
creditors under the bankruptcy, or that there is pro
10 bable ground for believing that he has concealed or is
about to conceal or destroy any of his goods or chattels,
or any books, documents, or writings which might be
of use to his creditors in the course of his bankruptcy :
- (3.) If after the service of the petition on him, or after an adjudica-
15 tion in bankruptcy against him, he change his place of resi-
dence for the time being, or remove any goods or chattels
in his possession above the value of five pounds, without
the leave of the trustee appointed to conduct bankruptcy.

As to Property devolving on Trustee.

- 20 **84.** Where the goods of any trader have been taken in execution
and sold, the sheriff shall retain the proceeds of such sale in his
hands for a period of fourteen days, and upon notice being served on
him within that period of a bankruptcy petition having been filed
against such trader, shall hold the proceeds of such sale, after
25 deducting the costs and expenses, on trust to pay the same to the
trustee ; but if no notice of such petition having been filed be served
on him within such period of fourteen days, or if, such notice having
been filed, the trader against whom the same is filed is not adjudged
a bankrupt on such petition, or on any other petition of which the
30 sheriff has notice, the sheriff may deal with the proceeds of such sale
in the same manner as he would have done had no act of bankruptcy
taken place.

Proceeds of
sale and
seizure of
goods.

- 85.** Where a bankrupt is a beneficed clergyman, the trustee
may apply for a sequestration of the profits of the benefice, and
35 the certificate of the appointment of the trustee shall be sufficient
authority for the granting of sequestration without any writ or
other proceeding, and the same shall accordingly be issued as on
a writ of *levari facias* founded on a judgment against the bankrupt,
and shall have priority to any sequestration issued after the order of
40 adjudication ; but the sequestrator shall allow out of the profits of the
benefice to the bankrupt, while he performs the duties of the parish
or place, such an annual sum, payable quarterly, as the bishop of

Sequestra-
tion of ec-
clesiastical
benefice.

A. D. 1869. — the diocese in which the benefice is situate directs; and the bishop may appoint to the bankrupt such or the like stipend as he might by law have appointed to a curate duly licensed to serve the benefice in case the bankrupt had been non-resident.

Appropriation of portion of pay of officers to creditors.

86. Where the bankrupt is or has been an officer of the army 5 or navy, or an officer or clerk or otherwise employed or engaged in the service of the Crown, in the customs or inland revenue, or any civil office or other department, or is in the enjoyment of any pension under any department of Her Majesty's Government, the trustee during the bankruptcy, and the registrar after the close of the 10 bankruptcy, shall receive for distribution amongst the creditors so much of the bankrupt's pay, half pay, salary, emolument, or pension as the Court, upon the application of the trustee, thinks just and reasonable, to be paid in such manner and at such times as the Court, with the consent in writing of the Secretary of State, 15 Lords Commissioners of the Admiralty, Commissioners of Customs or Inland Revenue, or chief officer of the department under which the pay, half pay, salary, emolument, or pension is enjoyed directs.

Appropriation of portion of salary to creditors.

87. Where the bankrupt is in the receipt of a salary other than as aforesaid, the Court upon the application of the trustee shall 20 make such order as it thinks just for the payment of such salary to the trustee during the bankruptcy, and to the registrar if necessary after the close of the bankruptcy, to be applied by him in such manner as the Court may direct.

Avoidance of voluntary settlements.

88. Any settlement of real or personal property not being a 25 settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, shall, if the settlor become bankrupt within two years after the date of such settlement, be void as against the trustee of the bankrupt appointed under this Act, unless the parties 30 claiming under such settlement can prove that the settlor was at the time of making the settlement able to pay all his debts.

"Settlement" shall for the purposes of this section include any conveyance or transfer of real or personal property.

Avoidance of fraudulent preferences.

89. Every conveyance or transfer of real or personal property, or 35 charge thereon made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own moneys in favour of any creditor, or any person in trust for any creditor, with a view of giving such creditor a preference over the other creditors, shall, if the person 40 making, taking, or suffering the same become bankrupt within three months after the date of making or taking the same, be deemed

fraudulent and void as against the trustee of the bankrupt appointed under this Act; but this section shall not affect the rights of a purchaser or incumbrancer in good faith and for valuable consideration. A.D. 1869.

5 **90.** Any treasurer or other officer, or any banker, attorney, or agent of the bankrupt, shall pay and deliver to the trustee all moneys and securities in his possession or power, as such officer or agent, if he be not by law entitled to retain as against the bankrupt or the trustee; if he do not he shall be guilty of a contempt of
10 Court, and may be punished accordingly on the application of the trustee.

Payment of
money by
agents to
trustee.

91. Where any person, having in his possession or custody any money or personal property which at the time of the deposit thereof in his possession or custody belonged to the bankrupt, pays or
15 delivers the same to the bankrupt or to his order, such payment or delivery (even if made after the order of adjudication) shall not be impeached as against the person making the same; provided,

Protection of
bonâ fide
payments.

1. That the payment or delivery is made before notice of the order of adjudication is gazetted:
- 20 2. That the person making such payment or delivery had not at the time of making the same notice of any act of bankruptcy committed by the bankrupt and available for adjudication against him at the time of the filing of the petition.

As to Discovery of Bankrupt's Property.

25 **92.** The Court may, on the application of the trustee, at any time after an order of adjudication has been made against a bankrupt, summon before it the bankrupt or his wife, or any person whatever known or suspected to have in his possession any of the estate or effects belonging to the bankrupt, or supposed to be indebted to the
30 bankrupt, or any person whom the Court may deem capable of giving information respecting the trade dealings, effects, or estate of the bankrupt, and the Court may require any such person to produce any documents in his custody or power relating to the bankrupt and his dealings; and if any person so summoned, after
35 having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce such documents, having no lawful impediment made known to the Court at the time of its sitting and allowed by it, the Court may, by warrant addressed as aforesaid, cause such person to be apprehended and brought up
40 for examination.

Power of
Court to
summon
persons
before it
suspected of
having pro-
perty of
bankrupt.

A.D. 1869.

Examina-
tion of
parties by
Court.Order of
Court for
payment of
amount
admitted on
examination.

93. The Court may examine upon oath, either by word of mouth or by written interrogatories, any person so brought before them in manner aforesaid concerning the affairs, dealings, estate, or effects of the bankrupt.

94. If any person on examination before the Court admit he is indebted to the bankrupt, the Court may, on the application of the trustee, order him to pay to the trustee, at such time and in such manner as to the Court seems expedient, the amount admitted, or any part thereof, either in full discharge of the whole amount in question or not, as the Court thinks fit, with or without costs of the examination. 5 10

Seizure of
property of
bankrupt.

95. Any person acting under warrant of the Court may seize any property of the bankrupt vested in the trustee under this Act, and in the bankrupt's custody or possession, or in that of any other person, and with a view to such seizure may break open any house, building, or room of the bankrupt where the bankrupt is supposed to be, or any building or receptacle of the bankrupt where any of his property is supposed to be; and where the Court is satisfied that there is reason to believe that property of the bankrupt is concealed in a house or place not belonging to him, the Court may, if it thinks fit, grant a search warrant to any constable or person appointed by the Court, who may execute the same according to the tenour thereof. 15 20

Penalty for
concealing
bankrupt's
property.

96. If any person without reasonable excuse (proof whereof shall lie on him) conceals property of the bankrupt, and does not, within forty-two days after notice of the order of adjudication is advertized, discover the same to the trustee, he shall be liable to forfeit, for the benefit of the creditors of the bankrupt, double the value of the property concealed, and a sum not exceeding one hundred pounds. 25 30

Reward for
discovery of
property.

97. If any person, after the expiration of forty-two days after notice of the order of adjudication is advertized, voluntarily discovers to the Court or to the trustee property of the bankrupt not known to the trustee, he shall be entitled to receive thereout as reward one twentieth part of the amount or value thereof, and such further sum (if any) as the creditors think fit. 35

Joint and separate Estates.

Power to
present
petition
against one
partner.

98. Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present such petition against any one or more partners of such firm without including the others. 40

99. Where there are more respondents than one to a petition, the Court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.

A.D. 1869.

Power to
dismiss
petition
against some
respondents
only.

100. Where one member of a partnership has been adjudicated a bankrupt, any other petition for adjudication against a member of the same partnership shall be filed in or transferred to the Court in which the first-mentioned petition is in course of prosecution, and, unless the Court otherwise directs, the estate of such last-mentioned member shall vest in the trustee appointed in respect of the estate of the first-mentioned member of the partnership, and the Court may give such directions for amalgamating the proceedings in respect of the estates of the members of the same partnership as it thinks just.

Estates of
partners to
be vested in
same trustee.

101. If one or more partners of a firm be adjudged bankrupt, any creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to vote thereat, but shall not receive any dividend out of the separate estate of the bankrupt until all the separate creditors have received the full amount of their respective debts.

Joint credi-
tor may
prove for
purpose of
voting.

102. Where joint and separate estates are being administered, dividends of the joint and separate estates shall, subject to any order to the contrary that may be made by the Court on the application of any person interested, be declared together; and the expenses of and incident to such dividends shall be fairly apportioned by the trustee between the joint and separate estates, regard being had to the work done for and the benefit received by each estate.

Joint and
separate
dividends.

103. Where a member of a partnership is adjudged bankrupt, the Court may authorize the trustee, with consent of the creditors, certified by a special resolution, to commence and prosecute any action or suit in the names of the trustee and of the bankrupt's partner; and any release by such partner of the debt or demand to which the action or suit relates shall be void; but notice of the application for authority to commence the action or suit shall be given to such partner, and he may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action or suit, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the Court directs.

Suits by
trustee and
bankrupt's
partners.

A.D. 1869.

*Evidence.*Evidence
of proceed-
ings at
meeting of
creditors.

104. The registrar, or any other person presiding at a meeting of creditors under this Act, shall cause minutes to be kept and duly entered in a book of all resolutions and proceedings of such meeting, and any such minute as aforesaid, if purporting to be signed by the president of the meeting at which such resolutions were passed or proceedings had, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every general meeting of the creditors in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had to have been duly passed and had. 5 10

Evidence of
proceedings
in bank-
ruptcy.

105. Any petition or copy of a petition in bankruptcy, any order, or copy of an order made by any Court having jurisdiction in bankruptcy, any certificate or copy of a certificate made by any Court having jurisdiction in bankruptcy, any deed or copy of a deed of arrangement in bankruptcy, and any other instrument or copy of an instrument, affidavit, or document made or used in the course of any bankruptcy proceedings, may, if any such instrument as aforesaid or copy of an instrument appears to be sealed with the seal of any Court having jurisdiction, or purports to be signed by any judge having jurisdiction in bankruptcy under this Act, be receivable in evidence in all legal proceedings whatever. 15 20

Bankruptcy
Courts to
have seals.

106. Every Court having jurisdiction in bankruptcy under this Act shall have a seal describing such Court in such manner as may be directed by order of the Lord Chancellor, and judicial notice shall be taken of such seal, and of the signature of the judge or registrar of any such Court, in all legal proceedings. 25

Penalty
on false
statements.

107. If any person, on the occasion of a bankruptcy or liquidation by arrangement, wilfully makes, by word of mouth or in writing, any false statement which is not punishable as perjury, and the maker of such false statement gains any advantage, or any person sustains any injury thereby, the person making such false statement shall be guilty of a misdemeanor, and shall be liable to imprisonment for a period not exceeding one year, with or without hard labour. 30 35

Privilege of
Parliament
not to pre-
vent adjudi-
cation in
bankruptcy.*Persons having Privilege of Parliament.*

108. If a person having privilege of Parliament commits an act of bankruptcy he may be dealt with under this Act in like manner as if he had not such privilege.

Vacating of
seat in
House of
Commons.

109. If a person, being a member of the Commons House of Parliament, is adjudged bankrupt, he shall be and remain during one year from the date of the order of adjudication incapable of 40

sitting and voting in that House, unless within that time either the order is annulled or the creditors who prove debts under the bankruptcy are fully paid or satisfied. A.D. 1869.

Provided that such debts (if any) as are disputed by the bankrupt shall be considered, for the purpose of this section, as paid or satisfied if within the time aforesaid he enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning such debts, together with any costs to be given in such proceedings.

10 **110.** If within the time aforesaid the order of adjudication is not annulled, and the debts of the bankrupt are not fully paid or satisfied as aforesaid, then the Court shall, immediately after the expiration of that time certify the same to the Speaker of the House of Commons, and thereupon the seat of such member shall be vacant. Certificate of bankruptcy to be given by Court to Speaker.

15 **111.** Where an election so becomes void the Speaker during a recess of the House, whether by prorogation or by adjournment, shall forthwith, after receiving such certificate, cause notice thereof to be published in the London Gazette; and after the expiration of six days after such publication shall, (unless the House has met before that day, or will meet on the day of the issue), issue his warrant to the clerk of the Crown to make out a new writ for electing another member in the room of the member who has so vacated his seat. Speaker to issue new writ.

25 **112.** The powers of the Act of the twenty-fourth year of the reign of King George the Third, chapter twenty-six, "to repeal so much of two Acts made in the tenth and fifteenth years of the reign of His present Majesty as authorizes the Speaker of the House of Commons to issue his warrant to the clerk of the Crown for making out writs for the election of members to serve in Parliament in the manner therein mentioned; and for substituting other provisions for the like purposes," so far as such powers enable the Speaker to nominate and appoint other persons, being members of the House of Commons, to issue warrants for the making out of new writs during the vacancy of the office of Speaker, 30 or during his absence out of the realm, shall extend to enable him to make the like nomination and appointment for issuing warrants, under the like circumstances and conditions, for the election of a member in the room of any bankrupt members whose seats become vacant under this Act. Provisions of 24 Geo. 3. sess. 2. c. 26. extended to case of bankruptcy.

40 *Miscellaneous.*

113. Where a registrar under the authority of this Act attends at any place for the purpose of presiding at a meeting of creditors, or Expenses of registrar

A.D. 1869. of receiving proofs, or of otherwise acting under this Act, his travelling and incidental expenses incurred in so doing, and those of any clerk or officer attending him, shall, after being settled by the Court, be paid out of the bankrupt's estate, if sufficient, *and otherwise shall be deemed part of the expenses of the Court of* 5
Bankruptcy.

Power of assignee to sue.

114. Any person to whom anything in action belonging to the bankrupt is assigned in pursuance of this Act may bring or defend any action or suit relating to such thing in action in his own name, or in the name of the bankrupt. 10

Exemption of deeds, &c. from stamp duty.

115. Every deed, conveyance, assignment, surrender, admission, or other assurance relating solely to freehold, leasehold, copyhold, or customary property, or to any mortgage, charge, or other incumbrance on, or any estate, right, or interest in any real or personal property which is part of the estate of any bankrupt, and which 15 after the execution of such deed, conveyance, assignment, surrender, admission, or other assurance, either at law or in equity, is or remains the estate of the bankrupt or of the trustee under the bankruptcy, and every power of attorney, proxy paper, writ, order, certificate, affidavit, bond, or other instrument or writing relating 20 solely to the property of any bankrupt, or to any proceeding under any bankruptcy, shall be exempt from stamp duty (except in respect of fees under this Act), and from every other duty.

Death of witness.

116. In case of the death of a witness whose evidence has been received by any Court in any proceeding under this Act, his depo- 25 sition, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

Computation of time.

117. Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or 30 the taking of any proceeding, then in the computation of such limited time the same shall be taken as exclusive of the day of such date or of the happening of such event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of 35 such limited time according to such computation, unless such last day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter Week, or a day appointed for public fast, humiliation, or thanksgiving, or a day on which, in pursuance of a notification by the Lord Chancellor under this Act, the Court does not 40 sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

Where by this Act any act or proceeding is directed to be done or taken on a certain day, then if that day happens to be one of the days in this section specified, such act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

118. The registrars and other officers of the courts acting in bankruptcy shall make to the comptroller in bankruptcy such returns of the business of their respective courts and offices, at such times and in such manner and form as may be prescribed by the rules of Court, and from such returns the comptroller shall, in manner prescribed by the rules of court, frame books (which shall be, under the regulations of the rules of Court, open for public information and searches), and also a general annual report to the Lord Chancellor, judicial and financial, respecting all matters within this Act, which report shall be laid before both Houses of Parliament.

Returns by
bankruptcy
officer.

119. Where any money carried to the unclaimed dividend account before the commencement of this Act remains unclaimed for *five* years after the commencement of this Act, and where any money paid to the person prescribed by rule of Court for unclaimed dividends after the commencement of this Act remains unclaimed for *five* years after being so paid, then and in every such case the same shall be deemed forfeited to the Crown, and shall be disposed of as the Commissioners of Her Majesty's Treasury direct; provided that at any time after such forfeiture the Lord Chancellor may, if he thinks fit, by reason of the disability or absence beyond seas of the person entitled to the sum forfeited, or for any other reason appearing to him sufficient, direct that the forfeiture be remitted, and the same shall be remitted accordingly, *and the sum forfeited shall be repaid out of money provided by Parliament, and shall be distributed as it would have been if there had been no forfeiture.*

Forfeiture of
dividends
after five
years non-
claim.

120. Where a bankrupt is a trustee within the Trustee Act, 1850, section thirty-two of that Act shall have effect so as to authorize the Court of Chancery or a County Court (according to its jurisdiction under the County Courts Act, 1865,) to appoint a new trustee in substitution for the bankrupt (whether voluntarily resigning or not), if it appears to the Court expedient to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.

Removal of
bankrupt
from trustee-
ship.

121. Where in any Act of Parliament, instrument, or proceeding passed, executed, or taken before the commencement of this Act mention is made of a commission of bankruptcy or fiat in bank-

Construction
of Acts
mentioning
commission
of bank-
ruptcy, &c.

A.D. 1869. ——— ruptcy, the same shall be construed, with reference to the proceedings under a petition for adjudication of bankruptcy, as if a commission of a fiat in bankruptcy had been actually issued at the time of the filing of such petition.

TEMPORARY PROVISIONS.

5

London Bankruptcy Court.

Com-
mis-
sioners of
London
Bankruptcy
Court to
cease to
hold offices.

122. From and after the commencement of this Act the present commissioners of the London Bankruptcy Court shall cease to hold their offices, but shall, during their lives, continue to receive the same salaries, and payable out of the same funds, as they would have received if this Act had not passed; and any proceedings pending before the said commissioners shall be continued in the Court as constituted under this Act. 10

Certain
officers of
London
Bankruptcy
Court
to be at-
tached to
new Court.

123. The persons who, at the commencement of this Act, fill the offices of chief registrar and registrars in the London Bankruptcy Court shall be the registrars of the Court as constituted under this Act, and the taxing master and assisting taxing master of the said Court in London shall fill the same offices in the Court as constituted under this Act. 15

All the officers mentioned in this section shall receive the same salaries, hold their offices by the same tenure, and, subject to the provisions of this Act, and to any directions which may be given by the Lord Chancellor, perform the same duties as heretofore. The said taxing master or assisting taxing master shall perform such duties analogous to those hitherto performed by them as may be prescribed; but when any vacancy occurs in the office of such taxing master or assistant taxing master it shall not be filled up, and their respective duties shall be performed by the registrars for the time being of the said Court, or such one of them as the Lord Chancellor may direct. 20 30

Provision
as to ac-
countant in
bankruptcy
and official
assignees
and others.

124. The Lord Chancellor shall by order make provision for winding up the business in the offices of the official assignees and the accountant in bankruptcy belonging to the said London Bankruptcy Court and for the abolition of their offices, and the said official assignees and accountant shall conform to any such provisions, but, subject thereto, shall, until the abolition of their offices, receive the same salaries, hold the same by the same tenure, and perform the same duties as hitherto. The offices of messengers in the said London Bankruptcy Court shall, unless the Lord Chancellor otherwise direct, be abolished. But the Lord Chancellor may continue all or any of such last-mentioned offices during the lives of the present holders thereof, and so long as the same are continued the 35 40

holders thereof respectively shall receive the same salaries, hold their offices by the same tenure, and, subject to the provisions of this Act, and to any directions which may be given by the Lord Chancellor, perform the same duties as heretofore. A.D. 1869.

- 5 Any officers holding offices in the said London Bankruptcy Court at the commencement of this Act, in respect of whom no other provision is made by this Act, shall, unless the Lord Chancellor otherwise directs, be attached to the said London Court as constituted under this Act, and, if so attached, shall receive the same salaries, hold
10 their offices by the same tenure, and, subject to the provisions of this Act, and to any directions which may be given by the Lord Chancellor, perform the same duties as heretofore; but the Lord Chancellor may at any time, by order, abolish any subsisting office in the said London Bankruptcy Court which appears to him to be
15 unnecessary.

Country District Courts of Bankruptcy.

125. Subject as in this Act mentioned, every Country District Court of Bankruptcy shall be continued so long as the person who is at the time of the commencement of this Act commissioner of
20 such Court remains in office; and, notwithstanding anything in this Act contained, if any person sought to be adjudged a bankrupt under this Act, being resident in England, reside or carry on business within the district of any Country District Court of Bankruptcy which is so continued as aforesaid, the following provisions shall take effect:

1. The expression "the Court" shall, subject to the provisions in this Act contained for removing the proceedings to the London Court of Bankruptcy, mean, instead of a local Bankruptcy Court as constituted under this Act, such Country District Court of Bank-
30 ruptcy as aforesaid:

- And all acts and things by this Act authorized or required to be done by or to, and all jurisdiction by this Act conferred by or in respect of any local Bankruptcy Court, or the judge or registrar of any local Bankruptcy Court, shall, in cases when such District
35 Court of Bankruptcy is substituted for such local Court, be done by or to or by or in respect of such District Court of Bankruptcy, or the commissioner or registrar of such District Court of Bankruptcy; and all the provisions of this Act shall be read and construed accordingly, substituting for "County Court" such District Court
40 as aforesaid, for "County Court judge" or "judge of local Court" the commissioner of such District Court as aforesaid, and for the

A.D. 1869. — “ officers of the County Court ” the corresponding officers of the District Bankruptcy Court.

Provision
as to official
assignees
and others
in Country
District
Courts of
Bankruptcy.

126. The Lord Chancellor shall, by order, make provisions for the winding-up of any business which may at the commencement of this Act be pending in the offices of any official assignees belonging to any Country District Court of Bankruptcy, and for the abolition of their offices; and the said official assignees shall conform to any such provisions, but, subject thereto, shall, until the abolition of their offices, receive the same salaries, hold the same by the same tenure, and perform the same duties as hitherto. The offices of messengers in any such Country District Court of Bankruptcy shall, unless the Lord Chancellor otherwise directs, be abolished. But the Lord Chancellor may continue all or any of such last-mentioned offices during the lives of the present holders thereof, and so long as the same are continued the holders thereof respectively shall receive the same salaries, hold their offices by the same tenure, and, subject to the provisions of this Act, and to any directions which may be given by the Lord Chancellor, perform the same duties as heretofore.

Temporary
continuance
of officers
in Country
District
Courts of
Bankruptcy.
1849, s. 11.

127. Every Country District Court of Bankruptcy continued under this Act shall, during its continuance, comprise the persons who are at the commencement of this Act the commissioners and registrars of such Court, with the clerks, ushers, and subordinate officers thereof; and such commissioners, registrars, clerks, ushers, and officers shall receive the same salaries, hold their offices by the same tenure, and, subject to the provisions of this Act and to any directions which may be given by the Lord Chancellor, perform the same duties as heretofore, but the Lord Chancellor may, at any time, by order, abolish any office in any Country District Court of Bankruptcy which appears to him to be unnecessary.

Power to
interchange
commis-
sioners and
offices of
District
Courts.

128. The Lord Chancellor may from time to time attach any commissioner or registrar or other officer of any Country District Court of Bankruptcy to such district as he thinks fit, and, if and whenever it appears to him expedient, may order any such commissioner to hold sittings at such places within his district as the Lord Chancellor thinks fit, and may give all necessary directions in that behalf; and unless and until the Lord Chancellor otherwise directs, the sittings of such commissioners shall continue to be held at the places at which they are held at the commencement of this Act.

Vacancies
in District
Courts
not to be
filled up.

129. A vacancy in the office of any commissioner of a Country District Court of Bankruptcy by death, resignation, or otherwise

shall not be filled, and thereupon that Country District Court in A.D. 1869.
which he presided shall be deemed to be abolished.

130. If a vacancy in the office of registrar of any such Court happens during the continuance of the Court, it shall not be filled; but the Lord Chancellor may, if it appears to him requisite for the due conduct of the business of the Court, appoint a fit person to act as registrar, during the continuance of the Court.

Provision
for casual
vacancies.

131. Such part of the business pending in a Country District Court at its abolition as the Lord Chancellor thinks fit shall be disposed of by the registrar of that Court, (who shall for that purpose continue to have and discharge all his powers and authorities, rights and duties,) and the residue of that business shall be transferred to the London Bankruptcy Court, or to such County Court or County Courts, as the Lord Chancellor, by order before or after its abolition, thinks fit to direct; but, subject as aforesaid, the office of any registrar in such Country District Court shall be abolished.

Disposal of
business and
abolition of
offices in
Country
District
Courts.

Compensation to Holders of abolished Offices.

132. Where any district commissioner, registrar, or any other person whose office is abolished by or under this Act, on the commencement of this Act or on any other event, held his office during good behaviour, or during good behaviour subject only to removal by the Lord Chancellor, by order, for some sufficient reason to be stated in such order, such officer shall, from and after such abolition, receive, out of moneys to be provided by Parliament, an annuity during his life equal to the amount which he received by way of salary during his continuance in office.

Compensa-
tion to
holders of
abolished
offices.

133. The Commissioners of Her Majesty's Treasury may, on the petition of any person whose office is abolished by or under this Act, on the commencement of this Act or on any other event, and whose compensation in respect of the abolition of his office is not otherwise provided for by this Act, inquire whether any, and, if any, what compensation ought to be made to the petitioner, regard being had to the conditions on which his appointment was made, the nature of his employment, and the duration of his service; and if they think that his claim to compensation is established, may award to him, out of moneys to be provided by Parliament, such compensation, by annuity or otherwise, as under the circumstances of the case they think just and reasonable.

Compensa-
tion to
clerks.

134. If any person to whom a compensation annuity is granted under this Act accepts any public employment, he shall, during the

Acceptance
of public

A.D. 1869.
—
employment
by annui-
tants.

continuance of that employment, receive only so much (if any) of that annuity as, with the remuneration of that employment will amount to a sum not exceeding the salary or emoluments in respect of the loss whereof the annuity was awarded, and if the remuneration of that employment is equal to or greater than such salary or emoluments the annuity shall be suspended so long as he receives that remuneration. 5

Change of Jurisdiction by Chancellor.

Power of the
Lord Chan-
cellor with
respect to
jurisdiction
of Bank-
ruptcy
Court.

135. Notwithstanding anything in this Act contained, the Lord Chancellor may from time to time, by order under his hand, do the following things: 10

- (1.) Abolish any Country District Court of Bankruptcy, and make orders in respect to the disposition of the business thereof, in the same manner if the commissioner of such Country District Court of Bankruptcy had ceased to hold his office: 15
- (2.) Exclude any County Court from having jurisdiction in bankruptcy, or give to any County Court a jurisdiction in bankruptcy larger than its district for County Court purposes, and appoint the places in which the judge of such County Court is to sit in bankruptcy. 20

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Bankruptcy.

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B I L L

To consolidate and amend the Law of
Bankruptcy.

*(Prepared and brought in by
Mr. Attorney General and Mr. Solicitor
General.)*

*Ordered, by The House of Commons, to be Printed,
15 March 1869.*

[Bill 50.]

Under 6 oz.