

No. 161.

1st Session, 6th Parliament, 21 Victoria, 1858.

BILL.

An Act to make provision for the relief of
Insolvent Traders, and for the administra-
tion and distribution of their estates.

Received and read, first time, Wednesday, 12th
May, 1858.

Second reading, Monday, 17th May, 1858.

Mr. Ross.

TORONTO :

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An Act to make provision for the relief of Insolvent Traders and for the Administration and distribution of their estates.

WHEREAS it is expedient to make better provision for the discovery and securing of the estates and effects of Bankrupts, for the benefit of their creditors, and for the administration and distribution thereof, and also for the relief of such Traders as shall without any fraud or gross misconduct, have become unable to pay all their debts in full, and who shall have made a full disclosure and discovery of all their estates and effects as hereinafter provided ; Therefore Her Majesty, &c., enacts as follows :

Preamble.

1. All persons being Merchants, or using the trade of merchandize by way of bargaining, exchange, bartering, commission, consignment or otherwise, in gross or by retail, bankers, brokers, persons insuring ships or other vessels, or their freight, or other matters, against perils of the sea, or of inland navigation, builders, carpenters, ship-wrights, keepers of inns, taverns, hotels or coffee houses, millers, lumberers or ship owners, and all persons who either for themselves or as agents or factors for others seek their living by buying or selling, or by buying and letting for hire, or by the workmanship of goods or commodities, and all persons who shall have heretofore, at any time, followed or exercised any of the above enumerated occupations, trades or callings, shall be deemed traders within the scope and meaning of this Act ; Provided that no farmer, grazier, common labourer or workman for hire, or members of or subscribers to any incorporated or commercial or trading company, established by Royal charters or legislative enactment, shall be deemed as such a trader, liable by virtue of this Act to become bankrupt.

Who shall be Traders within the meaning of this Act.

Proviso.

II. Every such trader who shall be arrested on mesne process, in any civil action founded on a demand proveable, in its nature, against a bankrupt's estate, according to the provisions of this Act, and who shall not give bail therein on or before the return day of such process ; and every such trader who shall fly or abscond for his personal safety from such arrest, and every such trader who shall be actually imprisoned in or confined upon the limits of any Gaol in this Province, for more than thirty days, either upon mesne process or in execution in any civil action, founded on a demand proveable as aforesaid, or who shall escape from any such imprisonment, and every such trader whose goods or estate shall be attached on mesne process, on any civil action founded on a demand proveable as aforesaid, who shall not dissolve or supersede such attachment by giving security or otherwise, within twenty days after the return day thereof, and every such trader who shall depart this Pro-

What shall be Acts of Bankruptcy.

vince or abscond, or remain concealed therein, with intent to defraud his creditors, and every such trader who shall make, or cause to be made within this Province, any fraudulent grant or conveyance of any of his lands, household goods, or chattels, or any fraudulent gift, delivery, or transfer of any of his goods or chattels, or other effects or assets, or of his credits or evidences of debt; and every such trader who shall willingly or fraudulently procure himself to be arrested, or his goods or chattels, debts or credits, lands or tenements, to be attached, distrained, sequestered or taken in execution, and every such trader who shall remove or cause to be removed, or who shall conceal or cause to be concealed any of his goods, chattels or effects, in order to prevent their being seized upon or taken in execution under attachment or other process, shall be deemed to have thereby committed an act of bankruptcy.

Compounding
with petition-
ing creditor.

III. If any trader as aforesaid, after the issuing of any Commission of Bankruptcy, or the fying of any petition or adjudication of bankruptcy against him, shall pay money to the petitioning creditor, or give or deliver to such petitioning creditor any satisfaction or security for his debt, or for any part thereof, whereby such petitioning creditor may receive more in the pound in respect of his debt than the other creditors, such payment, gift, delivery, satisfaction or security shall be an act of bankruptcy; and if adjudication of bankruptcy shall have been made under such petition, the Court may either declare such adjudication to be valid, and direct the commission to be proceeded in, or may order it to be annulled, and a petition or new petition for adjudication may be fyled, and such petition or new petition may be supported either by proof of such last mentioned, or any other act of bankruptcy.

A trader may
be summoned
by his credi-
tor.

IV. If any creditor of any such trader, or the duly accredited and appointed agent or attorney of any such creditor of such trader, shall make an affidavit before a Judge of the Court of Bankruptcy, in the form specified in the Schedule hereunto annexed, (B No. 1,) of the truth of his debt, and that the debtor, as he verily believes, is such trader as aforesaid, and that he has caused to be delivered to such trader personally, or to some such person belonging to his family or his establishment, at his usual place of business, an account, in writing, of the particulars of his demand, with a notice thereunder requiring immediate payment thereof, in the form specified in the said Schedule (B, No. 2), which affidavit shall be duly fyled; it shall be lawful for the Court of Bankruptcy to issue a summons, in writing, in the form specified in the said Schedule (B No. 3), calling upon such trader to appear in the said Court of Bankruptcy, and stating in such summons the purpose for which such trader is called upon to appear, as hereinafter provided: Provided always, that if the demand of such creditor appear by such affidavit to be due from two or more persons carrying on trade in partnership, the delivery of such account and notice to any one of the partners in person, or to some adult inmate, at his usual or last known place of abode or business, and also at the place of business of the firm as aforesaid, if any such there be, shall be sufficient to authorize the Court to issue such summons against any of such partners, as well as against the partner served personally with such account and notice, which said summons, and all other proceedings incident thereto, may, in cases of partnership, be effectually served in like manner.

Proviso.

V. Upon the appearance of any such trader so summoned as aforesaid, it shall be lawful for the Court to require him to state whether or not he admits the demand of his creditor so sworn to as aforesaid, and what part thereof; and if such trader shall admit the demand, or any part thereof, to reduce such admission into writing, in the form specified in the Schedule hereunto annexed (C No. 1), and the admission so reduced into writing, he is hereby required to sign, and the same is thereupon to be fyled: and it shall also be lawful for the Court to allow such trader, on his said appearance, to make a deposition, upon oath, in writing under his hand (to be also fyled), in the form specified in the said Schedule (C No. 2), that he verily believes he has a good defence, upon the merits, to the said demand, or to some and to what part thereof.

Proceedings on the appearance of the trader on such summons.

VI. If any such trader so summoned as aforesaid, shall not come before the Court at the time appointed, (having no lawful impediment made known to, and allowed, at the same time by the Court), or if any such trader, upon his appearance to such summons, shall refuse to admit the demand, and shall not make a deposition in the form hereinbefore mentioned, that he believes he has a good defence upon the merits to such demand, then and in either of the said cases, if such trader shall not, within twenty-one days after personal service of such summons, or within such enlarged time as may be granted him in that behalf, pay, secure, or compound for the demand to the satisfaction of his creditor, or enter into a bond in such sum, and with two sufficient sureties, as the Court shall approve of, to pay such sums as shall be recovered in any action which shall have been or shall thereafter be brought for the recovery of the same, together with such costs as shall be given in such action, every such trader shall be deemed to have committed an act of bankruptcy on the twenty-second day after service of such summons: Provided a commission of bankruptcy shall issue against such trader within two months from the fying of the said affidavit of the creditor.

Trader summoned not appearing, or failing to comply with the requirements of this section, shall be deemed to have committed an act of bankruptcy.

VII. If any such trader, so summoned as aforesaid, shall, upon his appearance thereto, refuse to state whether or not he admits such demand or any part thereof, or whatever may be the nature of his statement, shall, notwithstanding, refuse to sign the admission in that behalf, required as aforesaid, it shall be deemed for the purposes of this Act, that every such trader thereby refuses to admit such demand: Provided always, that it shall be lawful for the Court to enlarge the time for calling upon such trader to state whether or not he admits such demand or any part thereof, for such reasonable time as the said Court shall think fit.

Trader refusing to sign admission.

Proviso.

VIII. If any such trader so summoned as aforesaid, shall upon his said appearance, sign an admission of the demand in the form aforesaid; and shall not, within twenty-one days next after the fying of such admission, pay or tender and offer to pay to his creditor the amount of the said demand, or secure or compound for the same to the satisfaction of his creditor, every such trader shall be deemed to have committed an act of bankruptcy on the twenty-second day after the fying of such admission: Provided a commission of bankruptcy shall issue against such trader within two months from the fying of the said affidavit of the creditor.

Trader signing admission.

IX. If any such trader, so summoned as aforesaid, shall, upon his said appearance, sign an admission for part only of the demand in the form

Trader admitting a part only of the demand.

aforesaid, and shall not make a deposition in the form hereinbefore required, that he believes he has a good defence, upon the merits, to the residue of the said demand, then, if such trader, as to the sum so admitted, shall not, within twenty-one days next after the fying of such admission, pay or tender and offer to pay to his creditor the sum so admitted, or secure and compound for the same to the satisfaction of the creditor, and as to the residue of such demand, shall not, within twenty-one days after service of such summons, pay, secure or compound for the same to the satisfaction of his creditor, or enter into a bond in such sum and with sufficient sureties as the Court shall approve of, to pay whatever sum shall be recovered in any action which shall have been, or shall thereafter be brought for the recovery thereof, together with such costs as shall be given in that action, every such trader shall be deemed to have committed an act of bankruptcy on the twenty-second day after the service of the summons: Provided a commission of bankruptcy shall issue against such trader within two months from the fying of the the said affidavit of the creditor.

Demand not admitted by trader may be referred to arbitration.

X. In any case when any such trader so summoned as aforesaid, shall upon his said appearance, make a deposition in the form hereinbefore required, that he believes he has a good answer upon the merits to the said demand, or to some, and what part thereof, it shall and may be lawful for the court, on the application of the said trader or of his creditor, acting as aforesaid, to name one arbitrator, for the said trader to name a second, and for the creditor whose claim is disputed to name a third, to arbitrate and adjudge between the parties respectively as to such demand; and in case either the said trader or the creditor shall refuse or neglect to name an arbitrator as aforesaid on his behalf, then the Court shall nominate and appoint such arbitrator, and the award and determination of any two of them, the said arbitrators, shall be final and conclusive, unless the same shall be set aside by the Court of bankruptcy or the Court of Review; and every such trader who shall not within twenty-one days next after the fying in the Court, by such arbitrators of such award and determination, after due notice thereof to the parties, pay or tender and offer to pay to his creditor the amount of the said award or determination if against him, in whole or in part, or secure or compound for the same to the satisfaction of his creditor, every such trader shall be deemed to have committed an act of bankruptcy on the twenty-second day after the fying of such award and determination: Provided a commission of bankruptcy shall issue against such trader within two months from the fying of the said affidavit of the creditor.

Proviso.

Admissions made elsewhere than before the Court.

XI. An admission of any debt, signed by any such trader elsewhere than before the Court of bankruptcy, may be fyled by him or on his behalf, and shall be of the same force and effect to all intents and purposes, as an admission signed by such trader so summoned, as aforesaid, on his appearance, provided there be present some attorney of one of the Superior Courts of this Province, or any Notary Public in and for that part of the Province heretofore called Lower Canada, on behalf of such trader expressly named by him, and attending at his request to inform him of the effect of such admission before he shall sign the same: And provided always, that the said Attorney or Notary do subscribe his name thereto, as a witness to the due execution thereof; and in such attestation declare himself to be an Attorney or Notary, attending on behalf of such trader, and state therein, that he subscribes as such Attorney or Notary:

And provided such admission shall be in the form of the Schedule (D. No. 1.) hereunto annexed.

XII. When any trader against whom an affidavit of debt is fyled, as aforesaid, shall be summoned to appear before the Court, as aforesaid, 5 and such summons shall be dismissed without any proceeding being thereupon taken against any such trader, every such trader shall have such costs and charges as the Court shall think fit. Costs to the trader summoned.

XIII. In every action brought after the commencement of this Act, wherein any such creditor is plaintiff, and such trader is defendant, 10 and wherein the plaintiff shall not recover the amount of the sum for which he shall have fyled an affidavit, under the provisions of this Act, such defendant shall be entitled to costs of suit, to be taxed according to the custom of the Court in which such action shall have been brought: Provided that it shall be made to appear to the satisfaction of the Court 15 in which such action is brought, upon motion to be made in Court for that purpose, and upon hearing the parties by affidavit, that the plaintiff in such action had not any reasonable or probable cause for making such affidavit of debt in such amount as aforesaid: And provided such Court shall thereupon by a rule or order, direct that such costs shall be 20 allowed to the defendant; and the plaintiff shall, upon such rule or order being made, be disabled from taking out any execution for the sum recovered in the said action, unless the same shall exceed (and then in the sum only that the same shall exceed) the amount of the taxed costs of the defendant; and in case the sum recovered in the said 25 action shall be less than the amount of the costs of the defendant, to be taxed as aforesaid, then the defendant shall be entitled, after deducting the sum of money recovered by the plaintiff in such action from the amount of his costs, so to be taxed as aforesaid, to take out execution for such costs, in like manner as a defendant may now by law have 30 execution for costs in other cases. Costs allowed to trader in cases where the Plaintiff shall not recover the amount sworn to.
Proviso.

XIV. If any plaintiff shall recover judgment in any action personal in any of Her Majesty's Courts of Record in this Province, against any such trader, and shall be in a situation to sue out execution, and there 35 be nothing due from the plaintiff by way of set-off against his judgment, and such trader shall not within twenty-one days after notice in writing, personally served upon him, requiring immediate payment, pay, secure or compound for the same, to the satisfaction of the plaintiff, he shall be deemed to have committed an act of bankruptcy, on the 40 twenty-second day after the service of such notice; Provided always, that if such execution shall in the meantime be suspended or restrained by any rule, order or proceeding of any Court having jurisdiction in that behalf, no further proceeding shall be had upon such notice; but it shall be lawful, nevertheless, for such plaintiff when he shall again be in a situation to sue out execution on such judgment, to proceed 45 again by notice in manner before directed; And provided, that in case several persons being co-partners, shall be such defendants, service of such notice requiring immediate payment, may be made as hereinbefore provided, with respect to a summons. Plaintiff having recovered judgement in a personal action against a trader.

XV. If any decree or order shall be pronounced in any cause de- 50 pending in any Court of Law or Equity, or any order be made in any matter of bankruptcy or lunacy against any such trader, ordering him Trader refusing to pay money ordered to be paid

by a Court of Law or Equity. to pay any sum of money, and such trader, shall disobey such order, the same having been duly served upon him, the person entitled to receive the money under such decree or order, or interested in enforcing payment thereof pursuant thereto, may apply to the Court by which the same shall have been pronounced, to fix a peremptory day for the payment of such money, which shall accordingly be fixed by an order for that purpose; and if such trader being personally served with such last mentioned order, twenty-one days before the day therein appointed for payment of the money, shall neglect to pay the same, he shall be deemed to have committed an act of bankruptcy on the twenty-second day after the service of such order; Provided always, that if on or before the twenty-first day after it shall have been incumbent upon any such trader to pay his debt as aforesaid under the provisions aforesaid, such trader shall make it appear to the Commissioner by general statement of the assets and liabilities of such trader duly proved by the oath of at least one credible witness or other legal evidence, that such trader will be enabled within a certain further delay or time to pay his aforesaid debt without detriment to the interest of his other creditors it shall and may be lawful for the Commissioner to enlarge the time for the payment of such trader's debt as aforesaid to a day certain not exceeding months of further time, and if such debt shall continue and remain unpaid, then such trader shall be deemed to have committed an act of bankruptcy on the day next after the expiration of such extension of time as aforesaid.

Commission obtained by agreement. XVI. No commission of bankruptcy shall be deemed invalid, by reason of any act of bankruptcy of the person against whom such commission shall be issued, having been concerted or agreed upon between the bankrupt and any creditor or other person.

Within what time a commission of bankruptcy may issue. XVII. No trader shall be liable to become bankrupt by reason of any act of bankruptcy committed more than two months prior to the issuing of a commission of Bankruptcy against him.

Amount which must be due to the petitioning creditor. XVIII. The amount of the debt or debts of any creditor or creditors, petitioning for an adjudication of bankruptcy under this Act, shall be as follows, that is to say; the single debt of such creditor, or of two more persons being partners petitioning for the same, shall amount to fifty pounds or upwards; and the debts of two creditors so petitioning shall amount to seventy-five pounds or upwards; and the debts of three or more creditors so petitioning shall amount to one hundred pounds or upwards; and every person who has given credit to any trader upon valuable consideration, for any sum payable at a certain time, which time shall not have arrived when such trader committed an act of bankruptcy, may so petition or join in petitioning as aforesaid; whether he shall have had any security in writing for such sum or not.

Adjudication of bankruptcy and issuing of Commission. XIX. After any act of bankruptcy as aforesaid committed, such creditor may petition the Court within the district in which such trader resides, or has resided or carried on business for six months next immediately preceding the time of filing such petition, or who at the time of filing such petition has his usual place of business in such district, setting forth the nature and amount of the debt due to him by such trader and the act of bankruptcy by him committed, and praying that such trader be adjudged bankrupt; and the Court upon proof, by the oath of one

credible witness, not being a creditor of such trader, of the petitioning creditor's debt, and of the trading and act of bankruptcy of the person against whom such petition is filed, shall adjudge such person bankrupt; and thereupon it shall and may be lawful for the Court by commission 5 under seal, to appoint and authorise the Sheriff of the district aforesaid to take and receive possession of all estate, real and personal, of such trader, excepting such as may be by law exempted from attachment, and of all the deeds, books of account and papers of such trader, and to keep the same safely until the same be demanded of him by the official 10 assignee.

XX. The Court shall in the Commission fix a day and place for the first meeting of the creditors of such bankrupt, which shall be at some convenient place within the district wherein such commission is issued, and the time shall not be less than fourteen days, nor more than thirty 15 days after the date of the Commission. First meeting appointed.

XXI. The Sheriff shall forthwith give public notice in such newspapers, within the district which the Court shall designate, and also such personal or other notice to any person concerned as the Court shall prescribe, setting forth the issuing of the Commission, and naming the day 20 and place appointed in such Commission for the meeting of the creditors of the bankrupt; and such Sheriff shall forthwith transmit a similar notice for insertion in the Canada Gazette, which notice shall be in the form in the Schedule (E) to this Act annexed. Notice of first meeting.

XXII. If the Bankrupt shall not (if within the Province at the date 25 of the Commission,) within twenty-one days after notice of the bankruptcy in the Gazette of Canada or (if out of the Province at the date of the Commission) within four months after such notice, have commenced an action, suit, or other proceeding to dispute the commission, and have prosecuted the same with due diligence and effect, the 30 Gazette containing such notice shall be conclusive evidence in all cases, civil as well as criminal, against the bankrupt, and in all actions at law or suits in equity, brought by or against the assignee, or by or against any person claiming any right, estate, or interest, by, through, or under the bankrupt, that such person against whom the 35 Commission issued became a bankrupt before the date and suing forth of the said Commission, and that such Commission was sued forth on the day in which the same is stated in the Gazette to bear date. Publication of commission to be evidence of certain facts.

XXIII. The Sheriff shall, as soon as may be after the issuing of the Commission, demand and receive from the bankrupt and from all other 40 persons, all the estate in his or in their possession which belongs to such bankrupt, with all the deeds, books of account and papers relating thereto; and the bankrupt shall accordingly deliver to the Sheriff such part of the said estate and other things above specified as may then be within his possession or power, and shall disclose the situation 45 of such parts thereof as may then be in the possession of any other person or persons, so as to enable the Sheriff to demand and receive the same, and the Commission of Bankruptcy shall be sufficient warrant and authority to the Sheriff to whom it shall be directed, to break open any house, chamber, shop, warehouse or door, or any trunk, 50 chest, desk, or other thing, in any place where the bankrupt or any of his effects shall be reputed to be, or the Sheriff shall have reasonable Sheriff to take possession of bankrupt's estate.

cause to suspect they are, and to seize upon and secure the effects of such bankrupt wherever they shall be found in his possession, or in the possession of any other person or persons.

Of Guardians. XXIV. Any person who, by writing under his hand, shall undertake to the Sheriff, to be guardian or keeper of any of the effects or estate of such bankrupt, so seized and taken possession of under any Commission, shall, in such capacity be deemed an officer of the Court of Bankruptcy, and as such, answerable by his body for the safe custody and production of the estate and effects of which he may have undertaken the guardianship or keeping.

Commission to operate as on assignment. XXV. The Commission of Bankruptcy shall vest and be construed to vest in the official assignee of the district in which such commission shall have issued, all the property of the bankrupt, both real and personal, which he could in any way have lawfully sold, assigned, or conveyed, or which might have been taken in execution on any judgment against him, at the date of the Commission, although the same may then be attached on mesne process or in execution as the property of the said bankrupt, and any such attachment shall by such commission be superseded and dissolved; and the said Commission shall vest and be construed to vest, in the said assignee, all debts due to the bankrupt or any person in trust for him, or to his use, all liens and securities therefor, and all the bankrupt's rights of action for any goods or estate, real or personal, and all his rights of redeeming any such goods or estate, and shall give power to such assignee to redeem all mortgages, hypothecs, conditional contracts, pledges, and liens, of or upon any goods or estate of the bankrupt, or to sell the same, subject to such mortgage or other incumbrance, and the bankrupt shall likewise, at the expense of the estate, make and execute all such deeds and writings, and indorse all such bills, notes, and other negotiable papers, and draw cheques and orders for moneys deposited, and do all such other lawful acts and things as the said assignee shall at any time reasonably require, and which may be necessary for enabling the assignee to demand, recover and receive all his estate and effects, whether in or out of this Province; and the assignee shall have the like remedy to recover all the said estate, debts and effects in his own name, as the bankrupt might have had if no commission had issued against him; and if at the date of such commission any suit or action shall be pending in the name of the bankrupt, for the recovery of any debt or other thing which might or ought to pass to the assignee, such assignee, if he desire it, shall be admitted to intervene, and upon simple motion to that effect, become a party to, and to substitute his name for that of the bankrupt, and thenceforth in his own name to prosecute in like manner, and to the like effect, as if the same had been originally commenced by him as such assignee; and in case of the death or removal of the assignee, the new assignee shall, upon his application, be admitted to prosecute such suit or action, and to the like effect, as if the same had been originally commenced by him; and if the bankrupt shall die after the date of the said commission, all proceedings shall, notwithstanding, be continued and concluded in the like manner, and with the same validity and effect as if he had lived; and in that case the allowance to the bankrupt, on the net produce of his estate, if any, shall be paid to his heirs, executors or administrators, and shall be disposed of and distributed in the same manner as any other property of which he may die possessed.

Death of the bankrupt.

XXVI. At the time in the said commission appointed, a meeting First meet'ng.
of the creditors of the said bankrupt shall be held in the Court of
Bankruptcy, at which meeting the bankrupt shall attend, and then and
there produce and deliver into Court, in duplicate, a Schedule contain-
5 ing a true and full account of all his creditors, with the place of resi-
dence of each creditor if known to him, and the sum due to each ;
and the said Schedule shall also set forth the nature of each debt,
whether founded on written security, on account or otherwise, and also
the true cause or consideration thereof, and a statement of any existing
10 mortgage, hypothec, pledge or other collateral security for the payment
of the same, together with such further information relating to his
estate as the Court shall require, and shall submit himself to be
examined from time to time, upon oath, either orally or by written
deposition ; and the Court shall receive proof of the debts due to the
15 creditors of such bankrupt, who shall be present, or shall be repre-
sented by a person duly authorised to act for such creditor, and shall
allow all the debts which shall be duly proved, and cause a list thereof
to be made, which shall be certified by the Judge of the Court, and
fyled and recorded with the other papers in the case ; and the creditors
20 so present as aforesaid, who shall have proved their debts, and the
persons duly authorised to act for any creditors in such behalf, shall
then proceed before the Court to choose one or more creditors assignee
or assignees to the estate of the bankrupt, such choice to be made by
the greater part in value of the creditors, according to the debts then
25 proved : Provided always, that the Court may, in its discretion, require
further proof, on oath, of any debt claimed before it, and may examine
the party claiming the same, or the agent who shall present the same
on his behalf, and also the bankrupt, on their respective oaths, on all
matters relating to such claim. Choice of
creditor's
assignee.

Court may re-
quire further
proof.

XXVII. In case no choice of creditors, assignee or assignees shall be Failure to
chose credi-
tors' assignee.
made by the creditors at the said first meeting, the Court shall appoint
one or more creditors or assignees ; and if any assignee so chosen or
appointed shall not, within six days after notice thereof, signify his
acceptance, in writing, and deliver it into Court, then his election or
35 appointment shall be considered void, and the Court shall from time
to time proceed to appoint, until the acceptance is duly signified.

XXVIII. As soon as such acceptance shall be signified to the Court Assignee ac-
cepting to be
appointed by
any instal-
ment.
as aforesaid, the Court shall, by an instrument under its seal and
signed by the Clerk of such Court, declare the choice or appointment
40 of such creditors' assignees and their acceptance ; and the said instru-
ment shall be executed in duplicate, one of which shall be fyled in
Court, and the other shall be delivered to the assignees, and either of
such duplicates shall be received in all the Courts of Justice in this
Province, as authentic and as *prima facie* evidence of the truth of the
45 contents thereof.

XXIX. The Court shall appoint a second general meeting of the said Second meet-
ing.
creditors to be held at such time, not more than three months after the
date of the commission as the Court shall think fit, regard being had
to the distance at which the creditors or any of them reside, at which
50 meeting any creditors who have not before proved their debts shall be
allowed to prove the same, which shall be allowed and a list thereof
made, certified and fyled in like manner as is provided in respect of

debts proved at the first meeting, and the bankrupt shall there be allowed to amend the Schedule of his creditors, and to correct any mistake therein, and he shall there make and subscribe an oath before the Court, which shall be certified and filed in the case, in substance as in the Schedule (E) to this Act annexed, and the bankrupt shall there also submit to such further examination on oath as the Court or any creditor shall see fit to require. 5

Court may
adjourn,

XXX. The Court may adjourn any meeting, sitting or proceeding, and enlarge the time for the bankrupt appearing from time to time as occasion shall require; and all things done at any such adjourned meeting, sitting or proceeding, shall be of the like force and effect as if done at their original meeting. 10

What debts
may be
proved.

XXXI. All debts due and payable by any bankrupt at the date of the commission against him, may be proved and allowed against his estate, and all debts then absolutely due, although not payable until afterwards, may be proved and allowed as if then payable, with a discount or rebate of interest, when no interest is payable by the contract until the time when the debt would become payable, and all monies due by any bankrupt, on any bottomry or *respondentia* bond, or in any policy of insurance may be proved and allowed in case the contingency or loss should happen before the declaring of the first dividend, in like manner as if the same had happened before the date of the commission; and in case the bankrupt shall be liable for any debt in consequence of having made or indorsed any bill of exchange or promissory note before the date of the commission or in consequence of the payment by any party to any bill or note, of the whole or any part of the money secured thereby, or of the payment of any sum of money by a surety of the bankrupt, in any contract whatsoever, although such payment shall in neither case be made after the date of the commission, such debt shall be considered for all the purposes of this Act as contracted at the time when such bill or note or other contract shall have been so made or indorsed, and may be proved and allowed as if the said debt had been due and payable by the bankrupt before the date of the commission, and also any claim or demand by or in right of the wife of the bankrupt founded on her contract of marriage with the bankrupt and which is valid as against creditors according to the laws of the part of this Province where such contract was made, or for or in relation to her separate property; and all demands against the bankrupt for or on account of any goods or chattels wrongfully obtained, taken or withheld by him, may be proved and allowed to the amount of the worth of the property, and no debt other than those above mentioned, shall be proved or allowed against the estate of any bankrupt; and when it shall appear that there has been mutual credit given by the bankrupt and any other person, as mutual debts between them, the account between them shall be stated, and one debt shall be set off against the other, and the balance of such account and no more shall be allowed and paid on either side respectively, and when any creditor shall have any hypothec or mortgage, lien or security upon or of any real estate of the bankrupt, at the date of the commission or any pledge of or lien on any personal property of the bankrupt for securing the payment of any debt claimed by him, the property, real or personal, so liable or held as security, shall, if he require it, be sold and the proceeds shall be applied towards the payment of his debt, 50

Set off.

Of mortgage,
&c., pledge.

and he shall be admitted as a creditor, for the residue thereof, if any ; and such sale shall be made in such manner as the Court shall order, and the creditor and assignee respectively, shall execute all such deeds and papers as may be necessary or proper for effecting the conveyance ; and if the creditor shall not require such sale and join in effecting the conveyance, he may release and deliver up to the assignee the premises so held as security, and shall thereupon be admitted as a creditor for the whole of his said debt, and if the said property shall not be either sold or released and delivered up as aforesaid, the creditor shall not be allowed to prove any part of his debt secured thereby.

XXXII. If any bankrupt shall, before the issuing of the commission, have contracted any debt, payable upon a contingency, which shall not have happened before the issuing of such commission, the person with whom the debt has been contracted may, if he think fit, apply to the Court to order the assignee to retain the dividend upon the same in his hands until the arrival of such contingency, or until it shall be ascertained that it cannot arrive ; and such person may, after such contingency shall have happened, prove in respect to such debt and receive dividend with the other creditors, not disturbing any former dividends : Provided such person had not when such debt was contracted, notice of any act of bankruptcy by such bankrupt committed ; and if it shall be ascertained that such contingency cannot arrive, the sum shall be applied to the general benefit of the creditors, in the same manner as other assets of the bankrupt estate.

Debts depending on a contingency.

XXXIII. Any person who at the issuing of the Commission shall be surety or liable for any debt of the bankrupt, or bail for the bankrupt, either to the Sheriff or to the action, if he shall have paid the debt or any part thereof in discharge of the whole debt, (although he may have paid the same after the Commission issued,) shall, if the creditor shall prove the debt under the Commission, be entitled to stand in the place of such creditor, as to the dividend and all other rights under the said Commission, which such creditor possessed or would be entitled to in respect of such proof, and if the creditor shall not have proved under the Commission, such surety or person liable as bail shall be entitled to prove his demand in respect to such payment, as a debt under the Commission (not disturbing the former dividend) and may receive dividend with the other creditors although he may have become such surety, liable as bail as aforesaid after an act of bankruptcy committed by such bankrupt.

Persons having paid a debt of the bankrupt.

XXXIV. When any bankrupt shall have been indebted at the date of the Commission against him, to any servant or clerk of such bankrupt, in respect of his wages or salary, it shall be lawful for the Court upon proof thereof, to order so much as shall be due as aforesaid, not exceeding six months' wages or salary, to be paid in full to such servant or clerk out of the estate of such bankrupt, and such servant or clerk shall be at liberty to prove under the Commission for any sum exceeding such six months' wages or salary.

Wages due to clerks or servants.

XXXV. When any bankrupt shall have been indebted, at the date of the Commission against him, to any laborer or workman of such bankrupt in respect of his wages, it shall be lawful for the Court, upon proof thereof, to order so much as shall be due as aforesaid, not exceeding one

Wages due to workmen or laborers.

months' wages, or labor, to be paid in full to such workman or laborer out of the estate of such bankrupt, and such workman or laborer shall be at liberty to prove under the Commission for any sum exceeding such one month's wages.

Claims for rent.

XXXVI. Upon due proof of any claim for rent due by the bankrupt, or to become due at the end of the current year, it shall be lawful for the Court to order that, out of the proceeds of the sale of the goods and effects then or lately being in or upon the premises in respect of which such rent is claimed, the landlord be paid in full the rent for one year, either in arrear or for such current year; and the landlord shall be at liberty to prove under the Commission for any sum exceeding such one year's rent. 5 10

Necessaries.

XXXVII. When any bankrupt shall have been indebted, at the date of the Commission to any baker or butcher, for bread or meat, sold and delivered to the bankrupt for the use of his family, it shall be lawful for the Court to order so much as shall be due as aforesaid, for such necessaries delivered during the three months immediately preceding the issuing of the Commission, to be paid in full out of the estate of the said bankrupt, and such baker or butcher shall be at liberty to prove under the Commission for any sum exceeding the amount due for the goods so sold and delivered during the three months aforesaid. 15 20

Creditors having suits against the bankrupt.

XXXVIII. No creditor who has brought any action or instituted any suit against any bankrupt in respect of a demand prior to the bankruptcy, or which might have been proved as a debt under the Commission against such bankrupt, shall prove a debt under such Commission, or have any claim entered upon the proceedings under such Commission, without relinquishing such action or suit; and in case such bankrupt shall be in prison or custody, at the suit of or detained by such creditor, he shall not prove or claim as aforesaid without giving a sufficient authority for the discharge of such bankrupt; and the proving or claiming a debt under a Commission by any creditor shall be deemed an election by such creditor, to take the benefit of such Commission with respect to the debt so proved or claimed; Provided that such creditor shall not be liable to the payment to such bankrupt, or the assignee of his estate, of the costs of the action or suit so relinquished by him, and that where any such creditor shall have brought any action or suit against such bankrupt, jointly with any person or persons, his relinquishing such action or suit against the bankrupt shall not affect such action or suit against such other person or persons; provided also that any creditor who shall have so elected to prove or claim as aforesaid, may, if the Commission be afterwards superseded, proceed in the action, as if he had not so elected; and in any bailable action or actions in which a writ of *capias ad respondendum* may issue in Lower Canada, such creditor shall be at liberty to arrest the defendant *de novo*, if he has not put in bail below or perfected bail above in Upper Canada, or bail to the action in Lower Canada, or, if the defendant has put in or perfected such bail, shall have recourse against such bail by requiring, in Upper Canada, the bail below, to put in and perfect bail above, within the first eight days in Term after notice in the *Canada Gazette* of the superseding of such Commission, and by suing, in either portion of the Province, the bail upon the recognizance, if the condition thereof be broken. 25 30 35 40 45 50

XXXIX. Whenever it shall appear to the assignee, or any creditor who shall have proved a debt to the amount of twenty pounds or upwards, that any debt proved under the Commission, on an authentic or notarial deed or otherwise, or for any amount, is not justly due in whole or in part, such assignee or creditor may make representation thereof to the Court, and it shall be lawful for the Court to summons before him and examine upon oath, any person who shall have so proved as aforesaid, together with the bankrupt, and any person whose evidence may appear to the Court to be material either in support of or in opposition to any such debt, any law, usage or custom to the contrary notwithstanding; and if the Court, upon the evidence given upon both sides, or (if the person who shall have so proved as aforesaid, shall not attend to be examined, having been first duly summoned, or notice having been left at his last place of abode) upon the evidence adduced by the assignee or creditors as aforesaid, shall be of opinion that such debt is not due, either wholly or in part, the Court shall be at liberty to expunge the same, either wholly or in part, from the proceedings.

Debts may be disputed.

XL. All conveyances and contracts, and other dealings and transactions by and with any bankrupt, *bona fide* made and entered into, before the date of the commission against him, and all executions against the lands and tenements, goods and chattels of such bankrupt, *bona fide* executed and levied, before the date of such commission, shall be valid notwithstanding any act of bankruptcy by him committed; Provided the person so dealing with such bankrupt, or at whose suit or on whose account such execution issued, had not at the time of such conveyance, contract, dealing or transaction, or at the time of the levying such execution, notice of any act of bankruptcy before then committed by such bankrupt.

Conveyances, &c, protected.

XLI. All payments *bona fide* made by any bankrupt, or any person on his behalf, before the date of the commission, to a creditor of such bankrupt, such payment not being a fraudulent preference of the creditor, shall be deemed valid, notwithstanding any prior act of bankruptcy by such bankrupt committed; and all payments *bona fide* made to any bankrupt, before the date of the commission, shall be deemed valid, notwithstanding any prior act of bankruptcy by such bankrupt committed; and the creditor shall not be liable to refund the sum to the assignee or debtor of the bankrupt to make repayment to the assignee, provided they, respectively, had not at the time of such payment, notice that such act of bankruptcy had been committed.

Payments protected.

XLII. No revendication of goods sold and delivered to the bankrupt without day or term of payment, shall be allowed to the vendor thereof, by reason of the non-payment of the price of the same; nor shall the vendor of any goods be entitled to claim a preference on the proceeds of such goods for the price thereof, by reason of their being in the possession of the bankrupt at the time of the bankruptcy, in the same state and condition as when sold to him; but the vendor may, in case of the failure of the purchaser, stop *in transitu* or reclaim the goods sold by him, and the price of which has not been paid to him, as may, under similar circumstances, be done according to the law of England, and not otherwise.

Goods sold without terms of payment.

Fraudulent
conveyances,
&c., void.

XLIII. All payments, securities, conveyances or transfers of property, or agreements made or given by any trader in contemplation of bankruptcy, and for the purpose of giving any credit, indorser, surety or other person any preference or priority over the general creditors of such bankrupt, and all other payments, securities, conveyances or transfers of property, or agreements, made or given by such trader in contemplation of bankruptcy to any person or persons whatever, not being a *bond fide* creditor or purchaser for a valuable consideration, without notice, shall be deemed utterly void and a fraud under this Act; and the assignee shall be entitled to claim, sue for, recover, and receive the same as part of the assets of the bankrupt, and the person making such unlawful preference or payment shall receive no discharge under the provisions of this Act; and all voluntary payments, securities, conveyances or transfers of property, or of the credits of such bankrupt, or agreements made or given by him without consideration, or in consideration of a pre-existing debt, within the sixty days preceding the issuing of a commission against him, shall be null and void, and a fraud under this Act.

XLIV. If any bankrupt, being at the time insolvent, shall (except for an adequate consideration) have conveyed, assigned or transferred to any of his children, or to any other person any of his property, real or personal, goods or chattels, or have delivered or made over to any such person any bills, bonds, notes or other securities, or have transferred his debts, to any other person, or unto any other person's name, the Court shall have power to order the same to be sold and disposed of for the benefit of the creditors under the bankruptcy, and every such sale shall be valid against the bankrupt, and such children and persons, and against all persons claiming under him.

Confession of
judgment
void.

XLV. In Upper-Canada, if at any time within one month after any trader shall have given a confession of judgment, or a warrant of attorney to confess judgment, or a *cognovit actionem*, a commission of bankruptcy shall issue against such trader, then such confession, warrant of attorney, or *cognovit actionem* shall be deemed to have been obtained by fraud, and shall be void as against the assignee under such commission.

Of the certificate.

XLVI. It shall be lawful for the Court to appoint a public sitting for the allowance of a certificate to the bankrupt, (whereof, and of the purpose whereby twenty-one days' notice shall be given, in manner to be directed by the Court, and a copy of such notice shall be served on the assignees or on their solicitor) and at such sitting any of the creditors of such bankrupt who shall have given to such bankrupt three clear days' notice, in writing, of his opposition and the reasons thereof, may be heard against the allowance of the certificate, and the Court shall consider any objection against allowing such certificate, and either find the bankrupt entitled thereto and allow the same, or refuse or not find the allowance thereof, or annex such conditions thereto as the justice of the case may require; Provided always, that no certificate shall be a discharge under this Act unless the Court shall certify to the Court of Review that such bankrupt has made a full discovery of his estate and effects, and in all things conformed himself to the law relating to bankrupts, and that there does not appear any reason to doubt the truth or fulness of such discovery, nor unless the bankrupt make oath, in writing, that such certificate was obtained fairly and without fraud, nor unless the allowance of such certificate shall, after such oath, be confirmed by the

Court of review, against which confirmation any of the creditors of the bankrupt who shall have given him notice in writing as aforesaid, may be heard before such Court.

XLVII. Every bankrupt who shall have duly appeared and made a full disclosure and delivery of all his estate and effects, and in all things conformed himself to the provisions of this Act, shall be discharged from all debts due by him at the date of the commission, and from all claims and demands made proveable under the commission, in case he shall obtain a certificate from the Court in the form of Schedule (C) to this Act annexed, subject to such provisions as are hereinafter mentioned; and no such certificate shall release or discharge such bankrupt from such debts, claims or demands, unless the same shall be obtained, allowed and confirmed according to such provisions; Provided always, that no such certificate shall release or discharge any person who was partner with such bankrupt at the time of his bankruptcy, or was then jointly bound, or had made any contract jointly with such bankrupt, if such partner of, or person so jointly bound or liable with such bankrupt, has not been included in such commission of bankruptcy; and provided always, that such Court may in its discretion grant such certificate to any one or more partners or persons so jointly bound or liable, and refuse to suspend the same as herein mentioned, as to any other partner or person so jointly bound or liable.

Effect of certificate.

XLVIII. No bankrupt shall be entitled to his certificate, and any such certificate if obtained, shall be void, if such bankrupt shall have lost, by any sort of gaming or wagering, in one day, twenty pounds within one year next preceding the date of the commission against him, or one hundred pounds within that year; or if such bankrupt shall, after an act of bankruptcy, or in contemplation of bankruptcy, or with intent to defeat the object of this Act, have concealed, destroyed, altered, mutilated or falsified, or caused to be concealed, destroyed, altered, mutilated, or falsified any of his books, papers, writings or securities, or made or been privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors, or shall have concealed any part of his property, or if any person having proved a false debt, under the commission, such bankrupt being privy thereto, or afterward knowing the same, shall not have disclosed the same to the assignee within one month after his knowledge.

Cases in which certificate shall be required or be void if granted.

XLIX. No bankrupt shall be entitled to a certificate who shall not have kept books of account, shewing to the satisfaction of the Commissioners the nature of his business and transactions, losses and profits, and of his stock and capital, from a period of at least one year previous to his insolvency, commencing at such period as he the said bankrupt was fully solvent.

Bankrupt not entitled to certificate unless he has kept correct books.

L. Any bankrupt who shall, after his certificate shall have been confirmed, be arrested or have any action brought against him for any debt, claim or demand, proveable under the commission against such bankrupt, shall be discharged on entering common bail, or common appearance, and may plead in general that the cause of action occurred before he became bankrupt, and may give this Act and the special matter in evidence; and such bankrupt's certificate and the confirmation thereof, shall be sufficient evidence of the trading, bankruptcy,

Discharge of any bankrupt who shall be sued for any debt contracted before the commission.

commission, and other proceedings precedent to the obtaining such certificate and confirmation; and if any such bankrupt shall be taken in execution, or be detained in prison for any such debt, claim, or defraud, when judgment has been obtained before the confirmation of his certificate, or if such bankrupt be detained in mesne process, it shall be lawful for any Judge of the Court, by the process of which such bankrupt is detained, on such bankrupt's producing his certificate, to order any officer who shall have such bankrupt in custody by virtue of such process, to discharge such bankrupt, without exacting any fee, and such officer shall be hereby indemnified for so doing.

Verbal promise to pay debt discharged, void.

LI. No bankrupt, after his certificate shall have been confirmed under any commission of bankruptcy, shall be liable to pay or satisfy any debt, claim, or demand, from which he shall have been discharged by virtue of his certificate, or any part of such debt, claim or demand, upon any contract, promise or agreement, made or to be made after the date of the commission, unless such promise, contract or agreement be made in writing signed by the bankrupt, or by some person thereto lawfully authorised in writing by such bankrupt.

Contracts not to oppose certificate, void.

LII. Any contract or security made or given by any bankrupt, or other person, unto or in trust for, any creditor, or for the securing the payment of any money due by such bankrupt at his bankruptcy, as a consideration or with intent to persuade such creditor to forbear appearing, or to consent to the allowance or confirmation of such certificate, shall be void, and the money thereby secured, or agreed to be paid, shall not be recoverable.

Penalty on creditor obtaining money to connive at allowance of certificate.

LIII. If any creditor shall obtain any sum of money, or any goods, chattels, or security for money, from any person as an inducement for forbearing to oppose, or for consenting to the allowance or confirmation of the certificate of such bankrupt, every creditor so offending shall forfeit and lose for every such offence the treble value or amount of such money, goods, chattels or security so obtained, as the case may be.

Provisions in cases of partnership.

LIV. When two or more persons who are partners in trade become bankrupt, a commission may be issued in the manner provided in this Act, upon which all the joint stock or property of the firm, and also all the separate estate of each of the partners shall be taken, excepting such part thereof as may be by law exempted from attachment, and all the creditors of the firm, and the separate creditors of each partner, shall be allowed to prove their respective debts, and the creditors' assignees in such case shall be chosen by the creditors of the firm, and distinct accounts shall be kept of the property of the firm and of the separate estates of each partner thereof, and after deducting out of the whole of the expenses and disbursements paid by the assignee, the net proceeds of the partnership estate shall be appropriated to pay the creditors of the firm, and the net proceeds of the separate estates of each partner shall be appropriated to pay the separate creditors, and if there shall be any balance of the separate estate of any partner, after payment of his debts, such balance shall be added to the proceeds of the partnership estate, if necessary, for the payment of the creditors of the firm, and if there shall be any balance of the partnership estate after payment of the debts of the firm, such balance shall be appropriated among the separate estates of the respective partners, according

to their rights and interests therein, and as it would have been if the partnership had been dissolved without any bankruptcy; and the sum so appropriated to the separate estate of any partner shall be applied to the payment of his separate debt: And it shall be lawful for the Court to consolidate two or more commissions, where justice may so require, or the administration of the estates under such commissions be thereby facilitated.

Consolidating commissions.

LV. Nothing in this Act contained shall prevent the Court, when two or more persons who are partners in trade as a firm reside in different Districts in this Province, to that in which any commission of bankruptcy shall be prosecuted against such firm, from having any jurisdiction over the said partner resident beyond the District, or over any partner of such firm resident without this Province, in case any of the partners in any firm so reside, as far as it relates to the interest or share of such partner of such firm, if such partner be included in such commission: And it shall and may be lawful for the Court to take and receive any examination or delaration, by means of a commission for that purpose, or otherwise take such proceedings in respect to such partner, as may be necessary for the conformity of such partner to this Act.

Partners residing in different districts.

LVI. If any bankrupt, after the commencement of this Act, shall at the time of his bankruptcy be a member of a firm, it shall be lawful for the Court to authorise the assignee to commence or prosecute any action at law, or suit in equity, in the name of such assignee, and of the remaining partner, against any debtor of the partnership, and to obtain such judgment or decree, or order therein, as if such action or suit had been instituted with the consent of such partner, and if such partner shall execute any release of the debt or demand, such release shall be void: Provided that every such partner, if no benefit is claimed by him in virtue of the said proceedings, shall be indemnified against the payment of any costs in respect of such action or suit; and it shall be lawful for the Court, on the application of such partner, to direct that he may receive so much of the proceeds of such action or suit, as such Court shall direct.

Court may authorise proceedings at law in the name of a firm.

LVII. The assignee shall at such time as shall be appointed by the Court, within six months from the issuing of the commission, call a meeting of the creditors of the bankrupt, by notice to be published in such manner as the Court shall direct, at which meeting the creditors who have not before proved their debts, shall be allowed to prove the same; and the assignee shall produce to the Court, and to the creditors then present, fair and just accounts of all their receipts and payments touching the estate of the bankrupt, and shall, if required by the Court, be examined on oath as to the truth of such accounts, and the Court shall thereupon make an order in writing for the dividend of the said estate, or such part thereof as the Court shall think fit, among the creditors of the said bankrupt, who shall have proved their respective debts: Provided always, that all debts due by the bankrupt to Her Majesty, or to any person who, by the laws of any part of this Province, are or may be entitled to a priority or preference with respect to such debts out of the estate of the bankrupt, shall have the benefit of such priority or preference in like manner as if this Act had not been passed, excepting always such preferences as are provided for in this Act; and if at the

First dividend.

time of ordering such dividend, it shall appear to the Court probable that there are just claims against the estate, which, by reason of the distant residence of the creditors, or for other sufficient reasons, have not been proved, but nevertheless may be, the Court shall, in ordering such dividend, leave a sum sufficient to pay to every such creditor a proportion equal to what shall be then paid to other creditors, which sum shall remain unappropriated until the final dividend shall be declared, or until the Court shall order its distribution. 5

Second dividend.

LVIII. The assignee shall, at such time as shall be appointed by the Court, within eighteen months after the date of the commission, make a second dividend of the said estate, in case the same was not wholly distributed upon the first dividend, and shall give notice of a meeting for that purpose of all the creditors of the bankrupt, in such manner as the Court shall direct; at which meeting the creditors who have not before proved their debts shall be allowed to prove the same, and the accounts of the assignees shall be then produced and examined, as provided in the preceding section, and shall be settled by the Court, and the balance shall, by a like order of the Court, be divided among all the creditors of the bankrupt, who shall then have proved their debts in proportion to their respective dates, subject to the provision hereinafter contained respecting any allowance to bankrupts: Provided that no creditor whose debt shall be proved at the second or any after dividend, shall be allowed to disturb any prior dividend, but he shall be paid so far only as the funds remaining unappropriated shall be sufficient therefor: and if at the time of appointing the meeting for the said second dividend, there shall remain any outstanding debts or other property due or belonging to the estate, which cannot, in the opinion of the Court, be collected or received without unreasonable or inconvenient delay, the assignees may, under the direction of the Court sell and assign such debts or other property in such manner as the Court shall direct, and a sale and assignment of such debts or other property may be made at any time, if under the special circumstances it shall appear to the Court that justice or necessity so require; and such second dividend shall be final, unless any suit relating to the estate be then depending, or any part of the estate be outstanding, or unless some other estate or effects of the said bankrupt shall afterwards come to the hands of the assignee, in which cases another dividend shall be made by order of the Court in manner hereinbefore provided, and further dividends shall be made in like manner as often as occasion shall require; and at every regular meeting of the creditors, those who have not before proved their debts shall be allowed to prove the same, and if after payment of all debts proved as aforesaid, any surplus shall remain in the hands of the assignees, the same shall be paid or reconveyed to, or revert in the bankrupt or his legal representatives. 10 15 20 25 30 35 40

Penalty for non-payment of dividends.

LIX. No action for any dividend shall be brought against any assignee, by any creditor who shall have proved under the bankruptcy, but if the assignee shall refuse to pay any such dividend, the Court may order payment thereof, with interest for the time that it shall have been withheld, and may also order the costs of the application. 45

Bankrupt may compound with his creditors.

LX. At the second general meeting of the creditors, or at any meeting specially called for that purpose, after the bankrupt shall have passed his final examination, such bankrupt, or his friends, (and in case of a 50

Company, one or more of the partners thereof,) may offer a composition to the creditors on the whole debts, including those not proved, with security for the payment of the same; and if the majority of the creditors in number and value, present at such meeting, shall resolve that the offer and security be entertained for consideration, the Court shall order a meeting to be held, not sooner than *twenty days*, and not later than *sixty days* from the time of the making of such offer of composition, for the purpose of deciding on such offer; and the Court shall thereupon order that the assignee do suspend, for the time, the sale or realization of the bankrupt's estate, and limit his administration thereof to acts purely consersative; and the assignee shall forthwith advertise in the Canada Gazette, that an offer of compensation has been made and entertained, and it will be decided upon at the meeting ordered to be held for that purpose, and shall specify the hour, day and place, and give such other notice as the Court shall direct.

LXI. If at the meeting ordered to be held for the purpose of deciding upon the offer of composition, at least two-thirds in number, and at least four-fifths in value, of the creditors, having each proved debts in not less than *twenty pounds*, shall accept the said offer and security, a bond for the payment of the compositions, executed by the bankrupt or his friends and the proposed surety, shall be fyled of record in the Court, after having been previously acknowledged before the Court by the bankrupt and his surety, and the bankrupt shall make and subscribe a declaration, or, if required by any creditor, an oath, that he has made a full and fair surrender of his estate, and has not granted or promised any preference or security, or made or promised any payment, or entered into any secret or collusive agreement or transaction to obtain the concurrence of any creditor to the said offer and security; and if the Court, after hearing any objection that may be made by any of the creditors, shall find that the offer, with the security, has been duly made, and is reasonable, and has been assented to by at least two-thirds in number, and at least four-fifths in value, of all the creditors who have proved as aforesaid, and if the Court shall be satisfied with the said oath or declaration, it shall approve of the proposed composition, and shall pronounce a deliverance, discharging the bankrupt from all debts due by him at the date of the commission, and from all claims and demands proveable under the commission, and shall declare the commission of bankruptcy at an end, and the bankrupt invested in his estate, reserving always the claims of the creditors for the said composition against the bankrupt and his surety; and the deliverance so pronounced shall operate as a complete discharge and acquittance to the bankrupt in the terms thereof, but shall not release or discharge any person who was partner with the bankrupt at the time of his bankruptcy, or who was bound, either as a debtor or surety, or otherwise, for any of the debts included in the said composition, unless such person be expressly mentioned in the said offer of composition, in order to be discharged thereby; and the said bond, so executed and fyled as aforesaid, shall be available to all the creditors mentioned in the Schedule of the bankrupt's creditors: Provided always, that no composition and allowance as aforesaid shall operate as a discharge, or in any way defeat or affect any debt due by the bankrupt, not included by him in the Schedule of debts due by him; and provided also, that the Court pronouncing any such deliverance shall determine the amount of compensation to be paid to the assignee for his services, and the bankrupt and his surety shall be jointly and severally liable in

Proceedings at meeting to decide upon such composition.

the payment of all the costs of the proceedings in the Court, and also for the due payment of the assignee's compensation and disbursements; and the Court shall attach such conditions to the delivery of the estate to the bankrupt, as may appear to him to be necessary to secure the punctual payment of the said costs and compensation; and provided also, that if the Court refuse to sustain the offer of composition, the grounds of such refusal shall be specified in the judgment rendered in such behalf. 5

Official assignee to be appointed.

LXII. It shall be lawful for the Governor of this Province, by Letters Patent, under the Great Seal thereof, to appoint from time to time a fit and proper person, in each of the Districts of this Province in which a Section of the Court of Bankruptcy shall sit and be established, to be official assignee for the Districts over which such Section shall have jurisdiction, which said assignee shall possess and receive alone all the estate of the bankrupt, real and personal, the rents, issues, and profits thereof, and the proceeds of the sale thereof; and it shall be the duty of such assignee, forthwith after the first meeting of the creditors, to demand and receive from the Sheriff, and from all other persons, all the estate and property, of whatever description, in his or their possession respectively, which shall have been vested, or have been intended to be vested, in such assignee, according to this Act; and he shall collect all the debts and effects of the bankrupt, and for that purpose bring all necessary actions in his own name as such assignee; and all Courts of Justice in this Province shall judicially notice the office of such assignee, and no proof shall be necessary of his quality, or of any fact necessary to the vesting of the estate of the bankrupt in him, or of the bankruptcy of the party in whose right he sues, unless such fact be specially put in issue; and he shall sell and dispose of all the estate and property of the said bankrupt, which shall come to his hands, or over which he shall procure and obtain a power of disposition, on such terms as he shall think best for the interest of the creditors; and he shall be allowed his necessary disbursements, under the supervision of the Court; and in case of the death or removal of such assignee, all suits and actions, acts, doings and proceedings, shall be continued and perfected by his successor, without abatement or discontinuance, by the substitution of the name of the new assignee in the place of the former. 10 15 20 25 30 35

Sale of real estate.

LXIII. Whenever the assignee shall deem it advantageous and for the interest of the creditors to sell any real estate belonging to the bankrupt, it shall be the duty of the Court, on the application of the assignee to that effect, to appoint a place and a day, upon or after which such sale may take place, and the said assignee shall cause an advertisement of the day so appointed to be inserted in the Canada Gazette, and also in such other newspaper or newspapers, and by such other public notification as the Court shall direct, which advertisement shall call upon all persons having or pretending to have any claim to, upon, or respecting such real estate, to make known to the Court the nature and extent thereof in writing, at least fifteen days before the day so appointed, in order that such claims may be heard and determined upon: Provided, that no sale shall be appointed to take place at a day earlier than the expiration of four calendar months from the first publication of the advertisement thereof in the Canada Gazette; and such sale shall be had, save where it is otherwise ordered under special circumstances, at the place where the sittings of the Court are usually held. 40 45 50

LXIV. If any claim to, upon, or respecting such real estate, shall be made within the period aforesaid, the Court shall proceed after necessary proof and hearing of the parties, to adjudge and determine the same; and if the claim shall be admitted in whole or in part, the real estate shall be subject to such claim in whole or in part, as shall have been adjudged and determined, and shall be sold accordingly; and if no such claim shall be made as aforesaid, or having been made shall be wholly rejected or disallowed, the sale may take place as appointed in manner aforesaid, and the assignee shall have power in his discretion, at any time on or after the day appointed and notified, to make such sale, either by public auction or private bargain, and upon such terms and conditions as to him may seem most advantageous and for the interest of the bankrupt and his creditors; and every deed or conveyance, executed by the assignee, according to the usual form of law, in furtherance and execution of a sale made as aforesaid, shall have the like force and effect in avoiding claims or incumbrances on the real estate so conveyed, as if the sale and deed of conveyance had been made by a Sheriff under the authority of a writ of execution against lands and tenements issuing out of any Court in this Province; Provided always, that an appeal shall lie against any adjudication of the Court of Bankruptcy, by the assignees, as the party setting up such claim to, upon, or respecting such estate as aforesaid.

Proceedings on claims to real estate.

LXV. It shall be lawful for the Court, on failure by any bidder or purchaser to fulfil the conditions of the purchase and sale of any such real estate, or any part thereof, to order the re-sale of such real estate, and the first sale and adjudication thereof, shall, in such case, be null and void, and the said real estate may be sold again at the risk and charges of the purchaser or bidder so failing to fulfil the conditions of his bid or purchase, in like manner as real estate may be sold at the *folle enchère*, of an *adjudicataire* by the laws of Lower Canada, and the said bidder or first purchaser shall be liable to be attached by his body, until he shall have paid the loss, costs and charges on the second sale.

Real estate may be re-sold at the risk and charges of the purchaser.

LXVI. The official assignee, with the concurrence of the creditors' assignee, and with the leave of the Court, may take such reasonable part of any debts due to the bankrupt's estate, in full discharge, as may by composition be gotten, or may give time to take security for the payment of such debts; and may submit to arbitration any difference or dispute between the assignees and any other person for or on account or by reason of anything relating to the estate and effects of the bankrupt; and such submission to arbitration may be made a rule of the Court, and upon homologation of the award, the same may be executed, in like manner, both as to principal, interest and costs, as any judgment of any of the Courts of law, in like case, in this Province; and the said assignees may, with the approbation of the Court, appoint the bankrupt himself to superintend the management of the estate, or to carry on the trade for behoof of the creditors, and in all or any other respects they may think fit, to aid them in administering the bankrupt's estate and effects, and in such manner and on such terms as they may think best for the benefit of all interested; and they may continue in their employment one or more of the clerks of the bankrupt, from the issuing of the commission to the end of the current yearly term, for the purpose of assisting in administering the estate.

Assignees may compound debts;

May refer to arbitration;

Rule of Court;

Appoint the bankrupt to manage estate.

Monthly or other Report or Statement.

Assignees to be subject to the orders of the Court.

LXVII. All the assignees shall be subject to the order of the Court in their conduct as assignees; and it shall be lawful for the Court at all times to summon the assignees, and require them to produce all books, papers, deeds, writings and other documents relating to the bankruptcy in their possession, and to direct them to pay and deliver over, all moneys, books, papers, deeds, writings and other documents which may have come to their possession or custody as such assignees. 5

Creditor's assignees, rights and duties.

LXIII. It shall be the duty of the creditors' assignee to assist the official assignee in the management of the estate of the bankrupt, and to advise and counsel the official assignee where need may be; and in the event of any vacancy in the office of official assignee, to assume the place of the official assignee, which he is empowered to do, and do all acts and things necessary for the protection of the estate, until the appointment of a new official assignee; and the creditors' assignee shall name an attorney or solicitor for the affairs of the estate, where need may be, and procure the advice of counsel learned in the law, and retain such counsel when necessary, at the expense of the estate, and the official assignee shall not interfere directly or indirectly, in the appointment or removal of such attorney, solicitor or counsel. 10 15

Official assignee not personally responsible.

LXIX. No official assignee shall be personally liable or responsible for any acts done by him or by his order or authority, in the execution of his duty as such official assignee, by reason of the petitioning creditor's debt, trading or act of bankruptcy, upon which any adjudication of bankruptcy shall have been grounded, or of any or either of such matters being insufficient to support such adjudication, or otherwise for any other act or thing by him *bona fide* done in the execution of his duty. 20 25

Titles to property.

LXX. No title to any real or personal property sold or to be sold under any commission, or under any order of the Court, shall be impeached by the bankrupt or any person claiming under him, in respect of any defect in the suing out of the commission, or in any of the proceedings under the same, unless the bankrupt, or persons claiming under him as aforesaid, shall have commenced proceedings to supersede the said commission, and duly prosecuted the same, within twelve calendar months from the issuing of the same. 30

Persons delivering up property indemnified.

LXXI. All persons from whom the assignee shall have received any real or personal estate, either by judgment or decree, are hereby discharged, in case the commission be afterwards superseded, from all demands which may thereafter be made in respect of the same by the person or persons against whom such commission issued and all persons claiming under him or them; and all persons who shall, without action or suit *bona fide* deliver up possession of any real or personal estate to the assignee, or pay any debt claimed by him, are hereby discharged from all claims, of any such person as aforesaid, in respect of the same or any persons claiming under him; unless proceedings to supersede the commission have been commenced and proceeded in before such payment or settlement of account. 35 40 45

Commission may be proceeded with in

LXXII. If after adjudication of bankruptcy, the debt of the petitioning creditor be found by the Court to be insufficient to support such adjudication, the Court may, at any time, order the assignee to pay the debt of the petitioning creditor, or to do such other things as may be necessary to satisfy the same. 50

cation, it shall be lawful for the Court, if any other creditor shall have proved a debt sufficient to support an adjudication, to order the commission to be proceeded with, and the adjudication originally made shall, by reason of such order, be deemed valid; and it shall be lawful for the Court, for sufficient reason, at any time to annul an adjudication, and supersede all proceedings had thereon, and to make such order in relation thereto, as to law and justice may appertain.

case petitioning creditor's debt be found insufficient.

LXXIII. Any trader liable to become bankrupt, may petition for adjudication of bankruptcy against himself, and such proceedings shall be had thereon as if a creditor had duly petitioned against such trader, under the provisions of this Act.

Trader may petition against himself.

LXXIV. If any creditor or the creditor's assignee shall be desirous to shew that the administration of the estate of the bankrupt has not been duly conducted, it shall be lawful for him to apply to the Court by petition, supported by affidavit, stating any facts or circumstances to shew that such administration has not been duly conducted, and thereupon the Court shall have full power to consider the subject matter of such application, and if it shall think fit, may direct an inquiry, and in such manner as it shall think proper in the subject of such application, and generally may make such order and exercise such jurisdiction in or over the subject matter of such application, and the costs thereof, as to the said Court shall appear just.

Court may direct an inquiry into the administration of the estate.

LXXV. The Court on being satisfied that the official assignee has fully performed his trust, shall give to him a certificate thereof, in duplicate, in the form contained in the Schedule (I.) to this Act annexed, one of which shall be delivered to the assignee and the other be fyled of record, and such certificate shall be a full release and acquittance to such official assignee, both in law and equity, for all matters done by him as such official assignee in each case in bankruptcy, respectively.

Certificate to official assignee.

LXXVI. If the assignee commence any action or suit for any money due to the bankrupt's estate before the time allowed by this Act for the bankrupt to dispute the commission shall have elapsed, the defendant in any such suit shall be entitled, after notice given to the assignee, to pay the same or any part thereof into the Court in which such action or suit is brought, and with the costs of suit up to that time, and all proceedings with respect to the money so brought into Court shall thereupon be staid, and after the time aforesaid shall have elapsed, the assignees shall have the same paid to them out of the Court.

Provision in cases of suit before the bankrupt has disputed the commission.

LXXVII. If the bankrupt shall be in prison, either on mesne process or in execution in any suit or proceeding, for or on account of any debt or demand whatever, proveable against his estate at any time when his attendance may be required, before the Court or by the assignees, or at any meeting of his creditors as provided in this Act, the Court may in its discretion, by warrant under the seal of the Court, require the Sheriff or Gaoler, in whose custody the said bankrupt may be, to produce such bankrupt, for the purposes aforesaid, at such time and place as may be specified in the warrant; and in case the bankrupt shall by reason of imprisonment or sickness, or any other cause which shall be deemed sufficient by the Court, be unable to attend before the Court, or before the assignee, or at any meeting of his creditors, as provided in this Act,

Bankrupt in prison or absent from the Province.

then such Court or some person deputed by it, shall attend, to take the examination of the bankrupt, and the examination thus taken shall be of the same force and effect, as if the bankrupt had attended in person before the Court or the assignees, or at the meeting aforesaid, and had undergone the same examination ; and if the bankrupt shall be without this Province, and shall be unable to return and give his personal attendance at the time, and for the purposes in this Act set forth ; and if it shall appear that such absence was not occasioned by any wilful default of the bankrupt, and he shall as soon as may be after the removal of the impediment, attend on some day subsequent to the one which shall have been appointed by the Court, and submit to the examination, and do and perform all other things by this Act required, then such bankrupt shall not incur the penalty and punishment in such behalf provided, and shall be entitled to a certificate in like manner, as if he had appeared and conformed, at the time first appointed.

Creditor's assignee may be removed.

LXXVIII. The creditor's assignee may, at any meeting called for that purpose, on the petition of the greater part in value of the creditors who have proved oath under the Commission be removed, and upon such removal, or upon his death or resignation, a new assignee may be chosen or appointed by the Court, in default of a choice being made in like manner as provided for the choice of a creditor's assignee at the first meeting.

Contracts of marriage to be registered.

LXXIX. Every trader shall, within thirty days after the execution of a contract of marriage, and every person who being already married shall become a trader, shall within thirty days after he shall have commenced trading, cause his contract of marriage to be enregistered in the office of the Register of the county or district, as the case may be, in which the lands mentioned in or charged by such contract lie, or if no lands be mentioned in or charged by such contract, then in the office of the Register of the county or district, as the case may be, in which such trader shall reside at the time of the execution of such contract ; in default whereof the same shall be null and void, as against the creditors of such trader becoming a bankrupt, and free access shall be allowed to all persons to inspect and make extracts from the Register, upon payment of the sum of two shillings and sixpence for each inspection of the Register of such contract of marriage, and no more ; and no trader or other person aforesaid, who having made such contract of marriage and shall afterwards have become bankrupt, shall be entitled to a certificate of discharge under this Act, unless he show by his books of account regularly kept, or by written proof or otherwise to the satisfaction of the Court, that when he executed the said contract of marriage, his estate, real and personal, was equal in value after the payment of all his just debts, to the sum or sums of money, land or other things thereby given or secured to or for the use of his wife or future family, out of the property of him the said trader : Provided that nothing herein contained shall make it necessary again to register any contract of marriage, which has already been registered under the provisions of the Ordinance of Lower Canada in such behalf, but such registry shall be effectual to all intents and purposes under this Act.

Allowance to bankrupt.

LXXX. Every bankrupt who shall have obtained his certificate and a confirmation thereof, if the net produce of his estate in hand (with or without prior dividend), pay the creditors who before or at the time of making such order have proved debts under the Commission, ten shil-

Paying 10s. in the pound.

- lings in the pound, shall be allowed and paid five *per centum* out of the produce, provided that such allowance shall not exceed two hundred and fifty pounds; and every such bankrupt, if such produce shall (with or without prior dividend), pay such creditors twelve shillings and six-
 5 pence in the pound, shall be allowed and paid seven pounds and ten shillings *per centum*, provided such allowance shall not exceed the sum of three hundred and twenty-five pounds; and any such bankrupt, if such produce shall (with or without prior dividend) pay such creditors fifteen shillings in the pound as aforesaid, shall be allowed and paid as
 10 aforesaid ten *per centum*, provided such allowance shall not exceed four hundred pounds; provided that no such allowance be made without an application to the Court, and notice given to the assignee, and that such Court after hearing both parties may make such order, exceeding the foregoing provision, as he shall see fit: And provided always, that such
 15 allowance shall not be payable to any bankrupt until after the expiration of twelve months from the date of the commission, and such allowance shall then be payable only in the event of the dividend paid to the creditors, who, at any time before the expiration of such twelve months, shall have proved debts under the commission, being of the requisite
 20 amount in that behalf aforesaid; and if at the expiration of such term the dividend paid as aforesaid shall not amount to ten shillings in the pound, it shall be lawful for the Court to allow the bankrupt so much as the Court shall see fit, not exceeding three *per centum*, or one hundred and fifty pounds.
- 25 LXXXI. In all commissions against the joint and separate estates of partners, any partner who shall obtain his certificate shall, if a sufficient dividend shall have been paid upon the separate estate of such partner, be entitled to his allowance, although his other partner may not be entitled to any allowance. Allowance to partners.
- 30 LXXXII. Every bankrupt duly appearing, attending and conforming according to the provisions of this Act, shall receive from the assignees *ten shillings* per day, for each day's attendance on the Court or assignees when required, and shall also be allowed for the necessary support of himself and his family, a sum not exceeding twenty shillings per week
 35 for each member of his family, for such time not exceeding two months, as the Court shall order. Allowance to bankrupt for his support.
- LXXXIII. No trader shall be liable to be made bankrupt, in respect of any act of bankruptcy, committed more than twelve months before
 40 fying a petition against him. Limitations of petition for adjudication.
- 40 LXXXIV. The lessor of any lands or real property, under a lease originally made for more than one year to a trader, subsequently made a bankrupt, shall be paid his rent in full to the end of the then current yearly term, provided the commission issued three months before the
 45 expiration of the said yearly term, from and out of the net proceeds of the personal effects of the bankrupt, in and upon the said lands and real estate at the date of the said commission, after payment of the expenses incident thereto, if the other estate of the bankrupt be insufficient for the payment of the said expenses or part thereof; and at the expiration of the said yearly term the lease shall be cancelled by the bankruptcy,
 50 unless the assignee shall declare his option to continue the lease according to its tenor for the benefit of the creditors, in which case the

lessor shall receive the present value of his rent to the end of the term, which said present value shall be calculated on the rent stipulated to be paid by the lease, and the unexpired term of the lease may be sold or otherwise dealt with by the assignee as the other property of the bankrupt.

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Assignee
must elect.

LXXXV. Any bankrupt entitled to any lease or agreement for a lease, shall not, if the assignee accepts the same, be liable to pay any rent accruing after the date of the Commission, or to be sued in respect to any subsequent non-observance or non-performance of the conditions, covenants or agreements therein contained; and if the assignee de- 10
clare the same shall not be liable as aforesaid, in case he delivers up such lease or agreement to the lessor or person agreeing to grant the lease, within fourteen days after he shall have had notice that the assignee shall not have declared as aforesaid, and if the assignee shall not, upon being required, elect whether he will accept or decline such lease 15
or agreement for a lease, the lessor or person so agreeing as aforesaid, or any person entitled under such lessor or person so agreeing, shall be entitled to apply by petition to the Court, who may order him to elect and deliver up such lease or agreement, in case he shall decline the same, and the possession of the premises, or may make such other order therein 20
as it shall think fit.

Bankrupt
having agreed
to purchase
land.

LXXXVI. If any bankrupt shall have entered into any agreement for the purchase of any estate or interest in land, the vendor thereof, or any person claiming under him, if the assignee of such bankrupt shall not, upon being thereto required, elect whether he will abide by and 25
execute such agreement or abandon the same, shall be entitled to apply by petition to the Court, who may thereupon order him to deliver up the said agreement, and the possession of the premises, to the vendor or person claiming under him, or make such other order therein as it shall
think fit. 30

Court of
bankruptcy
constituted.

LXXXVII. There shall be a Court of Bankruptcy for the Province of Canada, to be called the Court of Bankruptcy; and such Court is hereby erected and constituted, and the said Court shall be a Court of Law and Equity, for the purposes of this Act, and shall be a Court of Record, and shall have superintendence and control in all matters of bankruptcy, and 35
shall hear, determine and make order in any matter of bankruptcy whatever, relating to the disposition of the estate and effects of the bankrupt or of any estate or effects taken under the bankruptcy and claimed by the assignees for the benefit of the creditors, or relating to any acts done or sought to be done by the assignees in their character of assignees, by 40
virtue or under colour of the bankruptcy, and also in any matter of bankruptcy whatever, as between the assignees and any creditor or other person appearing and submitting to the jurisdiction of the Court; and also in any application for a certificate, and in any other matter, whether in bankruptcy or not, where the Court by virtue of this Act, has jurisdic- 45
tion over the subject of the petition or application, and generally to do and perform all necessary acts and things which the enforcement of the provisions of this Act may require; and the said Court shall sit daily, Sundays and Holidays excepted; and the said Court shall have power and authority to award costs, for or against any party upon any petition 50
or application, and in all matters before the Court; and the Court shall have full power to enforce all its lawful orders by imprisonment, or by

attachment and commitment of the party offending to the common Gaol of the District or other usual and lawful place of detention, until, upon obedience, the Court shall, in its discretion otherwise order, and this, either as respects the subject of any such order or the costs alone upon the dismissal of any application or petition or otherwise; and the Court shall have power to punish for wilful contempt or interruption of its proceedings or obstruction of its process by a fine not exceeding ten pounds, by commitment as aforesaid, until the same be paid.

LXXXVIII. The said Court may make such rules and orders for regulating its proceedings as may be deemed expedient, and also a tariff of fees for the different officers of the said Court. and such rules and orders and tariff of fees, in whole or in part, from time to time may revoke, and replace by new or by amended rules, orders and tariff of fees; provided always, that a copy of all such rules, orders and tariff of fees, when amended and established, shall be fyled in the Court of Review, hereinafter constituted; and may be disallowed by such Court of Review, but shall be in force until such disallowance.

Court may make rules, &c.

LXXXIX. The Court may at all times examine the bankrupt, or any of his relatives or connections, his wife excepted, and any person whatever, touching any matter in bankruptcy, or relating to any proceedings under this Act, and no witness or person to be examined, shall be deemed incompetent by reason of relationship or connection, or by reasons of interest; and the bankrupt and such witness or person, if present in Court, shall be liable to be examined upon simple commandment, and may also be summoned and their attendance enforced by attachment as provided for disobedience to the orders of the Court, and shall be liable to like attachment for refusing to be sworn, or to answer, or to sign or subscribe their declaration or examination; and the court shall have power to sue commissions *rogatoires*, and commissions in the nature of commissions *rogatoires*, for the examination of the bankrupt, and such other person, in case of necessity.

Court may examine bankrupt.

XC. It shall be lawful for the Court to summon before it such persons as shall appear to be indebted to the estate of the bankrupt: on the return of which summons, the bankrupt and the assignee shall, if possible, attend with all vouchers and books of accounts relating to the subject of such summons, and if the debtor so summoned shall appear, the Court may confer with him in relation to the account appearing against him, and if such debtor shall admit the said debt or any part thereof, such admission shall, if the Court so order, be written at the foot of the summons and recorded, and be subscribed by such debtor, and the Court may thereupon order the payment of the same with interest, at six per centum, at such time and in such manner by instalments or otherwise, as to the Court may seem reasonable and just, without costs; and such order shall have the effect of a judgment between the parties, and may be executed by *fiery facias* out of the Court, against the goods and chattels, lands and tenements of the debtor, in like manner as any judgment, of like amount, of any other Court within the District, may be executed and not otherwise; and if the debtor so summoned shall not appear, or appearing shall not admit the debt, the Court shall direct the recovery of the debt, by ordinary proceeding at law, at the suit of the assignee; if it be deemed advisable; Provided always, that the Court may enlarge the time for such debtor to answer such summons, and shall also in all doubt-

Debts due to the estate of the bankrupt.

ful cases allow the debtor to take advice of counsel before making admission as aforesaid, and shall so order his proceedings that the debtor shall not unwarily make any admission to his prejudice; and provided also that the Court may allow any set-off, and strike a fair and equitable balance between the debtor and the estate of the bankrupt; and provided also, that the Court may in its discretion, where part only of a debt is admitted, either act upon such admission, by making an order for payment as aforesaid, or refuse to give effect to such admission, by such order for payment as to the Court may appear advisable. 5

Court may sit any where in the district for the purpose of summoning debtors.

XCI. For the purposes in the *ninetieth* section of this Act provided for, the Court or any Judge thereof acting under commission from the Court, may hold a sitting at any place within the District where such Court exercises jurisdiction, and may appoint a Clerk *ad hoc*, and proceed against the debtors to any bankrupt estate, under the provisions of the said section; and the clerk so appointed shall certify and return to the original Court all the papers and proceedings so had, signed by the Judge, and such further proceedings shall thereupon be had, as if such debtors had been summoned before the original Court. 15

Sections to have all powers.

XCII. Each section of the Court of Bankruptcy shall exercise, use and enjoy all the powers and authority by this Act conferred upon the said Court of Bankruptcy, in like manner and to the like extent as if each such section were an independent Court; and such Courts shall be auxiliary to each other, and all orders, process, and commissions for the examination of witnesses, issuing out of one section, shall, upon being backed with a *fiat* in any other section of the Court of Bankruptcy, be executed with the like effect, as if the same had issued out of the section in which the same is to be executed. 25

Documents &c. authentic.

XCIII. All papers and documents, and all proceedings of record in the Court of Bankruptcy, and all copies of such papers, documents, and proceedings testified under the seal of the Court, shall be deemed authentic, and be received and admitted as evidence, *prima facie*, of the facts therein stated and contained, in all Courts in this Province. 30

Recital.

XCIV. And whereas great injustice frequently happens to travellers, emigrants and other transient persons, by reason of the want of a summary jurisdiction to determine matters in controversy in which they are interested; Be it therefore enacted that it shall and may be lawful, when any one or all the parties to any such controversy is a traveller, emigrant, raftsman or person immediately about to leave the locality where such controversy may then be pending, to sue out from any such commissioner a writ of summons returnable within any time whatever, as may seem reasonable to them under the circumstances, to cause the defendant or defendants to appear before such commissioner, and such commissioner shall proceed, upon the appearance of such defendant, or on his default, to hear, try, and determine such controversy, provided the same relate to the recovery of some sum of money not exceeding fifty pounds, due or claimed to be due by such defendant, by reason of any debt, promise or undertaking, express or implied, or by reason of damages to property or the non-fulfilment of an agreement, and such commissioner shall exercise such jurisdiction which by law govern the summary jurisdiction of Justices of the Peace, and may award execution or distress, as the case may require, for such sum as he shall determine to be due from 45 50

Summary mode in cases where one of the parties is a traveller, &c., and the sum in dispute does not exceed £50.

such defendant, with the interest thereon, and costs of suits, and may issue execution or distress against plaintiff for costs; And such commissioner shall have power to issue an attachment against the body of the defendant as well as against his estate, debts and effects before judgment, upon the same conditions and in like manner as such attachment can now by law be issued, save and except that the return day of such process shall be determined by the provisions of this Act; Provided that no costs shall be taxed exceeding those mentioned in the Schedule to this Act subjoined; And such commissioner shall have power to issue all necessary process for the summoning and examination of witnesses, and may examine the parties and enforce all his lawful orders and judgments in like manner as any Court of Record in this Province may do.

Special powers of the Commissioner.

Proviso as to costs.

XCV. A section of the said Court shall sit at each of the following places, as the Court of Bankruptcy having exclusively original jurisdiction, for all the purposes of this Act, within the districts of Lower Canada, hereinafter designated, namely: at the city of Quebec, for the Districts of Quebec, Kamouraska and Chicoutimi; at the City of Montreal for the Districts of Montreal and Ottawa; at the Town of Three Rivers for the District of Three Rivers; at the Town of Sherbrooke for the District of St. Francis; and at Percé for the District of Gaspé; and at each of the following places as the Court of Bankruptcy having jurisdiction as aforesaid within the Districts of that part of the Province of Canada, heretofore constituting the Province of Upper Canada, hereinafter designated, namely at (*to be filled up as may be convenient for Upper Canada.*)

Places at and for which the Court of Bankruptcy shall sit.

XCVI. It shall and may be lawful for the Governor of this Province, by Letters Patent under the Great Seal thereof, to appoint fit and proper persons being Barristers, of not less than ten years' standing, to be Commissioners of the Court of Bankruptcy, one of whom shall be appointed for and sit, in each of the sections of the said Court sitting at the Cities of Quebec, Montreal, Kingston and Toronto

Who shall be Judges of the Court of Bankruptcy.

and that the several Justices of the Superior Courts, for the Districts of Three Rivers, St. Francis, and Gaspé, respectively and

respectively, shall be *ex-officio* Commissioners as aforesaid, for the said respective sections, and the said Commissioners, within the limits of their respective Districts, shall use and exercise all the powers by this Act conferred or intended to be conferred upon the said Court, as the Judges thereof: Provided always, that where there is more than one Judge in any District, the senior shall discharge the duties of the Court, and the junior shall perform such duties in the absence of the senior judge, or upon being especially commissioned as hereinbefore provided.

Clerk of the Court.

XCVII. It shall be lawful for the Governor of this Province, from time to time, to appoint a person in each of the sections of the said Court, to be Clerk of the Court of Bankruptcy, and the same to remove from time to time and appoint another in his place, and it shall be the duty of such Clerk to read the proceedings of the Court, preserve all the records, papers and documents duly fyled in the course of the proceedings, and to perform all such other duties appertaining to his office, as shall be prescribed by the Court. 5

Sheriffs to be officers of the Court.

XCVIII. The Sheriffs in the respective Districts of this Province, shall be officers of the Court of Bankruptcy, and shall execute and obey all lawful orders and process of the Court of Bankruptcy directed to them. 10

Service of summons when parties cannot be personally served.

XCIX. If it shall be shewn to the Court by affidavit, that any party to whom any summons is directed, or on whom any notice is appointed to be served in pursuance of any provision of this Act, is keeping out of the way and cannot be personally served with such summons or notice, it shall be lawful for the Court to order, by endorsement on such summons or notice, that the delivery of a copy thereof to the wife or servant, or some adult inmate of the family of such party at his usual place of abode, and explaining the purport thereof to such wife, servant or inmate, shall be equivalent to personal service, and in every such case the service of such summons, or notice, in pursuance of such order shall be deemed and taken to be of the same force and effect to all intents and purposes, as if a copy of such summons or notice had been delivered to the party in person. 15 20 25

Assignee to keep an account with the bank.

C. It shall be the duty of the official assignee, to keep an account with some one or more of the duly chartered Banks in the District in which he shall exercise the duties of assignee, to be called the "General Bankruptcy Account," to the credit of which account the assignee shall make special deposit at interest, on such terms as may be agreed upon by such Bank, of all moneys which shall be received by such assignee, produced by the estates in bankruptcy vested in him, from which account no moneys shall be received or drawn except upon a warrant or cheque signed by the assignee and countersigned by the Judge of the Court; provided that the assignee shall not deposit to the credit of the said account at any one time, a less sum than fifty pounds, nor any other fractional part of one hundred than fifty pounds when the amount of cash proceeds of the said estate, in the hands of the assignee shall respectively exceed fifty or one hundred pounds; and provided also, that the said account shall be balanced and a rest made every three months. 30 35 40

Bankruptcy expense account.

CI. The assignee shall keep a second account with one or more of the duly chartered Banks in the District, to be called the "Bankruptcy Expense Account," to the credit of which account shall be placed the sum of five pounds per centum of the gross proceeds of the several estates vested in the assignee, and such further sums as the Court shall from time to time order to be transferred from the "General Bankruptcy Account" to the said Expense Account, for the payment of dividends or other purposes; and moneys from the said Expense Account may be drawn upon the cheque of the assignee, 45 50

and the said sum of five per cent. shall be so transferred at the time of making the respective dividends of the estates respectively.

CII. It shall be the duty of the official assignee to keep an account of each separate estate, and of his doings in relation thereto, to which account creditors shall at all reasonable times have access, and the assignee shall be subject, in relation to the keeping supervision, and auditing of all his accounts, to the order and direction of the Court.

Account of each estate to be kept by assignee.

CIII. At the expiration of a year from the declaration of a final dividend of every estate, the assignee shall report to the Court the amount of unclaimed dividends and surplus of such estate, and the amount thereof shall be thereupon paid over to the credit of the "General Bankruptcy Account," though a less fractional part of one hundred pounds than fifty pounds; and such dividends, if afterwards claimed, shall be paid only after special application to the Court.

Assignee to report amount of unclaimed dividends.

CIV. The official assignee shall be permitted, under the order of the Court, to have and receive out of the "Bankruptcy Expense Account," for his remuneration, the sum of money produced by the deposit of the sum of five per cent. hereinabove mentioned; Provided always, that such sum shall not in the case of the respective official assignees of the District of Quebec, the District of Montreal,

Remuneration to official assignee.

exceed the sum of *five hundred pounds*, and in case of the respective official assignees of the District of Three Rivers, the District of St. Francis, the District of Gaspé,

the sum of *three hundred pounds* in each year respectively.

CV. There shall be allowed and paid to the Clerk of the Court of Bankruptcy, the sum of *fifteen shillings* for every day's attendance with or upon the Commissioner or the Court on any business in bankruptcy, in each of the several causes, if there be more than one, in which he shall act on the same day, and such further compensation for keeping a record of the proceedings, and for any other services performed by him, as the Court shall allow.

Compensation to clerk.

CVI. There shall be paid out of the consolidated revenue of this Province, to each of the Commissioners of the said Court appointed for the sections thereof sitting at the Cities of Quebec, Montreal,

Commissioners may be appointed.

the yearly salary of *five hundred pounds*, payable as provided for in respect of other officers of Her Majesty in this Province.

CVII. In order to form a fund to meet the expense incurred by the salaries payable to the said Commissioners, the official assignee shall pay over to the Bankruptcy Expense Account, out of the assets of the respective bankruptcy estates, for every Commissioner of Bankruptcy *fifty shillings*; for every day's sitting in Bankruptcy, in each place in which proceedings shall be had, *ten shillings*; for every affidavit on oath administered, *one shilling*; in each of the said sections sitting at Quebec, Montreal,

Compensation to commissioners.

and shall duly account, on the thirty-first day of December in each

year, for the said fees, and pay the same over to the Receiver General of this Province.

Before whom affidavits may be made.

CVIII. All affidavits to be made or used in matters of bankruptcy, or under this Act, shall and may be sworn before any Judge of a Court of Record in this Province, or any Clerk or officer of such Court otherwise authorized to administer oaths, or before any Commissioner appointed for taking affidavits in any of such Courts, or before any Master or Masters Extraordinary in Chancery, or before any Commissioner of Bankrupts, if such affidavits be sworn by a creditor or other person within this Province, or if elsewhere, then before any Judge of a Superior Court of Record or Notary, and attested by the Mayor or other Chief Magistrate of any City, Town, or Place, or a British Minister, Consul or Vice-Consul. 5 10

Evidence *vivâ voce*.

CIX. The Court of Bankruptcy, in all matters within its jurisdiction, shall have power to take the whole or any part of the evidence in any matter of bankruptcy before them, either *vivâ voce* on oath, or upon affidavits or depositions to be sworn as aforesaid. 15

False swearing or affirmation to be deemed perjury.

CX. In all cases in which any person shall be prevented by religious scruples from taking an oath, he shall be admitted as witness or otherwise upon his solemn affirmation; and every person who in any examination before the Court, or in any affidavit or deposition authorised or directed by this Act, shall wilfully and corruptly swear or affirm falsely, shall, on conviction thereof, suffer the pains and penalties in force in this Province against wilful and corrupt perjury. 20

Penalty on creditor obtaining money &c., to consent to allowance of certificate.

CXI. If any creditor of a bankrupt shall obtain any sum of money, or any goods, chattels or security for money, from any person as an inducement for forbearing to oppose, or for consenting to the allowance or confirmation of the certificate of the bankrupt, every creditor so offending shall forfeit and lose for every such offence the treble value or amount of such money, goods, chattels, or security so obtained, as the case may be. 25 30

Penalty on petitioning creditor compounding.

CXII. If any petitioning creditor shall after the bankruptcy receive any money, satisfaction or security for his debt or any part thereof whereby such petitioning creditor may receive more in the pound in respect of his debt than the other creditors; such petitioning creditor shall forfeit his whole debt, and shall also repay and deliver up such money, satisfaction or security, or the full value thereof, to the assignee, for the benefit of the creditors of the bankrupt. 35

Concealing bankrupt's effects.

CXIII. Any person who shall wilfully conceal any real or personal estate of the bankrupt, and who shall not within *forty days* after the issuing of the commission, discover such estate to the Court or to the assignee, shall forfeit the sum of *one hundred pounds* and double the value of the estate so concealed; and any person who shall, after such time voluntarily discover to the Court or to the assignees, any part of such bankrupt's estate not before come to the knowledge of the assignee, shall be allowed *five* per centum thereupon, and such further reward as the assignees, with the consent of the Court shall think fit, to be paid out of the estate recovered on such discovery. 40 45

CXIV. If any bankrupt (being within this Province at the date of the Commission) shall not, before three o'clock of the afternoon of the day appointed for the first meeting of his creditors, after notice thereof, in writing, to be left at the usual place of abode of such bankrupt, or 5 personal notice, in case of such bankrupt being then in prison, and notice given in the Canada Gazette of the Commission, appear in Court, and submit to be examined before the Court, from time to time, upon oath, or if any such bankrupt, upon such examination, shall not discover all his real or personal estate, and how and to whom, upon what 10 consideration, and when he disposed of, assigned or transferred any of such estate, and all books, deeds, papers and writings, relative thereto (except such part as shall have been really and *bona fide* before sold or disposed of in the way of his trade, or laid out in ordinary expenses of his family); or if any such bankrupt shall not, upon such examina- 15 tion, deliver up to the Court all such part of his estate, and all books, deeds, papers and writings relating thereunto, as shall still remain in his possession, custody or power, (except the necessary wearing apparel of himself, his wife and children); or if any bankrupt shall remove, conceal or embezzle any part of such estate of the value of ten pounds or 20 upwards, or any books of account, deeds, papers, or other writings relating thereto, with intent to defraud his creditors, every such bankrupt shall be deemed guilty of felony, and being convicted thereof, shall be liable to be imprisoned, with or without hard labor, in any common gaol, for a term not to exceed *one year*, or in the Provincial Penitentiary, 25 for any term not less than *three* nor more than *five years*.

Punishment of bankrupts neglecting to appear or concealing property, &c.

CXV. If any bankrupt shall, after any act of bankruptcy committed, or in contemplation of bankruptcy, or with intent to defeat the object of this Act, have destroyed, altered, mutilated or falsified any of his books, papers, writings or securities, or made or been privy to the 30 making of any false or fraudulent entries in any book of account or other document, with intent to defraud his creditors; every such bankrupt shall be deemed to be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned, with or without hard labor, in any common gaol, for a term not to exceed one year, or in the Provin- 35 cial Penitentiary for any term not less than three nor more than five years.

Bankrupt altering his books.

CXVI. If any bankrupt shall, within three months next preceding the date of the Commission against him, under the false color or pretence of carrying on business, or dealing in the ordinary course of trade, have 40 obtained, on credit, from any other person, any goods or chattels, with intent to defraud the owner thereof, or if any such bankrupt shall, within the time aforesaid, with such intent, have removed, concealed or disposed of any goods or chattels so obtained, knowing them to have been so obtained, every such person so offending shall be deemed guilty 45 of a misdemeanor, and, being convicted thereof, shall be liable to imprisonment in any common gaol in this Province, for any term not exceeding one year, as the Court before whom he shall be tried shall think fit.

Bankrupt fraudulently obtaining credit.

CXVII. In all cases where it shall be made to appear to the satisfaction 50 of the Court, that there is reason to suspect and believe that property of any bankrupt is concealed in any house, premises, or other place not belonging to such bankrupt, such Court is hereby directed and authorised

Power to search for concealed property.

to grant a search warrant to the Sheriff of the District; and it shall be lawful for such Sheriff, or his deputy, or other officer, to execute such warrant, according to the tenure thereof; and the Sheriff, or other officer employed by him to execute such warrant, shall be entitled to the same protection as is allowed by law, in execution of a search warrant for property reputed to be stolen or concealed. 5

A court of review constituted.

CXVIII. The Court of Chancery in and for Upper Canada, and the Superior Court in and for Lower Canada, in term or in vacation, in the respective districts in which sections of the said Court are held, shall be, each within their respective jurisdictions, Courts of Review and Appeal 10 in cases or matters of bankruptcy, and shall have full power and authority to entertain, hear and determine and make all necessary orders in all appeals from the several sections of the Court of Bankruptcy, in matters of bankruptcy, in cases arising, pending, or determined within the respective jurisdictions of the said Court of Chancery and the said 15 Superior Court, and to allow such costs of appeal as to them shall seem fit; and appeals shall respectively lie from the said Court of Bankruptcy at the instance of any creditor, or of the assignees of any bankrupt, and the decision of such Court of Review shall be final.

In what cases and on what conditions appeals shall lie.

CXIX. An appeal as aforesaid, shall lie from all judgments, adjudications and orders of the Court of Bankruptcy, by which any claim to, upon or respecting any real estate of the bankrupt, or claimed as belonging to the bankrupt, or any debt, claim or demand upon his estate, shall be determined, and from all judgments, adjudications and orders hereinbefore mentioned, as subject to the revision of the said Court of Review; 25 Provided always, that an exception to the judgment, adjudication or order so appealed from, shall be lodged by the appellant in the Court of Bankruptcy within three days after the rendering or making of the same; and effective proceedings on such appeal shall be commenced within fifteen days after rendering such judgment or adjudication, or making 30 such order, otherwise the right to such appeal shall be considered lapsed; and provided that if no determination on such appeal be had within three calendar months, to be computed from the rendering of the judgment or making of the order appealed from, it shall be lawful for the Court of Bankruptcy to declare such appeal lapsed, if due diligence in 35 prosecuting the same be not proved.

Certain acts repealed.

7 V. c. 10.

9 V. c. 30.

CXX. The statute of this Province, passed in the seventh year of Her Majesty's Reign, intituled, "*An Act to repeal an ordinance of Lower Canada, intituled, 'An Ordinance concerning Bankrupts and the administration and distribution of their estates and effects,' and to make 40 provision for the same object throughout the Province of Canada,*" and a certain other statute of this Province, passed in the ninth year of Her Majesty's Reign, intituled, "*An Act to continue and amend the Bankrupt laws now in force in this Province,*" shall be and the same are hereby repealed; Provided, that no statute or ordinance repealed 45 by the said statutes shall revive by reason of the repeal thereof: and provided also, that nothing herein contained shall render invalid any proceedings which may have been had, under any commission or warrant in bankruptcy now subsisting, or which shall have been issued before this Act shall have come into operation, or affect or lessen any right, 50 claim, demand, or remedy which any person now has thereunder, or upon or against any bankrupt, against whom such commission or warrant

has or shall have issued as aforesaid, or invalidate any certificate obtained under, or affected by the provisions of the said Act hereby repealed, but all proceedings pending under such commissions and warrants in bankruptcy shall be completed as if this Act had not been passed, except that all new proceedings under such commissions and warrants shall be commenced and conducted as far as may be in conformity with the provisions of this Act.

CXXI. All estates which now are vested in assignees under the provisions of the statute above mentioned, shall, after the time when this Act shall come into force and effect, vest in such assignees and in the official assignee jointly, in each District of this Province respectively, and the said assignees shall be officers of the said Court in their said capacity, and be subject to the direction and order of the Court: Provided that no suit or proceeding shall abate or be affected by the joinder of such official assignee with the existing assignees, but such suit or proceeding shall be conducted to completion, as if this provision had not been made; and provided that the official assignee shall not be entitled to claim, on behalf of the Bankruptcy Expense Account, any per centage on the moneys had and received by the existing assignees, but only an equitable share of the per centage on the moneys which shall be hereafter received by them.

Estates vested
in assignee
and official
assignee
jointly.

CXXII. All sums of money forfeited under this Act, or by virtue of any conviction for perjury committed in any oath hereby directed or authorised, may be sued for by the assignee of the estate and effects of any bankrupt, in any of Her Majesty's Superior Courts of Record in this Province, and the money so recovered (the charges of suit being deducted) shall be divided among the creditors.

Penalties how
recovered.

CXXIII. The words and expressions hereinafter mentioned, which in their ordinary signification may have a more confined or different meaning, shall, in this Act, except when the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows, that is to say, the word "Governor" shall mean also and include the Lieutenant Governor, or person administering the Government of the Province; the word "month" shall mean a calendar month; the word "oath" shall include affirmation when by law such affirmation is required or allowed to be taken in place of an oath; and every word importing the singular number shall extend and be applied to several persons and things, as well as one person or thing, and bodies corporate as well as individuals; and every word importing the plural number shall extend and be applied to one person or thing, as well as several persons or things; and every word importing the masculine gender only, shall extend and be applied to a female as well as a male; and that this Act shall extend to aliens, denizens, and females, both to make them subject thereto, and to entitle them to all the benefits given thereby; and the word "assignee" shall be construed to mean the official assignee; and the word "Court" shall be construed to mean the Court of Bankruptcy or a section thereof, except where the nature of the provision or the context shall give to the said words a different significancy; and this Act shall be construed in the most beneficial manner for promoting the ends thereby intended, and may be shortly cited in all proceedings, suits and documents as "The Bankruptcy Act of 1858."

Interpretation
clause.

Schedules referred to by this Act.

SCHEDULE A.

Declaration of Insolvency by Trader.

I, the undersigned, E, F, of _____ do hereby declare, that I am
 unable to meet my engagements.
 Dated this _____ day of _____ in the year of our
 Lord _____

(Signed), E. F.

Witnesses, G. H., Attorney at Law, (or Notary,) &c. (as in Sched-
 ule D.)

SCHEDULE B.—No. 1.

Affidavit for Summoning a Trader Debtor.

A. B., of _____ and C. D., of _____ severally make oath
 and say, and first this deponent A. B., for himself saith, that E. F., of
 _____ is justly and truly indebted to this deponent in the sum of
 £ _____ for (*stating the nature of the debt with certainty and precision*;) and
 this deponent further saith that the said E. F., as this deponent verily
 believes, is a trader within the meaning of the Bankruptcy Act, and re-
 sides (*or has his usual place of business*) at _____ and that an account
 in writing of the particulars of the demand of the said A. B., amounting
 to the sum of £ _____ with a notice thereunder written, in the form pre-
 scribed by the said Act, purporting to require immediately payment of
 the said debt, is hereunto annexed: And this deponent, C. D., for himself,
 saith, that he did on the _____ day of _____ personally serve the
 said E. F., with a true copy of the said account and notice.

No. 2.

Particulars of Demand and Notice Requiring Payment.

To E. F. of _____

The following are the particulars of the demand of the undersigned A.
 B., of _____ against you, the said E. F., amounting to the sum of
 £ _____ (*here copy the account of demand.*)

Take notice that I, the said A. B., hereby require immediate payment
 of the said sum of £ _____

Dated this _____ day of _____ in the year of our Lord,

No. 3.

Summons of Trader.

To E. F., of _____

These are to will and require you, to whom this summons is directed,
 to be and appear in the Court of Bankruptcy, at _____ in the County
 of _____ in the District of _____ on _____ the _____ day
 of _____ at _____ o'clock in the _____ noon, and you are hereby notified
 that the purpose for which you are thus summoned, is to ascertain, in
 manner and form prescribed by the Statute in that case made and pro-

vided, whether or not you admit the demand of A. B., of
 (who claims of you the sum of £ for a debt, as stated in the partic-
 particulars of his demand fyled in the said Court on) or any
 and what part thereof; or whether you verily believe that you have a
 good defence, on the merits of the said demand, or to any and what part
 thereof; and hereof you are not to fail at your peril.

Given under the Seal of the said Court, on the day of
 in the year of our Lord,

(Signed,) J. K.
 Clerk of the said Court.

SCHEDULE C.—No. 1.

Admission of Debt by Trader Debtor.

In the Court of Bankruptcy, at in the District of
 the day of

Whereas I, the undersigned E. F., am summoned to appear in this
 Court, for the purpose of stating, in manner prescribed by the Statute in
 that case made and provided, whether or not I admit the demand of A.
 B., of who claims of me the sum of £ for a debt,
 or any or what part thereof, or whether I verily believe that I have a
 good defence on the merits to the said demand, or to any and what part
 thereof: Be it known that I, the said E. F. hereby confess that I am in-
 debted to the said A. B., in the said sum of £ (or in part of the
 said sum of £) that is to say in the sum of £

*Deposition by Trader Debtor of belief of good answer to Creditor's
 demand, or some part thereof.*

In the Court of Bankruptcy, at E. F. of
 being sworn this day of at the place above
 mentioned, upon his oath saith that he verily believes he has a good
 defence, upon the merits, to the demand (or to £ part of the
 demand) hereinafter mentioned, of A. B., who claims of the said E. F. the
 sum of £ for a debt alleged to be due and owing from the said E.
 F. to the said A. B., as stated in the affidavit of the said A. B., made
 and fyled in this Court, on the day of

SCHEDULE D.—No. 1.

Admission of debt signed by Trader Debtor signed out of Court.

I, the undersigned E. F, of do hereby confess that I am in-
 debted unto A. B. of in the sum of £

(Signed,) E. F.

Witness, G. H., Attorney (or Notary), attending on behalf of the said
 E. F. and subscribing witness to the execution thereof as such Attorney
 (or Notary.)

SCHEDULE E.

Notice of Bankruptcy to be inserted in the Gazette.

E. F. of Commission
issued in the district of dated the day of
185

Meeting of creditors on at

(Signed,)

W. S. S., Sheriff.

SCHEDULE F.

Oath of Bankrupt.

I, E. F., of do swear that the account of my creditors contained in the Schedule made and signed by me, and now in the hands of the assignee, is in all respects just and true, according to the best of my knowledge and belief; and I do further swear that I have delivered to Sheriff of the District of all my estate, except such parts as are by law exempted from attachment, and such as have been necessarily expended for the support of myself and my family, and all my books of account, deeds and papers, relating to the said estate, that were in my possession or power when the same were demanded of me by the said Sheriff; and that I have delivered to the said assignee all such of my said estate, books, deeds and papers as have since come to my possession; and that if any other estate, effects, or other things which ought to be assigned and delivered to the said assignee shall hereafter come to my knowledge or possession, I will forthwith disclose or deliver the same to the said assignee; and I do further swear that there is not any part of my estate or effects concealed, made over, or disposed of in any manner, for the future benefit of myself or my family, or in order to defraud my creditors.

Sworn, &c.

(Signed,)

E. F.

SCHEDULE G.

Certificate for the Discharge of Bankrupt.

In the Court of Bankruptcy at in the
District of

To all to whom these presents shall come, I, J. K., Judge of the said Court, send greeting:

Whereas it hath been made to appear to me that E. F., of against whom a commission of bankruptcy bearing date the day of of , duly issued out of this Court, and whose estate hath

been assigned for the benefit of his creditors, according to the provisions of the Bankruptcy Act, has made a full disclosure and delivery of all his estate, as in the said Act is required, and has in all other respects submitted and conformed himself to the provisions of the said Act.

Now, therefore I, the said J. K., do hereby certify that the said E. F. is absolutely and freely discharged from all debts, claims and demands of what kind soever, which have been proved or shall be proved against his estate assigned as aforesaid, and which are proveable or by the said Act are declared proveable against such his estate, and which were due by him at the date of the commission issued against him, and from all claims and demands made proveable under the said commission, whether on account of any goods or chattels wrongfully obtained, taken or withheld, by him or otherwise, according to the forms of the said Act. And I do further certify that the said E. F. is by force of the Act aforesaid forever discharged and exempted from arrest and imprisonment on any suit or upon any proceeding for or on account of any debt, claim or demand whatever, which might have been proved against his estate assigned as aforesaid.

Given under my hand and the seal of the said Court, at
aforesaid, this day of in the year of our
Lord

[L. S.] (Signed,) J. K.

SCHEDULE H.

Warrant of Commitment.

Whereas, by a rule (or an order) of this Court, bearing date the
day of it was ordered that, (*&c.*, *&c.*, *as in the rule or*
order).

And whereas the said, (although duly notified,)
hath refused (or neglected) to obey the same, and hath not yet obeyed
the said rule (or order).

These are therefore to will, require and authorise you, immediately
upon receipt hereof to take into your custody, the body of the said
and him safely to convey to Her Majesty's gaol of and him there to
deliver to the keeper of the said gaol, together with this precept; and the
keeper of the said prison is hereby required and authorised to receive
the said into his custody, and him safely to keep and de-
tain without bail or mainprize until this Court shall make order to the
contrary; and for so doing, this shall be your sufficient warrant.

Given under my hand and the seal of the said Court, as aforesaid
this day of in the year of our Lord,

[L.S.] J. K.
Judge C. B.

To the Sheriff of the District of and to the Keeper of Her
Majesty's Gaol for the District of

SCHEDULE I.

Certificate to Official Assignee.

Province of Canada, }
 District of } In the Court of Bankruptcy.

In the matter of A. B., Bankrupt.

I do hereby certify that E. F., official assignee of the District of _____, hath faithfully administered and fully accounted for the estate of the said A. B., and he is hereby discharged from all further responsibility in such behalf, as provided in such case by the Bankruptcy Act.

Witness my hand and the seal of the said Court, this, &c.

L. S.

SCHEDULE OF FEES UNDER CLAUSE.

I. Class—Exceeding \$100.

	Com.	Clerk.
All Writs	\$ 0.10	\$ 0.50
Entry	2.00	2.00
Subpœnas	0.10	0.10
Copy of every Writ.....	...	0.10
<hr/>		
To the Attorney,		
Case settled before entry	\$ 6.00	...
Case settled after entry	10.00	...
Case settled after Judgment	20.00	...
Case settled on Execution	2.00	...

II. Class—Exceeding \$40.

All Writs	\$ 0.30	0.30
Entry	1.50	1.50
Subpœnas	0.10	0.10
Copy of every Writ.....	...	0.10
<hr/>		
To the Attorney,		
Case settled before entry	\$ 4.00	...
Case settled after entry	6.00	...
Case settled after Judgment	15.00	...
Case settled on Execution	1.00	...

III. Class—\$40 and under.

All Writs	\$ 0.20	0.20
Entry	1.00	1.00
Subpœnas	0.10	0.10
Copy of every Writ.....	...	0.10
<hr/>		
To the Attorney,		
Case settled before entry	\$ 2.00	..
Case settled after entry	3.00	...

Case settled after Judgment	5.00	...
Case settled on Execution	0.50	...

Bailiffs

Every Service.....	\$ 0.40	...
Arrest or Seizure of Goods before or after Judgment..	1.00	...
Records	0.50	...
Sale	1.00	...
Records	0.50	...

The fees payable to the Commissioner, payable to the Clerk, and by him to be paid over to the Receiver General.