A BILL

To Amend the Law Relating to Bankruptcy and Insolvency in Vancouver Island and its Dependencies.

WHEREAS, doubts have been entertained as to the application of the English Bankrupt and Insolvent Laws to this Colony.

And whereas it is expedient to amend the Laws relating to Bankruptcy and Insolvency, and to declare the same Laws so amended to be applicable to this Colony.

Be it enacted by His Excellency the Governor on Her Majesty's behalf by and with the consent of the Legislative Council and Assembly as follows:

I. The Laws of Bankruptcy and Insolvency in England, as amended by this Act, shall be deemed and taken to be the Laws of Bankruptcy and Insolvency within this Colony.

Jurisdiction in Bankruptcy vested in the Chief Justice of the Supreme Court and a Commissioner when nominated.

AS TO THE COURT OF BANKRUPTCY.

II. The Jurisdiction in Bankruptcy shall be administered by the Chief Justice of Vancouver Island and its Dependencies and upon the appointment of a Commissioner in Bankruptcy by such Commissioner in Bankruptcy hereinafter contained.

Powers of the Court.

III. The Court of Bankruptcy shall have and exercise for the purposes of this Act, all the Jurisdiction, Powers and Authorities of the Superior Courts of Law and Equity, and all the Jurisdiction, Powers and Authorities now or hereafter to be possessed by the same.

The Chief Justice shall be the Judge of the Court of Bankruptcy, and it shall be lawful for the Governor for the time being from time to time to appoint a fit person being a Sergeant-at-law or Barrister-at-law of not less than seven years standing at the Bar in England or of this Colony, to be Commissioner in Bankruptcy. Such Commissioner shall be incapable of being elected a member of the House of Assembly.

Oath of Commissioner.

IV. The Commissioner shall before executing any of the duties of his Office take the following oath which the Chief Justice is hereby authorized and required to administer:

"I, A. B. do solemnly and sincerely promise and swear, that I will duly and faithfully, and to the best of my skill and power execute the office of Commissioner in Bankruptcy. So help me God."

Registrar of Supreme Court to be Registrar and Taxing Master of Bankruptcy Court.

AS TO THE OFFICERS OF THE COURT.

V. The person discharging the duties of Registrar and Master of the Supreme Court of Civil Justice shall act as Registrar and Taxing Master in Bankruptcy.

Sheriff to act as Messenger.

VI. The Sheriff of Vancouver Island shall discharge the duties of Messenger in all matters of Bankruptcy and shall give such security in respect of such duties, and shall receive such remuneration in respect of such services as General Orders shall direct.

Registrar to be Accountant in Bankruptcy.

AS TO THE ACCOUNTANT IN BANKRUPTCY.

VII. The duties of Accountant in Bankruptcy shall be discharged by the Registrar.

Bills of Costs to be Taxed subject to reversion.

AS TO THE TAXING MASTER.

VIII. All Bills of Costs, Charges, Fees and Disbursements of Solicitors and Attorneys, and of any Auctioneer, Appraiser, Broker, Valuer or Accountant, or any other person not being an Attorney or Solicitor, in any matter under this Act, shall be settled by the Registrar, subject to the review of the Court.

Appointment of Commissioner; his Remuneration, Duties and Jurisdiction.

IX. The appointment of Commissioner in Bankruptcy shall not be filled up until the Chief Justice shall by a writing under his hand, signify that such an appointment is necessary. The Commissioner when appointed shall receive the salary of £300 per annum, and shall be entitled to practice as a Conveyancer, but in no other capacity, and then only so far as not to interfere with his official business. Upon the appointment of a Commissioner such Commissioner shall have primary jurisdiction in all cases where an affidavit is filed in the Supreme Court by the Bankrupt or petitioning Creditor or Creditors, that the assets of the proposed Bankrupt do not amount to £500.

Fees prescribed by this Act to be directed by General Orders.

X. General Orders may from time to time direct what Fees, other than those herein directed, shall be paid in respect of any matters of Bankruptcy or Proceedings under this Act.

Fees prescribed by this Act may be altered by General Orders.

XI. The Fees by this Act made payable, or any of them, may from time to time be varied or abolished by General Orders and other Fees, but not of an amount higher than that by this Act prescribed, may be fixed and imposed by such Orders.

Penalty on Officers Improperly Receiving Money.

XII. If any Judge, Commissioner, Registrar, Accountant, Master, Official, Assignee, Clerk, or any other Officer of the Court of Bankruptcy, shall for anything done or pretended to be done under this Act, or under color of doing anything thereunder fraudulently and wilfully demand or take or appoint or allow any person whatsoever to take for him or on his account, or for or on account of any person by him named, or in trust for him or for any other person by him named, any Fee, Emolument, Gratuity, sum of Money, or anything of value whatsoever other than is allowed by this Act, such person when convicted thereof shall forfeit and pay the sum of Five Hundred Pounds, and be rendered incapable of holding any office or place under Her Majesty.

General Orders.

AS TO GENERAL ORDERS.

XIII. The Chief Justice shall (with the assistance of the Commissioner when such Commissioner shall be appointed) from time to time, and subject to the provisions of this Act, frame General Orders for the following purposes:

For regulating the practice and procedure of the Court of Bankruptcy, and the several Forms of Petitions, Orders, and other proceedings to be used in the Court in all matters under this Act.

For regulating the Duties of the various Officers of such Court.

For regulating the Fees payable and the Charges and Costs to be allowed with respect to all proceedings before such Court.

For regulating the practice and procedure on appeals.

For regulating the filing, custody and inspection of Records.

General Orders may be rescinded and varied and submitted to the Legislature.

XIV. And generally for carrying the provisions of this Act into effect, such General Orders may be rescinded and varied from time to time, and all General Orders shall be laid before the Council and House of Assembly within one month after the making thereof, if the House of Assembly and Council be then sitting, or if not then sitting within one month from the commencement of the then next session.

Court to sit when business requires.

AS TO THE SITTINGS OF THE COURT.

XV. The Court of Bankruptcy shall sit for the despatch of business as necessity may require, Sunday, Christmas Day, Good Friday, Monday and Tuesday in Easter Week, and days appointed for public Feast or Thanksgiving, excepted.

Evidence.

AS TO THE PRACTICE AND PROCEDURE OF THE COURT.

XVI. The Court may in all matters take the whole or any part of the evidence, either viva voce on Oath, or by Interrogatories in writing, or upon affidavit, or by commission abroad.

Sittings in Chambers.

XVII. The Chief Justice and Commissioner shall respectively sit at Chambers for the despatch of such Business as can without detriment to the public advantage arising from the discussion of questions in open Court be heard in Chambers, and when sitting at Chambers they shall have in all respects like power and Jurisdiction as when sitting in Court, and the Chief Justice may direct from time to time that any matter pending before him, shall be heard and decided by the Commissioner.

Attendance of Witnesses before Registrar.

XVIII. Parties and witnesses summoned before a Registrar shall be bound to attend in pursuance of such summons and shall be liable to Process of contempt in like manner as parties and witnesses are now liable thereto in case of default in attendance under any writ of subpœna; and all persons wilfully and corruptly swearing or affirming falsely before a Commissioner or Registrar sitting in Chambers, shall be liable to all the penalties, punishments and consequences of perjury.

Recusant Witness.

XIX. If any person examined before a Registrar shall refuse or decline to answer or to swear to or sign his examination when taken, the Registrar shall refer the matter to the Chief Justice or Commissioner as the case may be, who shall have power to order the person so acting to pay the costs thereby occasioned.

Parties may at any stage of the Case state a Special Case.

XX. In any Bankruptcy or any other proceeding within the jurisdiction of the Court, the parties concerned or submitting to such jurisdiction may at any stage of the proceedings by consent state any question or questions in a special case for the opinion of the Supreme Court, and the judgment of the Supreme Court shall be final, unless it be agreed and stated in such special case that either party may appeal.

A sum may be made payable by consent to abide the decision of the Case.

XXI. The parties may if they think fit, agree that upon the question or questions raised by such special case being finally decided, a sum of money fixed by the parties or to be ascertained by the Court or in such manner as the Court may direct, or any property, shall be paid, delivered or transferred by one of such parties to the other of them, either with or without costs.

Registrar to attend at such places as the Court may direct.

XXII. The Court of Bankruptcy may direct the Registrar to attend at any place for the purpose of holding any meeting of Creditors of receiving proof of debts and generally for the prosecution of any Bankruptcy or other proceeding under this Act, and the traveling and incidental expenses of such Registrar, and of any Clerk or other Officer attending him, incurred in so acting, shall be settled by such Court and paid out of the assets of the Estate in respect of which such Registrar has so acted, and such Registrar so acting shall have and exercise all powers, except the power of Commitment, vested in such Court for the summoning and examination of persons or witnesses, and for requiring the production of Books, Papers and Documents. Provided always, that all Depositions and Examinations of persons and witnesses taken before such Registrar, and all acts done by him shall be reduced to writing and be signed by such Registrar, and shall be annexed to and form part of the proceedings.

Court may direct question of fact to be tried.

XXIII. It shall be lawful for the Chief Justice or Commissioner to direct any question of fact to be tried and determined before the Chief Justice by the verdict of a special or common Jury. The Chief Justice may make all such Rules and Orders upon the Sheriff or any other person for procuring the attendance of a special or common Jury for the trial of such questions, as may now be made by the Supreme Court, and also may make any other Orders which may be requisite for the purpose of such Trial, and every such Jury shall consist of persons possessing the like Qualifications, and shall be struck, summoned and balloted for and called in like manner as if such Jury were a Jury for the Trial of any cause in the said Supreme Court, and every Juryman so summoned shall be entitled to the same right and be subject to the same Duties and Liabilities, as if he had been duly summoned for the Trial of any cause in the said Supreme Court, and every party to any such proceeding shall be entitled to the same right as to challenge and otherwise, as if he were a party to a cause in the said Supreme Court, and at the Trial the Jury shall be sworn to try the said Question of fact, and a true Verdict to give thereon according to the Evidence.

Court may direct Issues.

XXIV. It shall be lawful for the Chief Justice and the Commissioner to direct one or more Issue or Issues to be tried in the said Supreme Court, and either by a special or common Jury in like manner as is now done by the Court of Chancery.

Form of Warrant.

XXV. Every Warrant issued by the Court under this Act shall be under the Seal of the Supreme Court and the hand of the Chief Justice or Commissioner as the case may be, and every Summons shall be under the hand of the Registrar and under the Seal of the Supreme Court.

Documents and Copies may be ordered to be Sealed.

XXVI. The Court shall cause to be Sealed with the Seal of the Supreme Court all such Records, Proceedings, Documents, and copies of the same, as are by this Act or shall be by General Orders required to be so Sealed, and such other Records, Proceedings, Documents, and copies of the same, as the Court shall at any time direct.

No Document to be Void for want of Form

XXVII. No Rule, Order, Warrant, or other Proceeding or Document required by this Act to be in a form given in the Schedule to this Act or to be given by any General Order, shall be invalidated by reason of any want of form or omission therein, if such want of form or omission shall not in the opinion of the Court before which the same shall be brought, be calculated to mislead or prejudicially affect any party.

Appeal from Commissioner to Chief Justice.

AS TO APPEALS.

XXVIII. Every Decision or Order of the Commissioner shall be subject to appeal before the Chief Justice, to be brought on by way of petition, motion, or special case. On the hearing thereof no new evidence shall be received without leave of the Chief Justice, and if such appeal shall not be presented within twenty-eight days from the date of the Decision or Order complained of, or within such further time as the Commissioner shall in any case allow, then such Decision or Order shall be final.

Appeal from Chief Justice to Privy Council.

XXIX. Every decree or order made by the Chief Justice shall be final except in those cases where an amount of £300 or more is involved in which case an appeal shall lie to the Privy Council.

Chief Justice may remove proceedings.

XXX. On the hearing of any appeal the Chief Justice may exercise any part of his original Jurisdiction, and may, if he think fit direct that the case or matter in which the order appealed from was made, be removed from the Jurisdiction of the Commissioner either wholly or in part, and be thenceforth prosecuted in the Supreme Court, or in the Commissioner's Court as he shall think fit.

All persons are liable to become Bankrupt.

AS TO THE PERSONS SUBJECT TO THIS ACT.

XXXI. All Debtors whether Traders or not shall be liable to be declared and adjudged bankrupt, and be subject to the provisions of this Act, and in the procedure to obtain adjudication it shall no longer be necessary to show any trading on the part of the Debtor.

Acts of Bankruptcy by Non-Traders.

XXXII. If any person not being a Trader shall with intent to defeat or delay his Creditors depart this Realm, shall with such intent remain abroad, or shall with such intent make any fraudulent Conveyance, Gift, Delivery, or Transfer of his Real or Personal Estate, or any part thereof respectively, such person shall be deemed to have thereby committed an Act of Bankruptcy, provided always that before any adjudication in Bankruptcy shall be made against the Debtor under this section, the following rule shall be observed :

1. A copy of the petition for adjudication shall be served personally on the Debtor, either within the Jurisdiction, or in such place or country, or within such limits abroad as the Court shall upon application for that purpose direct.

2. Such copy of petition shall have endorsed thereon a memorandum in a form to be settled by General Orders specifying the time within which the Debtor is to appear on such petition and such time shall, when the service is to be made abroad, be the time which the Court shall think reasonable having regard to the place or country where the service is to be made.

3. In no case of service out of the Jurisdiction shall the time for appearance be less than 30 days after service.

Lying in prison an act of Bankruptcy.

XXXIII. If any Debtor, whether a Trader or not, having been arrested or committed to prison for a Debt, or on any attachment for nonpayment of money, shall upon such, or any other Arrest or Commitment for Debt or nonpayment of money, or upon any detention for Debt, lie in prison for Fourteen Days or having been arrested for any cause, shall lie in prison for Fourteen Days after any detainer for Debt lodged against him and not discharged ; every such Debtor shall thereby be deemed to have committed an Act of Bankruptcy, or if any such Debtor having been arrested, committed or detained for Debt, shall escape out of prison or custody, every such Debtor shall be deemed to have thereby committed an Act of Bankruptcy from the time of such arrest, commitment or detention.

Filing declaration of Inability.

XXXIV. If any Debtor whether a Trader or not shall file in the Office of the Registrar, a declaration in writing in such Form as General Orders shall direct, signed by such Debtor and attested by the Registrar or an Attorney or Solicitor, that he is unable to meet his engagement ; every such Debtor shall be deemed thereby to have committed an Act of Bankruptcy at the time of filing such declaration, provided a petition for adjudication of Bankruptcy shall be filed by or against him within two months from the filing of such declaration.

Execution for £50 to be an Act of Bankruptcy.

XXXV. If any execution shall be levied by Seizure and Sale of any of the Goods and Chattels of any Trader, Debtor upon any judgment recovered in any action personal for the recovery, of any Debt, or money demand exceeding Fifty Pounds ; every such Debtor shall be deemed to have committed an Act of Bankruptcy from the date of Seizure of such Goods and Chattels. Provided always, that unless in the meantime a Petition for Adjudication of Bankruptcy against the Debtor be presented, the Sheriff or other Officer making the Levy, shall proceed with the execution and shall at the end of Seven Days after the Sale pay over the proceeds, or so much as ought to be paid to the Execution Creditor, who shall be entitled thereto, notwithstanding such Act of Bankruptcy unless the Debtor be adjudged a Bankrupt within Thirty Days from the date of the Seizure, in which case the money so received by the Creditor shall be paid by him to the Assignee under the Bankruptcy ; but the Sheriff or other Officer shall not incur any liability by reason of anything done by him as aforesaid.

Goods taken under ofi fa to be sold at Public Auction.

XXXVI. Whenever the Goods and Chattels of a Debtor are sold under an Execution upon any Judgment recovered in any action or suit brought for the recovery of a Debt, Money, Demand or Damages against any Debtor, such Goods and Chattels shall in all cases be sold by the Sheriff by Public Auction and not by Bill of Sale or Private Contract, and such sale shall be publicly advertised by the Sheriff on and during Three Days next preceding the day of sale.

Judgment Summons.

AS TO AN ACT OF BANKRUPTCY BY NON-PAYMENT AFTER JUDGMENT DEBTOR SUMMONS.

XXXVII. Every Judgment Creditor who is or shall be entitled to sue out against a Debtor a Writ of Capias ad Satisfaciendum, or to charge the Debtor in Execution, shall be entitled at the end of one week from the signing of Judgment to sue out against the Debtor, whether he be a Trader or not, and whether he be in custody or not, a Summons, to be called a Judgment Debtor Summons, requiring him to appear and be examined respecting his ability to satisfy the debt.

Order in Equity or Bankruptcy for Payment Unsatisfied entitles Creditor to a Judgment Summons.

XXXVIII. Where, after the commencement of this Act, a Decree or Order of a Court of Equity or an Order in Bankruptcy or Insolvency or Lunacy, directing the payment of Money, is disobeyed by the Debtor, the same having been duly served upon him, and the person entitled to receive the Money or interested in enforcing payment of it, has obtained a peremptory order of the competent Jurisdiction fixing a day for payment, and the Debtor does not within seven days after service on him of the peremptory Order, or such Order having been duly served within seven days after the day fixed by the peremptory Order for payment, (which shall last happen) pay the Money, or secure or tender or compound for it to the satisfaction of the Creditor, the Creditor shall be entitled at the end of those seven days to sue out against the Debtor a Judgment Debtor Summons.

Judgment Debtor to be Served Personally, unless otherwise ordered.

XXXIX. Where the Debtor is in Vancouver Island the Summons shall be served personally, unless the Court issuing the same shall in any case direct that service in some other manner is good service.

Service out of the Jurisdiction.

XL. Where the Debtor is not in Vancouver Island the Court, upon such evidence as shall satisfy it that the service will be effectual to give notice to the Debtor, may order service to be made in such manner and form as it shall deem fit, and shall appoint a time by such order for the appearance of the Debtor.

Service on Prisoner.

XLI. Where the Debtor is in custody, a duplicate of the Summons shall be delivered to the Sheriff or other person in whose custody he is, who shall bring him up according to the Summons.

Substituted Service.

XLII. If service of the Summons be not effected, and the Court is satisfied that the Debtor is keeping out of the way to avoid service, it may order that one or more Notices be inserted in one or more Newspapers published in the Colony, requiring him to appear on a day named, being not less than Fourteen days after the publication of the first notice.

Proceedings on Judgment Debtor Summons.

XLIII. Upon the appearance of the Debtor he may be examined upon oath by or on behalf of the Creditor, and by the Court, respecting his ability to satisfy the debt, and for the discovery of property applicable in that behalf, and shall be bound to produce on oath or otherwise such books, papers and documents in his possession or power relating to property applicable or alleged to be applicable to the satisfaction of the debt as the Court shall think fit, and to sign his examination when reduced to writing, and any Debtor refusing to be sworn, or who shall upon examination refuse or wilfully fail to discover fully and truly to the best of his knowledge and belief all his property real and personal inclusive of his rights and credits, and to produce all books, papers and documents in his possession or power

relating thereto, shall be liable to be committed by the Court, as in the case of a Bankrupt.

Proceedings in Default.

XLIV. If after service of such Summons or due notice thereof as aforesaid, the Debtor shall not pay the debt and costs, or secure or compound for the same to the satisfaction of the Creditor, the Court may on the appearance of the Debtor, or if he shall not appear having no lawful impediment allowed by the Court, adjudge him Bankrupt without the presentation of a petition for adjudication or other proceeding; and where the Debtor has not appeared, notice of such adjudication shall be served upon him in like manner as herein provided with respect to service of the Summons.

Appearance to be within three days, or extended time, and on appearance the Bankruptcy may be either annulled or made absolute.

XLV. The Debtor shall be allowed Three days from such notice, or such further time as the Court shall think fit, for appearing to show cause against the adjudication, and if he appear within the time allowed and show sufficient cause, the adjudication may be annulled; otherwise, at the end of the time allowed or on the Judgment of the Court against the sufficiency of the cause shown, the adjudication shall become absolute, and notice thereof shall be forthwith given in one or more of the local Newspapers, and the adjudication shall have relation back to the service of the Summons or the insertion of the first notice in the said local Newspaper, as the case may be; and the fees payable upon the presentation of a petition for adjudication of Bankruptcy shall be paid in respect of adjudication under this section or under the last preceding section, by the official Assignee or Creditors' Assignee as the case may be, out of the first Moneys that shall be received under the Estate of the Bankrupt.

Provision for Committal to apply to Debtors on Judgment Summons.

XLVI. The provisions contained in this Act relating to the committal of a person refusing to be sworn, or doing or omitting the other acts or things therein mentioned, shall apply to a Debtor appearing on a Judgment Debtor Summons.

Proceedings in Bankruptcy against Non-Traders to be commenced by Petition.

AS TO PROCEEDINGS BEFORE ADJUDICATION IN THE CASE OF NON-TRADERS.

XLVII. Proceedings to obtain adjudication of Bankruptcy shall be by Petition on the oath of the petitioner. Every such Petition shall be filed of record, and prosecuted as directed by this Act; and from and after the filing of such Petition in the case of a Debtor petitioning against himself, and from and after adjudication in the case of a Debtor not being a Trader who shall be adjudged Bankrupt, the Bankrupt personally and all his Estate and Effects of what nature or kind soever, shall be subject to the law of Bankruptcy in like manner as if such Debtor had been a Trader, and as such duly found and declared a Bankrupt.

Petitioning Creditor's Debt.

XLVIII. The amount of the Debt of any Creditor petitioning for Bankruptcy against a Debtor, whether a Trader or not shall be as follows; that is to say:

The Debt of a single Creditor, or of two or more persons being partners shall amount to Twenty-five Pounds or upwards.

The Debt of two Creditors shall amount to Thirty-five Pounds or upwards.

The Debt of three or more Creditors shall amount to Fifty Pounds or upwards.

Every person who has given Credit to any Debtor upon Valuable Consideration for any sum payable at a certain time which time shall not have arrived when such Debtor committed an Act of Bankruptcy may so petition or join in petitioning whether he shall have any security for such sum or not.

Power to Annul and Compel Payment of Damages.

XLIX. If the Debt stated by the petitioning Creditor in his affidavit, or in his petition for adjudication to be due to him from any Debtor shall not be really due, or if, after a petition for adjudication of Bankruptcy has been filed it shall not have been proved that the person against whom such petition has been filed was liable to an adjudication of Bankruptcy at the time of the filing of such petition,

and it shall also appear that such petition was filed fraudulently or maliciously, the Courts shall and may upon petition of any person aggrieved by such petition examine into the same, and order satisfaction to be made to him for the damages by him sustained.

Corporate Officer may Sue.

L. A petition for adjudication of Bankruptcy or Judgment Debtors Summons against any Debtor indebted in the amount aforesaid to any Copartnership duly authorized to sue and be sued in the name of a Public Officer of such Copartnership, may be filed or sued out by such public officer as the nominal petitioner for and on behalf of such Copartnership.

Debtor may Petition.

LI. Any Debtor may petition for adjudication of Bankruptcy against himself, and the filing of such Petition shall be an act of Bankruptcy without any previous Declaration of Insolvency by such Debtor.

Debtor to file Statement of Assets and Liabilities.

LII. Every Debtor petitioning against himself shall file in Court, together with his Petition, a full, true and accurate Statement of his Debts and Liabilities of every kind, and of the names and residences of his Creditors and of the causes of his inability to meet his engagements and Statement shall be in such Form as General Orders shall direct, and shall be verified by the Oath of the petitioner.

Prisoner filing Petition to give notice to Gaoler

LIII. Every Debtor who shall present a Petition for adjudication whilst a prisoner in any prison or gaol, shall by writing give notice to the keeper of such gaol or prison of his intention so to do, and shall in his Petition state that such notice has been given.

In Default of Adjudication any Creditor may proceed.

LIV. If the petitioning Creditor shall not proceed and obtain adjudication within three days after his Petition shall have been filed, or within such extended time as shall be allowed by the Court, the Court may at any time, at the expiration of such three days or of such extended time, as the case may be, upon the Petition of any other Creditor to the amount required to constitute a petitioning Creditor, proceed to adjudicate on such last-mentioned Petition. If a Debtor petitioning against himself does not obtain adjudication within twenty-four hours after filing such Petition, the Court may proceed to adjudge the Debtor a Bankrupt on the Petition of any competent Creditor.

Character of Petitioning Creditor's Debt.

LV. In the computation of debts for the purposes of any Petition under this Act, there shall be reckoned as debts :

1st. Sums due to Creditors holding Mortgages or other available securities or Liens, after deducting the value of the property comprised in such Mortgages, Securities or Liens.

2d. Such Interests and Costs as shall be due in respect of any of the debts.

But there shall not be reckoned :

1st. The amount of the debts in respect of which the petitioner has already taken the benefit of Insolvency, Protection or Bankruptcy.

2d. Debts barred by any Statute of Limitations.

Petitions in Forma Pauperis.

AS TO ADJUDICATION OF BANKRUPTCY AGAINST PAUPER PRISONERS.

LVI. If any Debtor now being or who shall be imprisoned for any debt or demand, shall be unable to petition the Court for an adjudication of Bankruptcy against himself through poverty, he shall be at liberty to petition in forma pauperis, upon making an affidavit that he has not the means of paying the Fees and Expenses usually payable in respect of a Petition by a Debtor for an adjudication of Bankruptcy. Such an affidavit may be sworn before the gaoler of the prison where such Debtor is confined, and such gaoler is hereby empowered and required to take such affidavit and swear the Deponent thereto without Fee or reward.

Petition in Forma Pauperis to be brought up for Examination at the next Court.

LVII. Every person so petitioning in forma pauperis as aforesaid, shall be

brought up to the Court at its next sitting after the presentation of such petition, and shall be examined by the Court touching his Estate and Effects, Debts, Dealings and Transactions ; and if the Court shall be satisfied with such examination it shall make an order of adjudication of Bankruptcy against the Petitioner, and if it think fit grant an order of protection to the Petitioner.

Bail to ca. sa. may be given on Summons for that purpose.

AS TO PERSONS ARRESTED FOR DEBT.

LVIII. Any person arrested upon a Capias ad Satisfaciendum may at any time thereafter take out a Summons in the Supreme Court or in cases coming within the primary jurisdiction of the Commissioner in the Court of the Commissioner calling upon the person or persons on whose behalf such writ was issued to show cause why Bail (the particulars whereof shall be mentioned in such Summons) should not be taken for his appearance at such times as he may be called upon to appear by the Court.

The Chief Justice may order discharge.

LIX. The Chief Jusice or the Commissioner as the case may be may direct that such person may be discharged from custody for such time and upon such terms and Bail as may be deemed just, and may postpone the hearing of such Summons from time to time.

Sheriff may on his own Personal responsibility take Bail.

LX. The Sheriff may personally take such Bail for the appearance before the Court of any person arrested on a Writ of Capias ad Satisfaciendum within Fourteen Days from such Bail as he may think sufficient, but the Sheriff shall in default of such appearance be liable for the debt in respect of which such Writ originally issued.

Debt to be considered as subsisting.

LXI. In all cases where Bail is taken the Debt in respect of which such Writ was issued shall be deemed and taken to be subsisting, notwithstanding such Arrest, Bail or Discharge.

Gaoler to return number of persons in Custody under Process.

LXII. The Gaoler of every Prison in this Colony shall on the first day of every month, or if such day shall happen to be Sunday then on the day next following, make a return to the Chief Justice under his hand of the name of every such person in custody upon any process whatsoever for or by reason of any Debt, Claim or Demand whatsoever, and the date of his or her imprisonment and the nature and amount of the Debt or Demand ; Debts or Demands for which he or she is imprisoned or in custody, and whether he or she is willing to petition the Court of Bankruptcy, or is unable to do so by reason of poverty, or in such other form and manner and with such particulars as any General Orders shall direct ; such return shall also include the names and addresses of every Creditor at whose suit such prisoner is imprisoned or detained.

LXIII. The Chief Justice shall in every case on receiving such Return make an Order that the Registrar shall attend at the Gaol on a Day to be named being at least Seven and not more than Twenty-one Days from the date of such return. Notice of such Order shall be forthwith given to the Gaoler, and also to the Execution and Detaining Creditors of every prisoner included in such return. On the Day named in the Order the Registrar shall attend at the prison, and examine every prisoner included in such return who shall have been in prison for Fourteen Days, touching his Estate and Effects, Debts, Dealings and Transactions.

The Registrar shall also ascertain the last or longest place of abode and business of each such prisoner within the six months next prior to his Imprisonment. The Chief Justice on the report of the Registrar shall have power to make an Order of adjudication in Bankruptcy against every such prisonor, and to grant him protection and shall also direct in what Court such adjudication shall be prosecuted.

LXIV. If the prisoner shall refuse to appear or to be sworn or to answer all lawful questions of the Registrar, or of the execution or detaining Creditors or of any other Creditor who shall be present, respecting his Debts, Liabilities, Dealings

and Transactions, or to make a full discovery of his Estate and Effects and of all his Books of Account, or to produce the same, or to sign his examination when taken, the Registrar shall report the same to the Court, and the Court may by Warrant under the Hand and Seal of the Chief Justice and in the form contained in Schedule C. to this Act, commit him to the common gaol, there to be kept with hard labor for any time not exceeding one month, and the Court may at the same time adjudge such prisoner Bankrupt; provided that if after such adjudication the Bankrupt shall, before the period of such Commitment has expired, submit to be examined and in all things conform to the Jurisdiction of the Court, he shall have in all respects the same benefit as if he had submitted to the Court in the first instance.

LXV. No valuation of a Bankrupt's property shall be made unless the Court shall so direct, and any valuation required by the Creditors shall be made in such manner and upon such terms as General Orders shall from time to time direct.

AS TO THE RIGHTS AND DUTIES OF THE CREDITOR'S ASSIGNEE.

LXVI. The Creditor's Assignee shall manage, and, except as herein provided, realize and recover to the Estate belonging to the Bankrupt, wherever situated, and convert the same into Money, and he shall pay all Moneys not necessarily retained for current expenses, all public Securities, and all Bills, Notes and negotiable Instruments belonging to the Estate, forthwith upon receipt thereof into Court, to the account of the Accountant in Bankruptcy.

LXVII. The Creditor's Assignee shall at the end of three months from and after his appointment, and thenceforth at the expiration of every succeeding three months, render to the Registrar a Debtor and Creditor account of all sums received and paid on account of the Bankrupt or his Estate, verified on oath as a full, true and faithful account of his receipts and payments as such Creditor's Assignee, and the vouchers for such Account and all Books of Account in his possession or power, together with his Banker's Pass Book, shall be produced by him to the Registrar, who shall examine the same, and if he shall be dissatisfied with such Account, the same or any part thereof or any matter arising thereon shall be enquired into and considered by the Chief Justice or Commissioner, as the case may be.

LXVIII. Forthwith after the passing of each such account of the Creditor's Assignee a copy thereof or a statement showing the nature and result of the transactions and accounts of the Creditor's Assignee shall be made out by the Registrar and shall be open to inspection in the Registrar's Office by every Creditor who has proved under the Bankruptcy.

LXIX. In every case of a Lease or an Agreement for a Lease, it shall be lawful for the Assignee to elect to take the same and the benefit thereof, and to keep possession of the premises up to some quarter or half-yearly day on which Rent is made payable by the same Lease or Agreement, such day not being more than six months from the adjudication of Bankruptcy, and from and after such day to decline such Lease or Agreement for a Lease.

LXX. Any Mortgagee, with the leave of the Court first obtained, may bid at any sale of the mortgaged property.

LXXI. If it shall appear to any Meeting of the Creditors summoned by the Assignee by notice stating the object of the Meeting, and at which three-fourths in value of the Creditors shall be present or represented, that the debts of any Bankrupt can be discharged by means of money raised by way of Mortgage or Pledge of any of his property, and such Meeting shall pass a Resolution accordingly, it shall be lawful for the Assignee when thereunto authorised by order of the Court to execute such Mortgage or Pledge with or without powers of sale and other powers and in such manner in all respects as shall be specified in such order, and the Court may order the execution of such Mortgage or Pledge by any other necessary parties and give all necessary directions for the purpose of carrying into effect the Resolution of the Creditors.

LXXII. The Court may order such portion of the pay, half-pay, salary, emolument or pension of any Bankrupt as, on communication from the Colonial Secre-

tary or the Chief Officer of the Department to which such Bankrupt may belong, or may have belonged, or under which such pay, half-pay, salary, emolument, or pension, may be enjoyed by such Bankrupt, may officially sanction to be paid to the Assignee to be applied in payment of the debts of such Bankrupt, and such order and sanction being lodged in the office of the Treasurer, or of any other officer or person appointed to pay, or paying any such pay, half-pay, salary, emolument, or pension, such portion of the said pay, half-pay, salary, emolument, or pension, as shall be specified in such order and sanction, shall be paid to such Assignee until the Court shall make order to the contrary.

LXXIII. In any case of any claim, dispute, or difference, between the Official Assignee, the Creditor's Assignee and the Creditors, or any of such persons, or between any persons claiming under a Trust Deed, Deed of Composition, or Arrangment, relating to any Bankrupt's or Debtor's Estate, or to any money or property claimed as part of the Estate of any Bankrupt or Debtor, either party may apply to the Court having jurisdiction in the Bankruptcy, and it shall be lawful for the Court to determine the same and to summon and examine upon oath the Official Assignee, or Creditor's Assignee, Trustee, or any other person whomsoever, as to any matters and things concerning the Bankruptcy or Trust Estate, and to direct such enquiries, and to give such directions, and make such orders relative thereto, as shall to the Court seem just and expedient, and to award costs personally or in any other manner against the Official or Creditor's Assignee, Trustee or any other person, provided that in all cases in which a Resolution has been come to by a majority in number and value of the Creditors assembled in a meeting, regard shall be had by the Court to such Resolution and the same shall not be varied or set aside by the Court unless such Resolution shall, in the opinion of the Court, be unjust or inequitable, and not fit to be binding and conclusive under this Act.

LXXIV. At any time after the expiration of twelve months from Adjudication, or at any earlier period, with the approbation of the Court, the Assignees may sell by Auction or Tender, or with the sanction of the Court by private Contract all or any of the Book Debts due or growing due to the Bankrupt, and the Books relating thereto, and the goodwill of his trade or business, and assign the same to the purchaser, and such purchaser shall, by virtue of the assignment, have power to sue in his own name for the debts assigned to him as effectually and with the same privileges concerning proof of the requisites of Bankruptcy and other matters as the Assignee himself.

LXXV. Every adjudication against any prisoner for debt so brought up as aforesaid, shall, unless the Court shall otherwise direct, have relation back to the date of his Commitment or Detention, as the case may be, and shall be as valid and effectual for all purposes as if it had been made under any other of the Provisions of this Act.

LXXVI. No person who is in Custody solely under or by virtue of any warrant or order made or issued by or by the authority of a Judge sitting in the existing or any future Small Debts Court, shall be included in the return so directed to be made by goalers as aforesaid, or released from such imprisonment by virtue of any order to be made on the certificate of the Registrar aforesaid.

AS TO PROCEDURE AFTER ADJUDICATION.

LXXVII. Immediately upon Adjudication it shall be the duty of the Official Assignee to take possession of the Bankrupt's Estate and to retain possession thereof until the appointment of a Creditor's Assignee; but if such Official Assignee, or if the Court upon the representation of any Creditor, shall be of opinion that the keeping possession of the Bankrupt's property is not requisite for the due protection of the Creditors, such possession shall not be continued.

LXXVIII. At the time of the Adjudication the Court shall appoint a Meeting of the Creditors, of which ten days' notice shall be given in one of the papers circulating in the Colony, and which meeting shall be held at such time and place

as the Court shall appoint, and at such meeting the Official Assignee shall preside and receive the proof of the debts of the Creditors.

LXXIX. At this meeting a majority in value of the Creditors present shall determine whether any or what allowance for support shall be made to the Bankrupt, and up to what time.

LXXX. In case at such meeting, or at any other meeting of Creditors, any proposal shall be made by or on behalf of the Bankrupt which it shall appear to the major part in value of the Creditors there present ought to be accepted, or if it shall appear to the majority in value of the Creditors present at any meeting to be desirable on any ground to resolve, and such majority shall resolve, that no further proceedings be taken in Bankruptcy, the meeting shall be adjourned for fourteen days in order that notice of such Resolution may be given to every Creditor by the Official or Creditors' Assignee, which shall be done accordingly; and if at the adjourned meeting three-fourths in value of the Creditors present shall so resolve, the proceedings in Bankruptcy shall be suspended, and the Estate and effects of the Bankrupt shall be wound up and administered in such manner as such majority shall direct.

AS TO WARRANTS OF COMMITMENT.

LXXXI. In any Warrant of Commitment issued by any Court under this Act, it shall not be necessary to set forth or specify any Question or any part of the Examination of the person so committed, but it shall be sufficient to refer in the warrant to the Examination or Deposition of the person as remaining on the File of Proceedings, and to specify in the said Warrant the precise date of the Examination or Deposition so referred to, and such Warrant shall be in the form contained in Schedule C, to this Act, provided, however, that in every case in which any person shall be so committed for refusing to answer, or for not fully answering any Question put to him, every such Question shall be specified in the Examination or Deposition of the person committed remaining on the File of Proceedings and so referred to as aforesaid; and provided also that a copy of the said Examination or Deposition so referred to shall be delivered personally to the person committed within twenty-four hours next after his actual committal to prison, and in default of the said copy being delivered the person committed shall be discharged from custody either by the Court or by the Judge before whom such person may be brought by Habeas Corpus, with such costs if any as the said Court or Judge may deem fit.

LXXXII. If any person so committed shall sue forth any Writ of Habeas Corpus in order to be discharged from such commitment, he shall not be discharged by reason of any mere matter of form, but if the Court or Judge before whom he shall be brought upon inspection and consideration of the whole of the examination or deposition of such person shall be of opinion that the Answer or Answers of such person is or are satisfactory, the Court or Judge may order the person so committed to be discharged.

AS TO THE CHOICE OF A CREDITOR'S ASSIGNEE.

LXXXIII. At the first meeting of Creditors or any adjournment thereof, it shall be competent to the majority in value of the Creditors who have proved Debts to choose one or more Creditor or Creditors who has or have proved, to be the Assignee or Assignees of the Bankrupt's Estate and Effects and to be called the Creditors' Assignee, provided that the Court shall have power to reject any person so chosen who shall appear to such Court unfit to be such Assignee, and upon such rejection a new choice of Assignees shall be made.

LXXXIV. Upon the appointment of the Creditors' Assignee the powers and duties of the Official Assignee shall cease and determine, and all the Estate, both real and personal, of the Bankrupt shall be divested out of the Official Assignee and vested in the Creditors' Assignee.

LXXXV. The Official Assignee shall forthwith render to the Creditors' Assignee a full and particular account or balance-sheet of the Bankrupt, and of all receipts, payments, and other transactions of such Official Assignee and also a

list of all the Creditors of the Bankrupt who have proved their debts against the Estate.

LXXXVI. The Creditors' Assignee shall audit such account and may call for such information from the Official Assignee as he possesses concerning the Estate. The account shall be audited in the presence of the Chief Justice or Commissioner as the case may be. A copy of such account of the Official Assignee when audited shall unless the Chief Justice or Commissioner, as the case may be, shall otherwise direct, be sent by post by the Creditors' Assignee to every Creditor who has proved.

LXXXVII. The Court shall give such directions as it may deem expedient with respect to the custody and inspection of the books, papers, writings and documents relating to the Estate, and authorize the Official Assignee to have the custody thereof or any part thereof.

LXXXVIII. No person shall be entitled as against the Official or Creditors' Assignee to withhold possession of the Books of Account of the Bankrupt, or to claim any lien thereon.

LXXXIX. The Creditors shall at the meeting for choice of a Creditors' Assignee, determine what (if any) security shall be given by such Assignee. At the same meeting or at any other meeting called for the purpose, the Creditors may also determine whether a Manager shall be appointed to collect and wind up the Estate under the inspection of the Creditors' Assignee or of a Committee of Creditors, and may appoint such person with such remuneration out of the Estate, and generally upon such terms for such period and with such directions as the majority shall think fit.

XC. When the election of an Assignee shall have been accepted by the person elected and confirmed by the Court, the Court shall, by certificate under the hand of the Judge or Commissioner and the Seal of the Court, to be called the Certificate of Appointment, declare such Creditors' Assignee to have been duly elected and appoint him to the said office accordingly. Such appointment shall be final and shall not be subject to review or appeal except as hereinafter provided, and a copy thereof purporting to be under the Seal of the Court, shall be received as evidence of such appointment in all Courts and places without further proof.

XCI. A majority in number and value of the Creditors may, at any meeting duly called for the purpose, remove the Creditors' Assignee or accept of his resignation, and one-fourth in value of the Creditors who have proved may at any time apply to the Court by Petition for removal of the Creditors' Assignee, and if on the hearing of such Petition the Court shall be of opinion that sufficient reason has been shown, it may remove such Creditors' Assignee and appoint a meeting of the Creditors to be held for electing a new Creditors' Assignee; and if the Assignee shall die, resign, or be removed, or remain abroad for three months at any one time, any Creditor may apply to the Court to appoint a meeting for electing a new Creditors' Assignee, and the Court may accordingly appoint a meeting whereof at least seven days previous notice shall be given in one of the papers circulating in the Colony, and at such meeting may elect a new Creditors' Assignee accordingly.

XCII. In all cases of the election of a new Creditors' Assignee the proceedings shall take place in the like manner as is hereinbefore provided in the case of the first election, and the new Creditors' Assignee shall be invested with the powers and perform the duties and be subject to the rules hereinbefore provided as to the Creditors' Assignee first chosen, and shall call to account such Creditors' Assignee, his heirs, executors, administrators, or assigns, as the case may require.

XCIII. When the affairs of the Bankrupt are fully wound up, the Court may, subject to the direction of any General Order, make from time to time such orders as in each case seem fit respecting the disposal or custody of any books, papers, or documents, relating to property or affairs in the possession or under the control of the Official or the Creditors' Assignee or any other person.

AS TO THE LAST EXAMINATION.

Court to appoint Sitting for Last Examination and Discharge.

XCIV. The Court shall, forthwith after the choice of an Assignee by the Creditors, appoint a public sitting on a day not later than sixty days from the date of such choice, and shall give notice of such sitting in such newspapers as the Court shall direct, for the Bankrupt to pass his last examination, and also, unless the Court shall in any case otherwise direct, to make application for his discharge; but the Court shall have power to enlarge the time appointed for such sitting or to adjourn the same.

The Bankrupt to prepare and file a Statement of Accounts.

XCV. The Bankrupt shall prepare such Statement of his Accounts and in such form as general orders or as the Court in any case shall direct, and shall subscribe such Statement and file the same in Court ten days at least before the day appointed for the last examination or adjournment thereof, and such Statement may before such last examination be amended from time to time as occasion shall require and the Court shall direct; and the Bankrupt shall make oath of the truth of such Statement whenever he shall be duly required by the Court to do so; and the last examination of the Bankrupt shall in no case be passed unless his Statement shall have been duly filed as aforesaid.

Statement of Accounts to be open to Creditors.

XCVI. The Statement of Accounts when filed in Court shall be open to the inspection of all Creditors, who may take copies of and extracts from the same, subject to such regulations as general orders shall direct.

Assistance in the Preparation of the Statement.

XCVII. In the preparation of such Statement of his Accounts, the Official Assignee shall prepare and file in Court together with such Statement a report upon the state of the affairs of the Bankrupt, setting forth such facts and particulars as may be required by the Court, or such as he may deem important for the Court to be informed of.

XCVIII. Every Creditor of the Bankrupt may after the Adjudication prove his debt by delivering or sending through the General Post before the appointment of the Creditors' Assignee to the Official Assignee, and after such appointment to the Creditors' Assignee, a Statement of such debt, and of the account if any between the Creditor and the Bankrupt, together with a Declaration signed by the Creditor appended thereto, that such Statement is a full, true, and complete Statement of Account between the Creditor and the Bankrupt and that the Debt thereby appearing to be due from the Estate of the Bankrupt to the Creditor is justly due, and all bodies Politic and Public Companies incorporated or authorised to sue or bring actions may prove by an Agent, provided such Agent shall in his declaration declare that he is such Agent and that he is authorised to make such proof, and such declaration signed by such Creditor and Agent respectively as aforesaid, shall be in such form as general orders shall direct.

False Declaration a Misdemeanor.

XCIX. Any person who shall wilfully and corruptly make any declaration for proof of debt as aforesaid, knowing the same or the Statement of Accounts to which the same shall be appended to be untrue in any particular, shall be deemed guilty of a Misdemeanor, and shall be liable to undergo the pains and penalties imposed upon persons guilty of wilful and corrupt perjury.

Proof in Court or in Chambers.

C. Every Creditor of the Bankrupt may also after Adjudication prove his debt by deposition in Court or in Chambers, or before the Registrar at any Meeting of Creditors elsewhere than in Court, or by affidavit upon his own oath or upon that of any clerk or other person in his employment; provided that where such deposition or affidavit shall be made by any other person than the Creditor, the deponent shall in his deposition or affidavit set forth that he is duly authorised by his principal to make the deposition or affidavit, and that it is within his own certain knowledge that the debt was incurred and for the consideration stated, and that to the best of his knowledge and belief the debt still remains unpaid and unsatisfied.

Statement to be examined by Registrar and Assignee.

CI. The Official or Creditors' Assignee, as the case may be, shall examine all the Statements of Accounts aforesaid and compare the same with the Books, Accounts, and other documents of the Bankrupt, and shall from time to time make out a list of the Creditors who have proved their debts stating the amount and nature of such debts, which list shall be open to the inspection of any Creditor who has proved under the Estate.

Examination of Alleged Creditors.

CII. The Court may, on the application of the Assignee, or of any Creditor, or of the Bankrupt, or without any application, examine upon oath or otherwise, any person tendering or who has made a proof, and may summon any person capable of giving evidence concerning such proof, and in like manner where the debt is tendered on affidavit or statement as hereinbefore provided, may summon and examine on oath or otherwise, the person who has made the affidavit or statement, and any other person capable of giving evidence concerning the debt sought to be proved.

Proof for Costs, &c., inforceable by process of Contempt.

CIII. A person entitled to enforce against the Bankrupt payment of any money costs, or expenses by process of contempt issuing out of any Court, shall be entitled to come in as a Creditor under the Bankruptcy, and prove for the amount payable under the process, subject to such ascertaining of the amount as may be properly had by taxation or otherwise.

Proportionate Payments.

CIV. In all cases in which the Bankrupt is liable to pay any Rent or other payment, falling due at fixed or stated periods, and the Adjudication of Bankruptcy shall happen at any time other than one of such fixed or stated periods, it shall be lawful for the person entitled to such Rent or other payment to prove for a proportionate part thereof up to the day of the Adjudication of Bankruptcy, in such manner as if the said Rent or Payment grew due from day to day, and not at such fixed or stated periods as aforesaid.

Proof for Instalment.

CV. If any Bankrupt shall have contracted before the filing of a Petition for Adjudication, any debt payable by way of Instalments, the Creditor may prove for the amount of such Instalments remaining due at the time of such Petition.

Proof in Respect of Unliquidated Damages.

CVI. If any Bankrupt shall at the time of Adjudication be liable, by reason of any Contract or Promise, to a demand in the nature of Damages which have not and cannot be otherwise liquidated or ascertained, it shall be lawful for the Court, acting in prosecution of such Bankruptcy, to direct such damages to be assessed by a Jury, either before itself or in a Court of Law, and to give all necessary directions for such purpose; and the amount of damage when assessed, shall be proveable as if a debt due at the time of the Bankruptcy. Provided that in case all necessary parties agree the Court shall have power to assess such damage without the intervention of a Jury or a reference to a Court of Law.

How Proof may be Expunged or Reduced.

CVII. The Court may at any time expunge or reduce a Proof of Debt on such application and such evidence as it shall think sufficient, and for that purpose may summon and examine upon oath or otherwise, the person who has proved and every person capable of giving evidence concerning the alleged Debt, and may make such order as to the Costs of any application as shall seem just.

AS TO THE DISCHARGE OF THE BANKRUPT.

Classification of Certificates Abolished.

CVIII. All Classification of Certificates shall be abolished; and in every case where the Discharge of a Bankrupt shall be suspended, such Discharge when allowed, shall simply state the Period for which it was suspended and the Reasons for such suspension, and if the Bankrupt shall have been sentenced to Imprisonment by any Court under the provisions of this Act, the Discharge shall also set forth the fact of such sentence and the Period of such Imprisonment.

Order of Discharge.

CIX. After the Bankrupt has passed his last examination, the Court shall proceed to consider the question of granting to him an Order of Discharge, and shall appoint a sitting for that purpose. Fourteen days notice of such sitting shall be given in such newspapers as the Court shall direct. Seven days at least shall intervene between the day of passing the last Examination and the day of such sitting. The Assignees, or any Creditor who has proved, may be heard against such Discharge.

Rules as to Granting Orders of Discharge.

CX. In granting Orders of Discharge, the following Rules shall be observed:

1. Every application for an Order of Discharge which is opposed, shall be heard and decided by the Chief Justice or Commissioner, as the case may be.

2. Although the application for discharge be not opposed, it shall be the duty of the Commissioner in cases brought before him to consider whether, having regard to the Bankrupt's conduct relative to his trade, business, property, or affairs, the manner in which his Debts have been contracted, and the proceedings in the Bankruptcy, there be any well founded objection to an immediate Order of Discharge.

3. If on the Hearing of any application for an Order of Discharge, the Assignee or any Creditor shall allege, and with or if without such allegation the Court shall be of opinion, that there is ground for charging the Bankrupt with acts or conduct amounting to a Misdemeanor under this Act, the Court shall appoint a day for trying the Bankrupt on such charge, and if the Bankrupt require it, shall summon a Jury for such purpose, and the Attorney-General shall either act as a Prosecutor himself or appoint some other so to do.

4. If on such Trial by a Jury, or by the Court alone, the Bankrupt shall be convicted of any offence by this Act made a misdemeanor, the Court shall, in addition to the punishment awarded for the offence, have power to direct that the Order of Discharge be either wholly refused or suspended during such time as he shall think fit.

5. If the Bankrupt shall not be accused of acts amounting to Misdemeanor, or if he shall have been accused and acquitted, but in either case there shall be made, or appear to the Court to exist, objection to the granting of an immediate Discharge, the Court shall proceed to consider the conduct of the Bankrupt before and after Adjudication, and the manner and circumstances in and under which his Debts have been contracted, and if the Court shall be of opinion that the Bankrupt has carried on trade by means of fictitious Capital, or that he could not have had at the time when any of his debts were contracted, any reasonable or probable ground of expectation of being able to pay the same, or that if a Trader, he has with intent to conceal the true state of his affairs, wilfully omitted to keep proper Books of Account, or whether Trader or not, that his Insolvency is attributable to rash and hazardous speculation, or unjustifiable extravagance in living, or that he has put any of his Creditors to unnecessary expense by frivolous or vexatious defence to any action or suit to recover any debt or money due from him, the Court may either refuse an Order of Discharge, or may suspend the same from taking effect for such time as the Court may think fit.

Criminal Prosecutions by Order of the Court.

CXI. In every case of accusation against a Bankrupt of acts amounting to a Misdemeanor, it shall be competent to the Commissioner to direct that the Bankrupt be indicted and prosecuted in the Supreme Court of Criminal Justice.

When Order to take Effect.

CXII. In all other cases the Order of Discharge shall take effect immediately from its date, subject to the appeal hereinafter provided.

Effect of Discharge.

CXIII. The Order of Discharge shall, upon taking effect discharge the Bankrupt from all debts, claims, or demands provable under his Bankruptcy; and if

thereafter he shall be arrested, or any action shall be brought against him for any such debt, claim, or demand, he shall be discharged upon entering an Appearance, and may plead in general that the cause of action accrued before he became a Bankrupt, and may give this Act and the special matter in evidence; and the Order of Discharge shall be sufficient evidence of the Bankruptcy, and the proceedings precedent to the Order of Discharge.

Release of Bankrupt when Arrested after Discharge.

CXIV. If a Bankrupt after the Order of Discharge takes effect, be arrested or detained in custody for a debt, claim, or demand, provable under his Bankruptcy where Judgment has been obtained before the Order of Discharge takes effect, the Chief Justice shall, on proof of the Order of Discharge, and unless there appear good reason to the contrary, direct the officer who has the Bankrupt in custody to discharge him, which shall be done accordingly, without fee.

As to Partners.

CXV. The Order of Discharge shall not release or discharge any person who was a Partner with the Bankrupt at the time of the Bankruptcy, or was then jointly bound, or had made any Joint Contract with him.

Contract after Filing of Petition not Binding on Bankrupt.

CXVI. After the Order of Discharge takes effect, the Bankrupt shall not be liable to pay or satisfy any debt, claim or demand proveable under the Bankruptcy or any part thereof, on any Contract, Promise, or Agreement, verbal or written made after Adjudication; and if he be sued upon any such Contract, Promise, or Agreement, he may plead in general that the cause of action accrued pending proceedings in Bankruptcy, and may give this Act and the special matter in evidence.

Discharge from Contempt.

CXVII. The Order of Discharge shall discharge the Bankrupt from the effects of any process issuing out of any Court for Contempt of any Court for non-payment of money or of costs or expenses in any Court, and from all costs which he would be liable to pay in consequence of or on purging his Contempt; and a Bankrupt in custody under any such process as aforesaid shall, on obtaining an Order of Discharge, be entitled to be discharged from such custody forthwith.

Consideration given to induce Creditor to forbear Opposition.

CXVIII. Any Contract, Covenant or Security made or given by a Bankrupt or other person, with, to, or in trust for any Creditor, for securing the payment of any money as a consideration, or with intent to persuade the Creditor to forbear opposing the order for Discharge, or to forbear to petition for a Rehearing of, or to appeal against the same, shall be void, and any money thereby secured or agreed to be paid, shall not be recoverable, and the party sued on any such contract or security may plead in general that the cause of action accrued pending proceedings in Bankruptcy, and may give this Act and the special matter in evidence.

Obtaining Money, Goods, &c., as an inducement to forbear opposition or to consent to Allowance or Discharge.

CXIX. If any Creditor of a Bankrupt shall obtain any sum of money or any Goods, Chattels or Security for money, from any person as an inducement for forbearing to oppose, or for consenting to the allowance of the discharge of such Bankrupt, or to forbear to petition for the recall of the same, every such Creditor so offending shall forfeit and lose for every such offence the treble value or amount of such Money, Goods, Chattels or Security so obtained.

Rehearing.

CXX. The Order of Discharge, whether suspended or not, shall not be reviewed by the Court, unless the Court see good cause to believe that the Order was obtained on false evidence, or by reason of the suppression of evidence, or otherwise fraudulently; in any of which cases the Court may if it think fit, upon the application of the Bankrupt or of a Creditor who has proved, and subject to such deposit for costs, and to such notices, by advertisement or otherwise, as the Court shall think fit, grant a Re-hearing of the matter and re-hear it accordingly; and upon Re-hearing the Court shall make such order as shall seem just in like manner as it might upon an original hearing.

If Suspended on Re-hearing subsequent Creditors to prove first against subsequent Property.

CXXI. If on such Re-hearing, the Court shall annul or suspend the Order of Discharge, all persons having bona fide become Creditors of the Bankrupt between the time of the Order originally taking effect and the time of its being annulled or suspended on Re-hearing shall, as against any property acquired by the Bankrupt during the same period, and in priority to the original Creditors, be admitted to prove and have dividends under the Bankruptcy.

Order when to be Drawn up.

CXXII. The Order of Discharge shall not be drawn up until after the expiration of the time allowed for appeal or if an appeal be brought, until after the decision of the Court of Appeal upon such appeal, and shall bear date either the day after the expiration of the time allowed for appeal, or the day of the Decision of the Court of Appeal, as the case may require.

Appeal Against Order of Discharge.

CXXIII. At any time within thirty days after any Order of Discharge shall have been allowed, and subject to such order as to deposit of Costs as General Orders shall direct, any Creditor of the Bankrupt, or any Creditors' Assignee may, if the Order of Discharge has been made by the Commissioner, apply to the Chief Justice that such Order of Discharge may be recalled and delivered up to be cancelled; and the Chief Justice may, on good cause shown, order such Order of Discharge to be recalled and cancelled.

Form of Order.

CXXIV. The Order of Discharge shall be in such form as General Orders shall direct, and shall be under the Hand of the Commissioner or Chief Justice, and the Seal of the Court, and notice of the granting thereof shall be advertised in one or more of the local papers.

AS TO AUDIT.

No Public Sitting for Audit.

CXXV. No public sittings of the Courts shall be held for the sole purpose of auditing the Accounts of the Assignees, but such Accounts shall be audited in such manner as is herein provided, or as General Orders shall direct.

AS TO DIVIDEND.

Dividend.

CXXVI. At the expiration of four months from the date of the Adjudication of Bankruptcy, or as much earlier as the Court shall appoint, the Creditors' Assignee shall submit to a Meeting of Creditors to be called for that purpose, and to be held before the Registrar, of which Meeting ten days notice shall be given in the local newspapers, a statement of the whole Estate of the Bankrupt as then ascertained, of the Property recovered and of the Property outstanding, specifying the cause of its being so outstanding, and of all the receipts and all payments thereout, made or to be made; and the Official Assignee shall and any Creditor who has proved may attend and examine such statement, and compare the receipts with the payments; and upon ascertaining what balance is then in the Court to the credit of the Estate the Meeting shall by resolution declare whether any and what part of the net produce of the Estate, after making a reasonable deduction for future contingencies, shall be divided amongst the Creditors. At the same Meeting the Creditors shall determine whether any and what allowance shall be made to the Bankrupt out of his Estate, if he has obtained or shall obtain a discharge.

Assignee not to keep Money in his hands.

CXXVII. If upon such Examination it shall appear that the Creditors' Assignee has kept in his hands at any time during the space of one week more than the sum of Fifty Pounds belonging to the Estate, the Creditors may, upon establishing such fact to the satisfaction of the Court, and if the Assignee shall not show cause to the contrary, debit such Assignee with Interest for the amount so kept at any rate not exceeding Twenty Pounds per centum by the year, for the time such Moneys were kept in his hands.

Where Creditors Reside at a Distance.

CXXVIII. In the calculation of a Dividend it shall be imperative to make provision for Debts which shall appear from the Bankrupt's Balance Sheet to be due to persons resident in places so distant from the Court 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 by the Court.

Joint and Separate Dividend Meetings.

CXXIX. In every case where joint and separate Estates have to be administered, and where the Court shall not otherwise direct, Dividends of the joint and separate Estates shall be declared at one and the same meeting, and notice of the time appointed for such Dividends, when advertised shall be given in one and the same advertisement, and the costs, charges and expenses of and incident to the meeting shall be apportioned by the Assignee between the joint and separate Estates as may appear to be fair and reasonable, having regard to the work done for and the benefit received by each Estate; and a single Fee and no more shall be payable to the Solicitor to the Estate in respect of the meeting.

Dividend List to be prepared by Official Assignee.

CXXX. Within ten days after such meeting, or within such further time as the Court may allow, the Official Assignee shall prepare Lists of Creditors entitled to Dividend, and shall calculate and set opposite to the name of each Creditor who has proved under the Estate (subject to the provision herein contained as to Dividends reserved) the Dividend to which he is entitled out of the net produce of the Estate so set apart for a Dividend, and shall forward by post to every such Creditor a statement of the Dividend to which he is so entitled, and such Dividends shall be paid at the Registrar's office or otherwise in such manner as General Orders shall direct.

Like Proceedings at successive periods of Four Months.

CXXXI. The like proceedings for the making up and auditing of the Accounts of the Estate and the Declaration and Payment of a Dividend which are herein directed to be had at the expiration of Four Months from the adjudication of Bankruptcy, shall be had at the successive expirations of every period of four months, or earlier, as the case may be, untill the whole of the Estate is divided amongst the Creditors, and a Dividend is declared to be final; provided that it shall be lawful for any such meeting of Creditors as aforesaid to postpone the period of declaring a Dividend, or at any time in declaring a second Dividend, to declare also that such second Dividend shall be final, unless any action at law or suit in equity be depending, or any part of the Estate be standing out not sold or disposed of, or unless some other Estate or Effects of the Bankrupt shall afterwards come to the Assignee, in which case he shall, as soon as may be, convert such Estate and Effects into Money, and within Two Months after the same shall be so converted the same shall also be divided in manner aforesaid.

AS TO THE DISCHARGE OF THE CREDITORS' ASSIGNEE.

Creditors to pass a Resolution on the Conduct of the Creditors' Assignee, after which the Creditors' Assignee may apply to the Court for a Discharge.

CXXXII. After a final Dividend shall have been declared and paid, the Creditors' Assignee shall call a Meeting of the Creditors to consider his application for a Discharge, and at such Meeting he shall lay before the Creditors his books and papers of accounts and all the documents relating to the Bankrupt's Estate and useful to be laid before the Creditors for the purpose of enabling them to consider the conduct and management thereof, and the Creditors shall then come to a Resolution expressing their opinion of the conduct of the Creditors' Assignee; and the Creditors' Assignee may thereafter apply to the Court for an Order of Discharge, and the Court shall thereupon take into consideration the accounts of the Creditors' Assignee, and the said Resolution of the Creditors expressing their opinion of his conduct, and may hear the Creditors' Assignee and any of the Creditors for or against such order, and may direct such inquiries and call for such evidence as the Court may think fit; and the Court shall there-

upon make such Order of Discharge, with or without conditions, or refuse the same, or generally make such order as to the Court shall seem fit and the justice of the case shall require.

Effect of Discharge.

CXXXIII. The Order of Discharge shall operate to release the Creditors' Assignee from all claims and demands of the Creditors or of any person who might have proved under the Bankruptcy, subject nevertheless to such conditions, if any, as shall be expressed in such Order of Discharge.

Unclaimed Dividends to be Paid into the Court.

CXXXIV. Every Creditors' Assignee shall before his discharge transmit to the Official Assignee a List of Unclaimed Dividends on the Estate, and of all debts remaining due to the Estate, under his hand, and shall pay all moneys and other Estate of the Bankrupt then in his hands into the Court to the credit of the Estate.

Official Assignee to act after discharge of Creditors' Assignee.

CXXXV. When the Creditors' Assignee has obtained an Order of Discharge in manner herein provided, the Official Assignee appointed in the matter in Bankruptcy shall as to any Estate and effects of the Bankrupt not realized at the time of such Order of Discharge, and as to all debts remaining uncollected and which shall not have been sold, in manner herein provided represent the Estate in all respects as the Sole Assignee thereof, and shall have and exercise all the rights, duties, powers, and authorities, conferred by this Act upon Official and Creditors' Assignees.

Unclaimed Dividends.

CXXXVI. All Unclaimed Dividends and all moneys unclaimed, the produce of any Bankrupt Estate shall, after the expiration of the period of twelve months from the Dividend having been declared, or from the time at which any other moneys unclaimed shall have come to the hands of the Assignee, be transferred to the credit of the "Unclaimed Dividend Account," subject to the Order of the Court for the payment thereout, of any Dividend due to any Creditor or for the distribution of any such other unclaimed money, and the Interest and Profit arising from the said Account shall from time to time be paid over to the credit of the same Account.

AS TO CHANGE FROM BANKRUPTCY TO ARRANGEMENT.

Majority of Creditors may Resolve that Estate may be wound up Out of Court.

CXXXVII. At the first Meeting of Creditors held after Adjudication in manner herein provided, or at any meeting to be called for the purpose, and of which ten days notice shall have been given in one of the local Papers, Three-fourths in value of the Creditors present or represented at such meeting may resolve that the Estate ought to be wound up under a Deed of Arrangement, Composition, or otherwise, and that an application shall be made to the Court to stay proceedings in the Bankruptcy for a period not exceeding two months.

Resolution to be Reported to the Court.

CXXXVIII. The Official Assignee shall report such Resolution to the Court within four days from the date of such Resolution, and the Bankrupt or any Creditor nominated in that behalf by the meeting, may then apply to the Court that the Proceedings in Bankruptcy may be stayed in the Terms of such Resolution, and the Court, after hearing the Bankrupt and such Creditors as may desire to be heard for or against the Resolution, and if it shall find that the Resolution was duly carried and that its terms are reasonable, and calculated to benefit the general body of the Creditors under the Estate, shall confirm the same, and make order accordingly, and in such order shall give such directions as to the interim management of the Estate, as it shall deem expedient.

Deed of Arrangement to be produced to the Court.

CXXXIX. If the proceedings in Bankruptcy be stayed as herein provided, the Bankrupt, or any Creditor nominated in that behalf by the meeting aforesaid, may at any time within the period during which the proceedings are so stayed, produce to the Court a Deed of Arrangement, signed by or on behalf of three-

fourths in value of all the Creditors of the Bankrupt; and the Court may consider the same, and may examine on oath the Bankrupt and any of the Creditors who may desire to be heard in support of or opposition to the Deed, and may make such other inquiry as it may think necessary; and if the Court shall be satisfied that the Deed has been duly entered into and executed, and that its terms are reasonable and calculated to benefit the general body of the Creditors under the Estate, it shall by order make a Declaration for the complete Execution of the Deed, and shall direct the same to be registered with the Registrar, and shall also if he think fit, annul the Bankruptcy; and such Deed shall be thereafter as binding in all respects on any Creditor who has not executed the Deed as if he had executed it, provided such Deed be registered with the Registrar in manner directed by the order.

Court to have Jurisdiction to entertain Applications.

CXL. Either before or after such Order, the Court shall have jurisdiction to entertain any application of the Bankrupt or of any party to the Deed, or of any Creditor or person claiming to be a Creditor, respecting the Disclosure, Distribution, Inspection, Conduct, Management, or winding up of the Bankrupt's Estate and affairs, or any act or thing relating thereto, or respecting the execution of any of the Trusts or Provisions of the Deed or the Audit or Examination of the Accounts of a Trustee or Inspector, or the Taxation or Examination of the Costs or Charges of any Attorney, Solicitor, Accountant, Auctioneer, Broker, or other person acting or employed under the Deed, or generally for the decision of any Dispute or Question, and shall also have Jurisdiction to entertain any application of any such person as aforesaid, respecting any matter for the submission whereof to the Court provision is made by the Deed, or any matter arising between any of the said persons and any other person appearing and submitting to the Jurisdiction of the Court;

Questions to be decided according to Law of Bankruptcy.

and the Court shall determine all Questions arising under the Deed according to the Law and Practice in Bankruptcy, so far as they may be applicable, and on entertaining any such application shall have power to make all such Orders as shall seem just, and to enforce all such Orders as in Bankruptcy.

Power of the Court to Summon and Examine.

CXLI. The Court shall have power for the purpose of any application under these provisions, or for the better execution of any powers given to the Court thereby, to summon and to examine upon oath or otherwise, the Bankrupt and any party to the Deed, and any Creditor or person claiming to be a Creditor, and any person known or suspected to have any of the Estate in his possession, or any person supposed to be indebted to the Estate, or whom the Court may deem capable of giving any information material to the full disclosure of the Debtor's transactions and affairs, or to the carrying into effect the provisions of the Deed; and the Court may exercise, as to the examination of such persons and the production by them of such Books, Papers, Deeds or Documents as it shall deem requisite, the same powers that are vested in the Court, with relation to the examination of persons and witnesses, and the production of Books, Papers, Deeds and Documents in matters of Bankruptcy.

Where Bankruptcy to be continued or to be Resumed.

CXLII. If the Resolution aforesaid shall not be duly reported, or if the Court shall refuse the application to stay proceedings, or if the Deed of Arrangement shall not be duly produced, or if upon its production the Court shall not think fit to approve thereof, the Bankruptcy shall proceed as though no such Resolution had been passed, and the Court may make all necessary Orders for resuming the Proceedings in Bankruptcy, and the period of time which shall have elapsed between the date of such Resolution and the date of the Order for resuming Proceedings shall not be reckoned in calculating periods of time prescribed by this Act.

Where Bankruptcy Annulled.

CXLIII. If the Bankruptcy be annulled as herein provided, the Order annul-

ing the same shall be filed with the Proceedings, and notice thereof shall be given in one of the local papers.

AS TO TRUST DEEDS FOR BENEFIT OF CREDITORS, COMPOSITION, AND INSPECTORSHIP DEEDS, EXECUTED BY A DEBTOR.

Trust Deeds, when Valid.

CXLIV. Every Deed or Instrument made or entered into between a Debtor and his Creditors, or any of them, or a Trustee on their behalf, relating to the debts or liabilities of the Debtor and his release therefrom, and the distribution, inspection, management and winding up of his Estate, or any of such matters, shall be as valid and effectual and binding on all the Creditors of such Debtor as if they were parties to and had duly executed the same, provided the following conditions be observed, that is to say:

1. Three-fourths in value of the Creditors of such Debtor whose debts shall respectively amount to Ten Pounds and upwards shall, before or after the execution thereof by the Debtor, in writing assent to or approve of such Deed or Instrument.

2. If a Trustee or Trustees be appointed by such Deed or Instrument, such Trustee or Trustees shall execute the same.

3. The execution of such Deed or Instrument by the Debtor shall be attested by an Attorney or Solicitor.

4. Immediately on the execution thereof by the Debtor, possession of all the property comprised therein, of which the Debtor can give or order possession, shall be given to the Trustees.

5. Within twenty-eight days from the day of the execution of such Deed or Instrument by the Debtor, the same shall be produced and left at the office of the Registrar for the purpose of being registered.

6. Together with such Deed or Instrument there shall be delivered to the Registrar, an affidavit by the Debtor or some person able to depose thereto, or a certificate by the Trustee or Trustees, that three-fourths in value of the Creditors of the Debtor, whose debts amount to Ten Pounds or upwards, have in writing assented to or approved of such Deed or Instrument, and also stating the amount in value of the property and credits of the Debtor comprised in such Deed.

On fulfillment of the conditions aforesaid, such Deed or Instrument shall be valid and effectual.

Particulars of Deed to be Entered by the Registrar.

CXLV. The date, names and description of the parties to every such Deed or Instrument, together with a short statement of the nature and effect thereof, shall be entered by the Registrar in a Book to be kept exclusively for the purposes of such Registration. Such entry shall be made within forty-eight hours after the Deed shall have been left with the Registrar as aforesaid, and a copy of such entry shall be published in one of the local newspapers within four days after the making of such entry.

Deed to be Registered.

CXLVI. Every Deed, Instrument, or Agreement whatsoever, by which a Debtor not being a Bankrupt, conveys, or covenants, or agrees to convey his Estate and effects, or the principal part thereof, for the benefit of his Creditors, or makes any Arrangement or Agreement with his Creditors or any person on their behalf, for the distribution, inspection, conduct, management, or winding up of his affairs or Estate, and the release or discharge of such Debtor from his Debts or Liabilities, shall within twenty-eight days from and after the execution thereof by such Debtor, or within such further time as the Court shall allow, be registered in the Court of Bankruptcy, and in default thereof shall not be received in evidence.

Memorandum of Particulars.

CXLVII. Every such Deed, on being so registered as aforesaid, shall have a Memorandum thereof written on the face of such Deed, stating the day and the hour of the day at which the same was brought into the Office of the Registrar for registration.

Jurisdiction of the Court.

CXLVIII. From and after the Registration of every such Deed or Instrument in manner aforesaid, the Debtor and Creditors and Trustees, parties to such Deed, or who have assented thereto or are bound thereby, shall in all matters relating to the Estate and Effects of such Debtor, be subject to the Jurisdiction of the Court of Bankruptcy, and shall respectively have the benefit of and be liable to all the provisions of this Act, in the same or like manner as if the Debtor had been adjudged a Bankrupt and the Creditors had proved and the Trustees had been appointed Creditors' Assignees under such Bankruptcy; and the existing or future Trustees of any such Deed or Instrument, and the Creditors under the same, shall as between themselves respectively, and as between themselves and the Debtor and against third persons, have the same Powers, Rights and Remedies with respect to the Debtor and his Estate and Effects, and the collection and recovery of the same as are possessed or may be used or exercised by Assignees or Creditors with respect to the Bankrupt or his Acts, Estate and Effects in Bankruptcy; and except where the Deed shall expressly provide otherwise, the Court shall determine all Questions arising under the Deed according to the Law and Practice in Bankruptcy, so far as they may be applicable, and shall have power to make and enforce all such Orders as it would be authorized to do if the Debtor in such Deed had been adjudged Bankrupt and his Estate were administered in Bankruptcy.

Protection to Debtor.

CXLIX. After notice of the Filing and Registration of such Deed has been given as aforesaid, no Execution, Sequestration or other Process against the Debtor's property in respect of any Debt, and no Process against his person in respect of any Debt other than such process by Writ or Warrant as may be had against a Debtor about to depart out of the Colony, shall be available to any Creditor or Claimant without leave of the Court, and a Certificate of the Filing and Registration of such Deed under the hand of the Registrar and the seal of the Court, shall be available to the Debtor for all purposes as a protection in Bankruptcy.

Stay of Proceedings.

CL. In case any Petition shall be presented for an adjudication in Bankruptcy against a Debtor after his execution of such Deed or Instrument as is hereinbefore described, and pending the time allowed for the Registration of such Deed or Instrument, all proceedings under such Petition may be stayed if the Court shall think fit; and in case such Deed or Instrument shall be duly Registered as aforesaid, the Petition shall be dismissed.

Where Creditors not Known.

CLI. If a Debtor cannot obtain the assent of three-fourths in value of his Creditors by reason of his being unable to ascertain by whom Bills of Exchange, Promissory Notes, or other negotiable securities accepted, drawn, made or endorsed by him are holden, or by reason of the absence of Creditors in a foreign country or other similar circumstances, it shall be sufficient if he obtain the consent of three-fourths in number and value of all his other Creditors to such Deed or Instrument as aforesaid; provided that in either of such cases the affidavit or certificate of the Trustee or Trustees, shall state the circumstances of the case, and provided the Deed or Instrument be in such form as is expressed in Schedule ( ) to this Act annexed, which shall vest all the Estate and effects of the Debtor in the Trustees of such Deed, and provided that all such other conditions as are hereinbefore required be duly complied with.

AS TO PERSONS OF UNSOUND MIND.

Adjudication against Lunatic Debtor.

CLII. If any person of unsound mind shall be in prison for Debt, the Goaler shall forthwith require a Justice of the Peace to visit such Debtor, and to inquire into his state of mind, and if such Justice shall be satisfied from his own view and upon examination on oath of competent witnesses, that such Debtor is of unsound mind, he shall certify the same to the proper Court, and thereupon the Court may appoint some person to represent such Debtor, and direct such pro-

ceedings to be taken for Adjudication in Bankruptcy against him as the Court shall think fit;

Proceedings as under Ordinary Adjudication.

and all proceedings under such Adjudication shall be had and carried on in the same manner and with the like effect as if such prisoner had been of sound mind and had presented a Petition to the Court for Adjudication of Bankruptcy, or as near thereto as the difference of circumstances will permit.

AS TO NOTICES.

Notices to be sent by Post.

CLIII. All Notices by this Act or by General Orders required to be served on any person shall be sent by Post addressed to the last known place of abode or business of such person, subject to such regulations as to Registration and otherwise as such General Orders shall direct, provided that this present clause shall not apply to or affect Notices by this Act or by any General Order required to be personally served.

Advertisements.

CLIV. General Orders respecting the Form and Contents of Notices in the local newspapers and otherwise, may provide for Notices concerning more Bankruptcies than one being comprised in one Advertisement.

AS TO EVIDENCE.

Proceedings purporting to be Sealed with the Seal of the Court Receivable in Evidence.

CLV. Any Petition for Adjudication, or Arrangement, or Distribution, Adjudication of Bankruptcy, or Order for Distribution, Assignment, Appointment of Official or Creditors' Assignee, Certificate, Deposition, or other Proceeding or Order in Bankruptcy, or under any of the Provisions of this Act, appearing to be sealed with the Seal of any Court under this Act, or any writing purporting to be a copy of any such Document, and purporting to be so sealed, shall at all times, and on behalf of all persons, and whether for the purposes of this Act or otherwise, be admitted in all Courts whatever as evidence of such documents respectively, and of such Proceedings and Orders having respectively taken place or been made, and be deemed respectively Records of such Court, without any further proof thereof; and no such document or copy shall be receivable in evidence unless the same appear to be so sealed, except where otherwise in this Act specially provided.

Judicial Notice to be taken of Signature of Judge or Registrar and of the Seal of the Court.

CLVI. All Courts, Judges, Justices, and persons judicially acting, and other officers shall take judicial notice of the signature of the Chief Justice or of any Commissioner or Registrar of the Court, and of the Seal of the Court subscribed or attached to any Judicial or Official Proceeding or Document to be made or signed under the Provisions of this Act.

Forging Signature of Commissioner or Officer or the Seal of the Court.

CLVII. If any person shall forge the Signature of the Chief Justice or of any Commissioner, or Registrar, or shall forge or counterfeit the Seal of the Court, or knowingly concur in using any such forged or counterfeit signature or seal for the purpose of authenticating any proceeding or document, or shall tender in evidence any such proceeding or document with a false or counterfeit signature of any such Chief Justice, Commissioner, or Registrar, or a false or counterfeit seal of the Court, subscribed or attached thereto, knowing such signature or seal to be false or counterfeit, every such person shall be guilty of Felony.

Bankrupt and Bankrupt's Wife to be examined upon Declaration and Oath.

CLVIII. All Bankrupts shall and the wives of such Bankrupts shall, when so required by the Court, make and sign the declaration contained in the Schedule E. to this Act annexed, but such declaration shall not in any case exempt such Bankrupt or Bankrupt's wife from being examined upon oath, if the Court or any Creditors shall so require.

AS TO COSTS.

Costs.

CLIX. The Court acting under this Act may, in all matters before it, award such Costs as shall seem fit and just; and all Costs so awarded shall be recoverable in the same manner as Costs awarded by a Rule of the Supreme Court may be recovered and the like remedies may be had, upon an Order of such Court for Costs as upon a Rule of the said Supreme Court for Costs; but no such Order shall affect any lands, tenements, or hereditaments, as to purchasers, mortgagees, or Creditors unless and until it shall be registered under the provisions of the Land Registry, and if necessary, re-registered in like manner as in order to bind such purchasers, mortgagees, or creditors, it must have been if it had originally been a judgment or rule obtained or entered up in the Supreme Court.

AS TO THE POWERS OF THE COURT IN AID OF THE COURT OF CHANCERY.

Chief Justice to make General Rules for the following purposes, viz.

CLX. The Chief Justice shall with such advice and consent as aforesaid, make such general orders and regulations for the several purposes hereinafter specified, or any of them, as he shall think fit: that is to say,

For taking down Evidence.

1. For making provision for taking down the evidence and examination to be taken under the authority of this Act, and for providing for the filing, depositing, and preservation of the examinations, depositions, affidavits, proceedings, certificates, and reports, under any such reference, and the means of access to and obtaining copies of the same.

Rules of Examination.

CLXI. The same rules shall prevail in regard to the examination and depositions of witnesses as for the time being shall be in force with regard to the examination and depositions of witnesses in the Court of Chancery.

Attendance of Witnesses.

CLXII. Every person who shall be duly served with a subpœna ad testificandum, or supœna duces tecum, for that purpose shall be bound to attend before the Commissioner or Registrar of the Court of Bankruptcy so intrusted with the examination of witnesses under this Act, and his attendance may be enforced in the same manner as the attendance of witnesses may be enforced before the Chief Justice.

Perjury.

CLXIII. Any person who shall, before such Commissioner or Registrar, wilfully give false evidence, or wilfully swear, affirm, declare, or attest falsely in any Examination, Affidavit or Deposition, shall be liable to the penalties and consequences of wilful and corrupt Perjury.

AS TO MISDEMEANORS UNDER THIS ACT.

Misdemeanors.

CLXIV. From and after the commencement of this Act, any Bankrupt who shall do any of the acts or things following, with intent to defraud or defeat the rights of his Creditors, shall be guilty of a Misdemeanor, and shall be liable, at the discretion of the Court before which he shall be convicted, to punishment by imprisonment for not more than three years, or to any greater punishment attached to the offence by any existing statute:

1. If he shall not on the day limited for his surrender, and before three of the clock of such Day, or at the hour and upon the day allowed him for finishing his examination, after notice thereof in writing, to be served upon him personally or left at his usual or last known place of abode or business, and after the notice herein directed in the local newspapers, surrender himself to the Court (having no lawful impediment allowed by the Court) and sign or subscribe such surrender and submit to be examined before such Court from time to time:

2. If he shall not upon his examination fully and truly discover, to the best of his knowledge and belief, all his property, real and personal, inclusive of his rights and credits, and how and to whom, and for what consideration, and when he dis-

posed of, assigned, or transferred any part thereof, except such part as has been really and bona fide before sold or disposed of in the way of his trade or business if any, or laid out in the ordinary expense of his family, or shall not deliver up to the Court, or dispose as the Court directs of all such part thereof as is in his possession, custody, or power, except the necessary wearing apparel of himself, his wife and children ; and deliver up to the Court all books, papers, and writings in his possession, custody, or power relating to his property or affairs.

3. If he shall after adjudication or within sixty days prior to adjudication, with intent to defraud his Creditors remove, conceal, or embezzle any part of his property to the value of Ten Pounds or upwards :

4. If in case of any person having to his knowledge or belief proved a false debt under his Bankruptcy, he shall fail to disclose the same to his Assignees within one month after coming to the knowledge or belief thereof :

5. If he shall with intent to defraud, wilfully and fraudulently omit from his Schedule any effects or property whatsoever :

6. If he shall after the filing of the petition for adjudication, with intent to conceal the state of his affairs, or to defeat the object of the Law of Bankruptcy, conceal, prevent, or withhold the production of any book, deed, paper, or writing relating to his property, dealings or affairs :

7. If he shall, after the filing of the petition for adjudication, or within three months next before adjudication, with intent to conceal the state of his affairs or to defeat the objects of the Law of Bankruptcy, part with, conceal, destroy, alter, mutilate or falsify, or cause to be concealed, destroyed, altered, mutilated, or falsified, any book, paper, writing, or security, or document relating to his property, trade, dealings or affairs, or make or be privy to the making of any false or fraudulent entry or statement in or omission from any book, paper, document or writing relating thereto :

8. If within the like time he shall, knowing that he is at the time unable to meet his engagements, fraudulently and with intent to diminish the sum to be divided amongst the general body of his Creditors, or to give an undue preference to any of his Creditors, have paid or satisfied any such Creditor wholly or in part, or have made away with, mortgaged, encumbered, or charged any part of his property of what kind soever, or if after Adjudication he shall conceal from the Court or his Assignee any debt due to or from him.

9. If, being a Trader, he shall under his Bankruptcy, or at any Meeting of his Creditors within three months next preceding the filing of the petition for Adjudication, have attempted to account for any of his property by fictitious losses or expenses.

10. If, being a Trader, he shall within three months next before the filing of the Petition for Adjudication under the false color and pretence of carrying on business and dealing in the ordinary course of trade, have obtained on Credit from any person any goods or chattels with intent to defraud.

Power of Judge and Commissioner.

CLXV. If it shall at any time appear to any Court under this Act that the Bankrupt has been guilty of any of the offences in the next preceding section set forth, such Court shall have and may exercise such jurisdiction, rights, powers, and privileges, for the summoning, apprehending, committing, remanding, bailing, and otherwise proceeding, in respect of such Bankrupt, as are exercised by and vested in Her Majesty's Justices of the Peace in respect of persons against whom a charge or complaint shall have been made before any one or more of the said Justices in respect of any Felony or indictable Misdemeanor committed within the limits of the jurisdiction of such Justice or Justices.

Indictment.

CLXVI. In any Indictment or Information for any Misdemeanor under this Act, it shall be sufficient to set forth the substance of the offence charged, without alleging or setting forth any debt, act of Bankruptcy, petition, or Adjudication, or any summons, warrant, order, rule, or proceeding, of or in any Court acting under this Act.

Persons disobeying Order of Court.

CLXVII. If any person shall disobey any rule or Order of the Court, duly made for enforcing any of the purposes and provisions of this Act, the Court may, by Warrant in Form contained in the Schedule F, to this Act annexed, commit the person so offending to the Queen's prison or to the Common Gaol, there to remain without bail or mainprise, until such Court, or the Court of Appeal, in case such commitment be ordered by any Commissioner, shall make order to the contrary.

AS TO THE DEFINITION AND EXPLANATION OF TERMS.

Definition of Terms.

CLXVIII. The terms and words hereinafter enumerated or explained, wheresoever occurring in this Act, shall be understood as hereinafter defined or explained, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such definition or explanation; that is to say

"Annulling."

"Annulling," shall mean also "superseding."

"Assignee."

"Assignee," shall mean the Assignee of the Estate and Effects of the Bankrupt or Petitioner, chosen by the Creditors, and until such Assignee shall be chosen, or where no such Assignee shall exist, shall mean the Official Assignee.

"Bankrupt."

"Bankrupt," shall mean any person who shall be by any Court under the provisions of this Act, Adjudicated Bankrupt.

"Court."

"Court," "The Court," "The Courts," shall mean the Supreme Court of Civil Justice sitting in Bankruptcy, and also the Court over which the Commissioner shall preside.

"Creditor."

"Creditor," shall also mean any two or more persons being Partners, and Incorporated and Joint Stock Companies.

"Creditors present at any Meeting."

"Creditors present at any Meeting," shall include Creditors who are represented by some person duly authorized by any such Creditor in writing.

"Gaoler."

"Gaoler," shall include the Keeper or Governor of any Gaol or Prison.

"Oath," "Affidavit."

"Oath," "Affidavit," shall mean and include the Declaration or Affirmation, of any person whom any Act of Parliament shall have authorized to make such Declaration or Affirmation in lieu of an Oath.

"Petition for Adjudication of Bankruptcy."

"Petition for Adjudication," or "Petition in Bankruptcy," shall mean any Petition by or against a Debtor for Adjudication of Bankruptcy.

"Petitioning Creditor."

"Petitioning Creditor," shall mean the Creditor who filed the Petition for Adjudication.

"Property."

"Property," shall mean and include all the Real and Personal Estate and Effects of the Petitioner or Bankrupt within this Colony and Abroad (except as herein provided) and all the future Estate, Right, Title, Interest and Trust of such Petitioner or Bankrupt, in or to any Real or Personal Estate and Effects, within this Colony or Abroad, which may revert, descend, be devised, or bequeathed, or come, and all debts due or to be due to him before he shall have obtained his discharge.

"Prisoner."

"Prisoner," shall mean any Person in Actual Custody within the walls, rules, or liberties of any Prison in the Colony of Vancouver Island, for any debt, damages, costs, sum or sums of money, or for any contempt by reason of nonpayment of any sum or sums of money, or costs.

"Suit."

"Suit," shall include Action at Law, and Suit at Equity, or other proceeding.

"Trader."

For the purposes of this Act, all persons shall be deemed Traders who prior to the commencement of this Act would have been liable to be adjudicated Bankrupt under the Laws of Bankruptcy then in force.

"Computation of Time."

In all cases in which any particular number of days is prescribed by this Act or shall be mentioned by any Rule or Order of Court which shall at any time be made under this Act; for the doing of any Act, or for any other purpose, the same shall be reckoned in the absence of any expression to the contrary, exclusive of the first and inclusive of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, Good Friday, Monday and Tuesday in Easter Week, or a Day appointed for a Public Fast or Thanksgiving, in which case the Time shall be reckoned exclusive of that day also.

Number and Gender.

Words importing the singular number, or the masculine gender only, shall be understood to include several matters as well as one matter, and several persons as well as one person, and bodies corporate as well as individuals, and females as well as males; and words importing the plural number shall be understood to apply to one matter as well as more than one, and to one person as well as more than one.

Repeal of Acts.

CLXIX. The Acts and Parts of Acts set forth in Schedule G, to this Act to the extent to which they are therein expressed to be repealed, and all other Acts or parts of Acts which are inconsistent with this Act are repealed; but such repeal shall not affect any proceeding pending, or any right that has arisen or may arise or any penalty incurred or that may be incurred, in respect of any transaction, act matter, or thing done or existing prior to or at the commencement of this Act, under or by virtue of any of the Acts or parts of Acts repealed.

Act to take effect day of 186

CLXX. This Act, except where otherwise specially provided, shall commence and take effect from and after the day of one thousand eight hundred and sixty and may be cited for all purposes as "The Bankruptcy Act, 186 ."

SCHEDULE A.

DOCUMENT.	FEES. £ s d
Every Petition presented to the Court of Bankruptcy for Adjudication of Bankruptcy or for arrangement between any Debtor and his Creditors, or for the distribution of the Estate and effects of a deceased Debtor	5 00 00
Every such Petition when presented to the Court by Traders whose Debts do not exceed £300	1 00 00
Every Order of Discharge	1 00 00
Every Declaration of Insolvency	2 6
Every Registration of Trust Deeds	10 00
Every Summons of Judgment Debtor or Debtors	2 6
Every Admission of such Debtor	2 6
Every Deposition of Good Defence	2 6
Every Bond with Sureties	5 00
Every Application for Search for Petition or other Proceeding	1 00
Every Application for Appointment of any private Sitting or Meeting in any matter under this Act	5 00
Every Allocatur by any Officer of the Court for any Costs, Charges, or Disbursements, where such Bill of Costs shall not exceed £5	1 6
Exceeding £ 5, and not exceeding £ 10	2 6
" 10 " " 20	5 00
" 20 " " 30	7 6
" 30 " " 50	10 00
" 50 " " 100	15 00
" 100 " " 150	1 00 00
" 150 " " 200	1 10 00
" 200 " " 300	2 00 00
" 300 " " 500	3 00 00
" 500	5 00 00

SCHEDULE B.

BANKRUPTCY ACT, 186 .

(In Bankruptcy.)

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

Court of Bankruptcy.

Whereas G. H. of.....in the District of.....was on the.....day of.....duly sworn and examined in this Court, and the said.....was again on the .....day of.....duly sworn and examined in this Court, as by the Examination and Deposition of the said.....now on the file of Proceedings in this matter will appear.

And whereas the answers of the said.....as now so appearing in said Examination and Deposition, are unsatisfactory (or the said.....refused to sign and subscribe this said Examination and Deposition):

These are therefore to authorize and require you, immediately upon the receipt hereof, to take into your custody the said.....and him safely convey to Her Majesty's prison of.....and him there to deliver to the Governor of the said prison, who is hereby authorized and required to receive the said..... into his Custody there, and him safely keep and detain without Bail, until this Court, or the Court of Appeal in Chancery sitting in Bankruptcy shall make an Order to the contrary, and for so doing this shall be your sufficient Warrant.

Given under the Seal of the Court, this.....day of.....18 .

J. K.
Commissioner.

To.....

and to.....

Governor of the said prison, or his Deputy there

SCHEDULE C.

This Deed made the.....day of.....between A. B. (the Debtor) and C. D. and E. F. (the Trustees) on behalf and with the Assent of the undersigned Creditors of A. B., witnesseth that A. B. hereby convey all his Estate and Effects to C. D and E. F. absolutely to be applied and administered for the Benefit of the Creditors of A. B. in like manner as if A. B. had been at the Date hereof duly adjudged Bankrupt.

In witness &c.

Schedule of Creditors.

SCHEDULE D.

THE BANKRUPTCY ACT, 186 .

Form of Declaration to be made by the Bankrupt or the Bankrupt's wife.

I, A. B. the person declared a Bankrupt under a Petition for Adjudication of Bankruptcy filed on the..... day of.....in the year of Our Lord.....(or I, C. D. the Wife of A. B. declared a Bankrupt under a Petition for Adjudication of Bankruptcy filed on the.....day of.....) do solemnly promise and declare, that I will make true answer to all such questions as may be proposed to me respecting all the property of the said A. B. and all Dealings and Transactions relating thereto, and will make a full and true disclosure of all that has been done with the said property to the best of my knowledge, information and belief.

(Signed) A. B.
(or C. D. the Wife of the said A. B.)

SCHEDULE E.

THE BANKRUPTCY ACT 186 .

Warrant against any person disobeying any Rule or Order of Court.

Whereas by a Rule (or an Order) of this Court, bearing Date the.....day of.....made for enforcing the purposes and provisions of the Bankruptcy Act 1869 (or if of any other Act hereafter in force relating to the subject matters of this Act, or made or entered into by consent for carrying into effect any of such purposes or provisions, alter the Recital accordingly) it was ordered that, (&c. &c. as in the Rule or Order).....

And whereas it is now proved that after the making of the said Rule (or Order) that is to say, on this..... day of....., a Copy of the said Rule (or Order) was duly served on the said.....personally, and the original Rule (or Order) at the same time shown to him, but the said.....then refused (or neglected) to obey the same, and hath not as yet obeyed the said Rule (or Order).....

These are therefore to will and require, and authorize you immediately upon receipt hereof to take into your custody the body of the said A. B. and him safely convey to Her Majesty's Gaol (or prison) of..... (or called.....) and him there to deliver to the Keeper of the said prison together with this precept, and the Keeper of the said prison is hereby required and authorized to receive the said A. B. into his custody, and him safely to keep and detain without Bail or Mainprise, until this Court, or the Court of Appeal in Chancery setting in Bankruptcy, shall make order to the contrary, and for so doing this shall be your sufficient Warrant.

Given under my Hand and the Seal of Court, at the Court of Bankruptcy, Victoria, this.....day of.....in the Year of Our Lord One Thousand Eight Hundred.....

A. B (L.S.)
Commissioner.

To.....or his Assistant, and to the Keeper of Her Majesty's Prison (or Gaol) of..... (or called.....) or his Deputy there.