

Bankruptcy Act, 1914.

[4 & 5 GEO. 5. CH. 59.]

ARRANGEMENT OF SECTIONS.

A.D. 1914.

PART I.

PROCEEDINGS FROM ACT OF BANKRUPTCY TO DISCHARGE.

Acts of Bankruptcy.

Section.

1. Acts of bankruptcy.
2. Bankruptcy notices.

Receiving Order.

3. Jurisdiction to make receiving order.
4. Conditions on which creditor may petition.
5. Proceedings and order on creditor's petition.
6. Debtor's petition and order thereon.
7. Effect of receiving order.
8. Power to appoint interim receiver.
9. Power to stay pending proceedings.
10. Power to appoint special manager.
11. Advertisement of receiving order.
12. Power to rescind receiving order in certain cases.

Proceedings consequent on Order.

13. First and other meetings of creditors.
14. Debtor's statement of affairs.

Public Examination of Debtor.

15. Public examination of debtor.

Composition or Scheme of Arrangement.

16. Compositions and schemes of arrangement.
17. Effect of composition or scheme.

A.D. 1914.

Adjudication of Bankruptcy.

Section.

18. Adjudication of bankruptcy where composition not accepted or approved.
19. Appointment of trustee.
20. Committee of inspection.
21. Power to accept composition or scheme after bankruptcy adjudication.

Control over Person and Property of Debtor.

22. Duties of debtor as to discovery and realisation of property.
23. Arrest of debtor under certain circumstances.
24. Re-direction of debtor's letters.
25. Enquiry as to debtor's conduct, dealings, and property.
26. Discharge of bankrupt.
27. Fraudulent settlements.
28. Effect of order of discharge.
29. Power for court to annul adjudication in certain cases.

PART II.

ADMINISTRATION OF PROPERTY.

Proof of Debts.

30. Description of debts provable in bankruptcy.
31. Mutual credit and set-off.
32. Rules as to proof of debts.
33. Priority of debts.
34. Preferential claim in case of apprenticeship.
35. Landlord's power of distress in case of bankruptcy.
36. Postponement of husband's and wife's claims

Property available for Payment of Debts.

37. Relation back of trustee's title.
38. Description of bankrupt's property divisible amongst creditors.
39. Provisions as to second bankruptcy.

Effect of Bankruptcy on antecedent and other Transactions.

40. Restriction of rights of creditor under execution or attachment.
41. Duties of sheriff as to goods taken in execution.
42. Avoidance of certain settlements.
43. Avoidance of general assignments of book debts unless registered.
44. Avoidance of preference in certain cases.
45. Protection of bonâ fide transactions without notice.
46. Validity of certain payments to bankrupt and assignee.
47. Dealings with undischarged bankrupt.

Realisation of Property.

A.D. 1914.

Section.

48. Possession of property by trustee.
49. Seizure of property of bankrupt.
50. Sequestration of ecclesiastical benefice.
51. Appropriation of portion of pay or salary to creditors.
52. Appropriation of income of property restrained from anticipation.
53. Vesting and transfer of property.
54. Disclaimer of onerous property.
55. Powers of trustee to deal with property.
56. Powers exercisable by trustee with permission of committee of inspection.
57. Power to allow bankrupt to manage property.
58. Allowance to bankrupt for maintenance or service.
59. Right of trustee to inspect goods pawned, &c.
60. Limitation of trustee's powers in relation to copyright.
61. Protection of official receivers and trustees from personal liability in certain cases.

Distribution of Property.

62. Declaration and distribution of dividends.
63. Joint and separate dividends.
64. Provision for creditors residing at a distance, &c.
65. Right of creditor who has not proved debt before declaration of a dividend.
66. Interest on debts.
67. Final dividend.
68. No action for dividend.
69. Right of bankrupt to surplus.

PART III.

OFFICIAL RECEIVERS AND STAFF OF BOARD OF TRADE.

70. Official receivers of debtors' estates.
71. Deputy for official receiver.
72. Status of official receiver.
73. Duties of official receiver as regards the debtor's conduct.
74. Duties of official receiver as to debtor's estate.
75. Power for Board of Trade to appoint officers.

PART IV.

TRUSTEES IN BANKRUPTCY.

Official Name.

76. Official name of trustee.

A.D. 1914.

Appointment.

Section.

- 77. Power to appoint joint or successive trustees.
- 78. Proceedings in case of vacancy in office of trustee.

Control over Trustee.

- 79. Discretionary powers of trustee and control thereof.
- 80. Appeal to court against trustee.
- 81. Control of Board of Trade over trustees.

Remuneration and Costs.

- 82. Remuneration of trustee.
- 83. Allowance and taxation of costs.

Receipts, Payments, Accounts, Audit.

- 84. Trustee to furnish list of creditors.
- 85. Trustee to furnish statement of accounts.
- 86. Books to be kept by trustee.
- 87. Annual statement of proceedings.
- 88. Trustee not to pay into private account.
- 89. Payment of money into Bank of England.
- 90. Investment of surplus funds.
- 91. Certain receipts and fees to be applied in aid of expenditure.
- 92. Audit of trustee's accounts.

Vacation of Office by Trustee.

- 93. Release of trustee.
- 94. Office of trustee vacated by insolvency.
- 95. Removal of trustee.

PART V.

CONSTITUTION, PROCEDURE, AND POWERS OF COURT.

Jurisdiction.

- 96. Jurisdiction to be exercised by High Court and county courts.
- 97. Transaction of bankruptcy business by special judge of High Court.
- 98. Petition, where to be presented.
- 99. Definition of London bankruptcy district.
- 100. Transfer of proceedings from court to court.
- 101. Exercise in chambers of High Court jurisdiction.
- 102. Jurisdiction in bankruptcy of registrar.
- 103. Powers of county court.

Section.	A.D. 1914.
104. Board of Trade to make payments in accordance with directions of court.	—
105. General power of bankruptcy courts.	
106. Notification of bankruptcy of peers and members of Parliament.	

Judgment Debtors.

107. Judgment debtor's summons to be bankruptcy business.

Appeals.

108. Appeals in bankruptcy.

Procedure.

109. Discretionary powers of court.
110. Consolidation of petitions.
111. Power to change carriage of proceedings.
112. Continuance of proceedings on death of debtor.
113. Power to stay proceedings.
114. Power to present petition against one partner.
115. Power to dismiss petition against some respondents only.
116. Property of partners to be vested in same trustee.
117. Actions by trustee and bankrupt's partners.
118. Actions on joint contracts.
119. Proceedings in partnership name.

Officers.

120. Disabilities of officers.

Orders and Warrants of Court.

121. Enforcement of orders of courts throughout the United Kingdom.
122. Courts to be auxiliary to each other.
123. Warrants of bankruptcy courts.
124. Commitment to prison.

PART VI.

SUPPLEMENTAL PROVISIONS.

Application of Act.

125. Married women.
126. Exclusion of companies.
127. Application to limited partnerships.

- A.D. 1914. Section.
— 128. Privilege of Parliament.
 129. Application of Act in case of small estates.
 130. Administration in bankruptcy of estate of person dying insolvent.
 131. Outstanding bankruptcies under earlier enactments.

General Rules.

132. Power to make general rules.

Fees, Salaries, Expenditure, and Returns.

133. Fees and remuneration.
134. Judicial salaries, &c.
135. Annual accounts of receipts and expenditure in respect of bankruptcy proceedings.
136. Returns by bankruptcy officers.

Evidence.

137. Gazette to be evidence.
138. Evidence of proceedings at meetings of creditors.
139. Evidence of proceedings in bankruptcy.
140. Swearing of affidavits.
141. Death of debtor or witness.
142. Bankruptcy courts to have seals.
143. Certificate of appointment of trustee.
144. Proceedings of Board of Trade.

Miscellaneous.

145. Computation of time.
146. Service of notices.
147. Formal defect not to invalidate proceedings.
148. Exemption of deeds, &c. from stamp duty.
149. Acting of corporations, partners, &c.
150. Construction of Acts mentioning commission of bankruptcy, &c.
151. Certain provisions to bind Crown.
152. Saving for existing rights of audience.

Unclaimed Funds or Dividends.

153. Unclaimed and undistributed dividends or funds under this and former Acts.

PART VII.

A.D. 1914.

BANKRUPTCY OFFENCES.

Section.

- 154. Fraudulent debtors.
- 155. Undischarged bankrupt obtaining credit.
- 156. Frauds by bankrupts, &c.
- 157. Bankrupt guilty of gambling, &c.
- 158. Bankrupt failing to keep proper accounts.
- 159. Bankrupt absconding with property.
- 160. False claim, &c.
- 161. Order by court for prosecution on report of trustee.
- 162. Criminal liability after discharge or composition.
- 163. Power for court to commit for trial.
- 164. Trial and punishment of offences.
- 165. Public Prosecutor to act in certain cases.
- 166. Evidence as to frauds by agents.

PART VIII.

GENERAL.

Interpretation.

- 167. Interpretation of terms.

Repeals.

- 168. Repeal of enactments and savings.
- 169. Short title, extent, and commencement.

SCHEDULES.



CHAPTER 59.

An Act to consolidate the Law relating to Bankruptcy. A.D. 1914.
 [10th August 1914.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PART I.

PROCEEDINGS FROM ACT OF BANKRUPTCY TO DISCHARGE.

Acts of Bankruptcy.

1.—(1) A debtor commits an act of bankruptcy in each of the following cases :— Acts of bankruptcy.

- (a) If in England or elsewhere he makes a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally ;
- (b) If in England or elsewhere he makes a fraudulent conveyance, gift, delivery, or transfer of his property, or of any part thereof ;
- (c) If in England or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would under this or any other Act be void as a fraudulent preference if he were adjudged bankrupt ;
- (d) If with intent to defeat or delay his creditors he does any of the following things, namely, departs out of England, or being out of England remains out of England, or departs from his dwelling-house, or otherwise absents himself, or begins to keep house ;
- (e) If execution against him has been levied by seizure of his goods under process in an action in any court, or in any civil proceeding in the High Court, and the goods have been either sold or held by the sheriff for twenty-one days :

A.D. 1914.

Provided that, where an interpleader summons has been taken out in regard to the goods seized, the time elapsing between the date at which such summons is taken out and the date at which the proceedings on such summons are finally disposed of, settled, or abandoned, shall not be taken into account in calculating such period of twenty-one days ;

- (f) If he files in the court a declaration of his inability to pay his debts or presents a bankruptcy petition against himself :
- (g) If a creditor has obtained a final judgment or final order against him for any amount, and, execution thereon not having been stayed, has served on him in England, or, by leave of the court, elsewhere, a bankruptcy notice under this Act, and he does not, within seven days after service of the notice, in case the service is effected in England, and in case the service is effected elsewhere, then within the time limited in that behalf by the order giving leave to effect the service, either comply with the requirements of the notice or satisfy the court that he has a counter-claim set off or cross demand which equals or exceeds the amount of the judgment debt or sum ordered to be paid, and which he could not set up in the action in which the judgment was obtained, or the proceedings in which the order was obtained :

For the purposes of this paragraph and of section two of this Act, any person who is, for the time being, entitled to enforce a final judgment or final order, shall be deemed to be a creditor who has obtained a final judgment or final order.

- (h) If the debtor gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts.

(2) In this Act, the expression " a debtor," unless the context otherwise implies, includes any person, whether a British subject or not, who at the time when any act of bankruptcy was done or suffered by him—

- (a) was personally present in England ; or
- (b) ordinarily resided or had a place of residence in England ; or
- (c) was carrying on business in England, personally, or by means of an agent or manager ; or
- (d) was a member of a firm or partnership which carried on business in England.

Bankruptcy notices.

2. A bankruptcy notice under this Act shall be in the prescribed form, and shall require the debtor to pay the judgment debt or sum ordered to be paid in accordance with

the terms of the judgment or order, or to secure or compound for it to the satisfaction of the creditor or the court, and shall state the consequences of non-compliance with the notice, and shall be served in the prescribed manner: A.D. 1914.

Provided that a bankruptcy notice—

- (i) may specify an agent to act on behalf of the creditor in respect of any payment or other thing required by the notice to be made to, or done to the satisfaction of, the creditor;
- (ii) shall not be invalidated by reason only that the sum specified in the notice as the amount due exceeds the amount actually due, unless the debtor within the time allowed for payment gives notice to the creditor that he disputes the validity of the notice on the ground of such misstatement; but, if the debtor does not give such notice, he shall be deemed to have complied with the bankruptcy notice if within the time allowed he takes such steps as would have constituted a compliance with the notice had the actual amount due been correctly specified therein.

Receiving Order.

3. Subject to the conditions herein-after specified, if a debtor commits an act of bankruptcy the court may, on a bankruptcy petition being presented either by a creditor or by the debtor, make an order, in this Act called a receiving order, for the protection of the estate. Jurisdiction to make receiving order.

4.—(1) A creditor shall not be entitled to present a bankruptcy petition against a debtor unless— Conditions on which creditor may petition.

- (a) the debt owing by the debtor to the petitioning creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors, amounts to fifty pounds, and
- (b) the debt is a liquidated sum, payable either immediately or at some certain future time, and
- (c) the act of bankruptcy on which the petition is grounded has occurred within three months before the presentation of the petition, and
- (d) the debtor is domiciled in England, or within a year before the date of the presentation of the petition has ordinarily resided, or had a dwelling-house or place of business, in England, or (except in the case of a person domiciled in Scotland or Ireland or a firm or partnership having its principal place of business in Scotland or Ireland) has carried on business in England, personally or by means of an agent or manager, or (except as aforesaid) is or within the said period has been a member of a firm

A.D. 1914.

or partnership of persons which has carried on business in England by means of a partner or partners, or an agent or manager,

nor, where a deed of arrangement has been executed, shall a creditor be entitled to present a bankruptcy petition founded on the execution of the deed, or on any other act committed by the debtor in the course or for the purpose of the proceedings preliminary to the execution of the deed, in cases where he is prohibited from so doing by the law for the time being in force relating to deeds of arrangement.

(2) If the petitioning creditor is a secured creditor, he must in his petition either state that he is willing to give up his security for the benefit of the creditors in the event of the debtor being adjudged bankrupt, or give an estimate of the value of his security. In the latter case, he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him, after deducting the value so estimated in the same manner as if he were an unsecured creditor.

Proceedings
and order on
creditor's peti-
tion.

5.—(1) A creditor's petition shall be verified by affidavit of the creditor, or of some person on his behalf having knowledge of the facts, and served in the prescribed manner.

(2) At the hearing the court shall require proof of the debt of the petitioning creditor, of the service of the petition, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and, if satisfied with the proof, may make a receiving order in pursuance of the petition.

(3) If the court is not satisfied with the proof of the petitioning creditor's debt, or of the act of bankruptcy, or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, or that for other sufficient cause no order ought to be made, the court may dismiss the petition.

(4) When the act of bankruptcy relied on is non-compliance with a bankruptcy notice to pay, secure, or compound for a judgment debt, or sum ordered to be paid, the court may, if it thinks fit, stay or dismiss the petition on the ground that an appeal is pending from the judgment or order.

(5) Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the court, on such security (if any) being given as the court may require for payment to the petitioner of any debt which may be established against him in due course of law, and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

(6) Where proceedings are stayed, the court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make a receiving order on the petition

of some other creditor, and shall thereupon dismiss, on such terms as it thinks just, the petition in which proceedings have been stayed as aforesaid. A.D. 1914.

(7) A creditor's petition shall not, after presentment, be withdrawn without the leave of the court.

6.—(1) A debtor's petition shall allege that the debtor is unable to pay his debts, and the presentation thereof shall be deemed an act of bankruptcy without the previous filing by the debtor of any declaration of inability to pay his debts, and the court shall thereupon make a receiving order. Debtor's petition and order thereon.

(2) A debtor's petition shall not, after presentment, be withdrawn without the leave of the court.

7.—(1) On the making of a receiving order an official receiver shall be thereby constituted receiver of the property of the debtor, and thereafter, except as directed by this Act, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the debtor in respect of the debt, or shall commence any action or other legal proceedings, unless with the leave of the court and on such terms as the court may impose. Effect of receiving order.

(2) But this section shall not affect the power of any secured creditor to realise or otherwise deal with his security in the same manner as he would have been entitled to realise or deal with it if this section had not been passed.

8. The court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of a bankruptcy petition, and before a receiving order is made, appoint the official receiver to be interim receiver of the property of the debtor, or of any part thereof, and direct him to take immediate possession thereof or of any part thereof. Power to appoint interim receiver.

9.—(1) The court may, at any time after the presentation of a bankruptcy petition, stay any action, execution, or other legal process against the property or person of the debtor, and any court in which proceedings are pending against a debtor may, on proof that a bankruptcy petition has been presented by or against the debtor, either stay the proceedings or allow them to continue on such terms as it may think just. Power to stay pending proceedings.

(2) Where the court makes an order staying any action or proceeding, or staying proceedings generally, the order may be served by sending a copy thereof, under the seal of the court, by post to the address for service of the plaintiff or other party prosecuting such proceeding.

10.—(1) The official receiver of a debtor's estate may, on the application of any creditor or creditors, and if satisfied that the nature of the debtor's estate or business or the interests of the creditors generally require the appointment of a special manager of the estate or business other than the official receiver, Power to appoint special manager.

A.D. 1914. — appoint a manager thereof accordingly to act until a trustee is appointed, and with such powers (including any of the powers of a receiver) as may be entrusted to him by the official receiver.

(2) The special manager shall give security and account in such manner as the Board of Trade may direct.

(3) The special manager shall receive such remuneration as the creditors may, by resolution at an ordinary meeting, determine, or, in default of any such resolution, as may be prescribed.

Advertisement of receiving order.

11. Notice of every receiving order, stating the name, address, and description of the debtor, the date of the order, the court by which the order is made, and the date of the petition, shall be gazetted and advertised in a local paper in the prescribed manner.

Power to rescind receiving order in certain cases.

12. If in any case where a receiving order has been made on a bankruptcy petition it appears to the court by which the order was made, upon an application by the official receiver, or any creditor or other person interested, that a majority of the creditors in number and value are resident in Scotland or in Ireland, and that from the situation of the property of the debtor, or other causes, his estate and effects ought to be distributed among the creditors under the law relating to bankruptcy in Scotland or Ireland, the court, after such inquiry as it may think fit, may rescind the receiving order and stay all proceedings on, or dismiss the petition upon such terms, if any, as the court may think fit.

Proceedings consequent on Order.

First and other meetings of creditors.

13.—(1) As soon as may be after the making of a receiving order against a debtor a general meeting of his creditors (in this Act referred to as the first meeting of creditors) shall be held for the purpose of considering whether a proposal for a composition or scheme of arrangement shall be accepted, or whether it is expedient that the debtor shall be adjudged bankrupt, and generally as to the mode of dealing with the debtor's property.

(2) With respect to the summoning of and proceedings at the first and other meetings of creditors, the rules in the First Schedule to this Act shall be observed.

Debtor's statement of affairs.

14.—(1) Where a receiving order is made against a debtor, he shall make out and submit to the official receiver a statement of and in relation to his affairs in the prescribed form, verified by affidavit, and showing the particulars of the debtor's assets debts and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the official receiver may require.

(2) The statement shall be so submitted within the following A.D. 1914. times, namely:—

- (i) If the order is made on the petition of the debtor, within three days from the date of the order:
- (ii) If the order is made on the petition of a creditor, within seven days from the date of the order:

but the court may, in either case for special reasons, extend the time.

(3) If the debtor fails without reasonable excuse to comply with the requirements of this section, the court may, on the application of the official receiver, or of any creditor, adjudge him bankrupt.

(4) Any person stating himself in writing to be a creditor of the bankrupt may, personally or by agent, inspect the statement at all reasonable times, and take any copy thereof or extract therefrom, but any person untruthfully so stating himself to be a creditor shall be guilty of a contempt of court, and shall be punishable accordingly on the application of the trustee or official receiver.

Public Examination of Debtor.

15.—(1) Where the court makes a receiving order, it shall, save as in this Act provided, hold a public sitting, on a day to be appointed by the court, for the examination of the debtor, and the debtor shall attend thereat, and shall be examined as to his conduct, dealings, and property. Public examination of debtor.

(2) The examination shall be held as soon as conveniently may be after the expiration of the time for the submission of the debtor's statement of affairs.

(3) The court may adjourn the examination from time to time.

(4) Any creditor who has tendered a proof, or his representative authorised in writing, may question the debtor concerning his affairs and the causes of his failure.

(5) The official receiver shall take part in the examination of the debtor; and for the purpose thereof, if specially authorised by the Board of Trade, may employ a solicitor with or without counsel.

(6) If a trustee is appointed before the conclusion of the examination, he may take part therein.

(7) The court may put such questions to the debtor as it may think expedient.

(8) The debtor shall be examined upon oath, and it shall be his duty to answer all such questions as the court may put or allow to be put to him. Such notes of the examination as the court thinks proper shall be taken down in writing, and shall be read over either to or by the debtor and signed by him, and may thereafter, save as in this Act provided, be used in evidence against him; they shall also be open to the inspection of any creditor at all reasonable times.

A.D. 1914. (9) When the court is of opinion that the affairs of the debtor have been sufficiently investigated, it shall by order declare that his examination is concluded, but such order shall not be made until after the day appointed for the first meeting of creditors.

(10) Where the debtor is a lunatic or suffers from any such mental or physical affliction or disability as in the opinion of the court makes him unfit to attend his public examination, the court may make an order dispensing with such examination, or directing that the debtor be examined on such terms, in such manner, and at such place as to the court seems expedient.

Composition or Scheme of Arrangement.

Compositions
and schemes
of arrange-
ment.

16.—(1) Where a debtor intends to make a proposal for a composition in satisfaction of his debts, or a proposal for a scheme of arrangement of his affairs, he shall, within four days of submitting his statement of affairs, or within such time thereafter as the official receiver may fix, lodge with the official receiver a proposal in writing, signed by him, embodying the terms of the composition or scheme which he is desirous of submitting for the consideration of his creditors, and setting out particulars of any sureties or securities proposed.

(2) In such case the official receiver shall hold a meeting of creditors, before the public examination of the debtor is concluded, and send to each creditor, before the meeting, a copy of the debtor's proposal with a report thereon; and if at that meeting a majority in number and three fourths in value of all the creditors who have proved, resolve to accept the proposal, it shall be deemed to be duly accepted by the creditors, and when approved by the court shall be binding on all the creditors.

(3) The debtor may at the meeting amend the terms of his proposal, if the amendment is, in the opinion of the official receiver, calculated to benefit the general body of creditors.

(4) Any creditor who has proved his debt may assent to or dissent from the proposal by a letter, in the prescribed form, addressed to the official receiver so as to be received by him not later than the day preceding the meeting, and any such assent or dissent shall have effect as if the creditor had been present and had voted at the meeting.

(5) The debtor or the official receiver may, after the proposal is accepted by the creditors, apply to the court to approve it, and notice of the time appointed for hearing the application shall be given to each creditor who has proved.

(6) The application shall not be heard until after the conclusion of the public examination of the debtor. Any creditor who has proved may be heard by the court in opposition to the application, notwithstanding that he may at a meeting of creditors have voted for the acceptance of the proposal.

(7) For the purpose of approving a composition or scheme by joint debtors, the court may, if it thinks fit, and on the report of

the official receiver that it is expedient so to do, dispense with the public examination of one of the joint debtors if he is unavoidably prevented from attending the examination by illness or absence from the United Kingdom. A.D. 1914.

(8) The court shall, before approving the proposal, hear a report of the official receiver as to the terms thereof, and as to the conduct of the debtor, and any objections which may be made by or on behalf of any creditor.

(9) If the court is of opinion that the terms of the proposal are not reasonable, or are not calculated to benefit the general body of creditors, or in any case in which the court is required, where the debtor is adjudged bankrupt, to refuse his discharge, the court shall refuse to approve the proposal.

(10) If any facts are proved on proof of which the court would be required either to refuse, suspend or attach conditions to the debtor's discharge were he adjudged bankrupt, the court shall refuse to approve the proposal, unless it provides reasonable security for the payment of not less than five shillings in the pound on all the unsecured debts provable against the debtor's estate.

(11) In any other case the court may either approve or refuse to approve the proposal.

(12) If the court approves the proposal, the approval may be testified by the seal of the court being attached to the instrument containing the terms of the proposed composition or scheme, or by the terms being embodied in an order of the court.

(13) A composition or scheme accepted and approved in pursuance of this section shall be binding on all the creditors so far as relates to any debts due to them from the debtor and provable in bankruptcy, but shall not release the debtor from any liability under a judgment against him in an action for seduction, or under an affiliation order, or under a judgment against him as a co-respondent in a matrimonial cause, except to such an extent and under such conditions as the court expressly orders in respect of such liability.

(14) A certificate of the official receiver that a composition or scheme has been duly accepted and approved shall, in the absence of fraud, be conclusive as to its validity.

(15) The provisions of a composition or scheme under this section may be enforced by the court on application by any person interested, and any disobedience of an order of the court made on the application shall be deemed a contempt of court.

(16) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the court, on satisfactory evidence, that the composition or scheme cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the court was obtained by fraud, the court may, if it thinks fit, on application by the official receiver or the trustee or by any creditor, adjudge the debtor bankrupt, and annul the composition or scheme,

A.D. 1914. but without prejudice to the validity of any sale, disposition or payment duly made, or thing duly done, under or in pursuance of the composition or scheme.

Where a debtor is adjudged bankrupt under this subsection, any debt provable in other respects, which has been contracted before the adjudication, shall be provable in the bankruptcy.

(17) If under or in pursuance of a composition or scheme a trustee is appointed to administer the debtor's property or manage his business, or to distribute the composition, section twenty-five and Part IV. of this Act shall apply as if the trustee were a trustee in a bankruptcy, and as if the terms "bankruptcy," "bankrupt," and "order of adjudication" included respectively a composition or scheme of arrangement, a compounding or arranging debtor, and an order approving the composition or scheme.

(18) Part II. of this Act shall, so far as the nature of the case and the terms of the composition or scheme admit, apply thereto, the same interpretation being given to the words "trustee," "bankruptcy," "bankrupt," and "order of adjudication," as in the last preceding subsection.

(19) No composition or scheme shall be approved by the court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of a bankrupt.

(20) The acceptance by a creditor of a composition or scheme shall not release any person who under this Act would not be released by an order of discharge if the debtor had been adjudged bankrupt.

Effect of composition or scheme.

17. Notwithstanding the acceptance and approval of a composition or scheme, the composition or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions of this Act, the debtor would not be released by an order of discharge in bankruptcy, unless the creditor assents to the composition or scheme.

Adjudication of Bankruptcy.

Adjudication of bankruptcy where composition not accepted or approved.

18.—(1) Where a receiving order is made against a debtor, then, if the creditors at the first meeting or any adjournment thereof by ordinary resolution resolve that the debtor be adjudged bankrupt, or pass no resolution, or if the creditors do not meet, or if a composition or scheme is not approved in pursuance of this Act within fourteen days after the conclusion of the examination of the debtor or such further time as the court may allow, the court shall adjudge the debtor bankrupt; and thereupon the property of the bankrupt shall become divisible among his creditors and shall vest in a trustee.

(2) Notice of every order adjudging a debtor bankrupt, stating the name, address, and description of the bankrupt, the date of the adjudication, and the court by which the adjudication is made, shall be gazetted and advertised in a

local paper in the prescribed manner, and the date of the order shall, for the purposes of this Act, be the date of the adjudication. A.D. 1914. —

19.—(1) Where a debtor is adjudged bankrupt, or the creditors have resolved that he be adjudged bankrupt, the creditors may by ordinary resolution appoint some fit person, whether a creditor or not, to fill the office of trustee of the property of the bankrupt; or they may resolve to leave his appointment to the committee of inspection hereinafter mentioned. Appointment
of trustee.

A person shall be deemed not fit to act as trustee of the property of a bankrupt where he has been previously removed from the office of trustee of a bankrupt's property for misconduct or neglect of duty.

(2) The person so appointed shall give security in manner prescribed to the satisfaction of the Board of Trade, and the Board, if satisfied with the security, shall certify that his appointment has been duly made, unless they object to the appointment on the ground that it has not been made in good faith by a majority in value of the creditors voting, or that the person appointed is not fit to act as trustee, or that his connexion with or relation to the bankrupt or his estate or any particular creditor makes it difficult for him to act with impartiality in the interests of the creditors generally.

(3) Provided that, where the Board make any such objection they shall, if so requested by a majority in value of the creditors, notify the objection to the High Court, and thereupon the High Court may decide on its validity.

(4) The appointment of a trustee shall take effect as from the date of the certificate.

(5) The official receiver shall not, save as by this Act provided, be the trustee of the bankrupt's property.

(6) If a trustee is not appointed by the creditors within four weeks from the date of the adjudication, or, in the event of there being negotiations for a composition or scheme pending at the expiration of those four weeks, then within seven days from the close of those negotiations by the refusal of the creditors to accept, or of the court to approve, the composition or scheme, the official receiver shall report the matter to the Board of Trade, and thereupon the Board of Trade shall appoint some fit person to be trustee of the bankrupt's property, and shall certify the appointment.

(7) Provided that the creditors or the committee of inspection (if so authorised by resolution of the creditors) may, at any subsequent time, if they think fit, appoint a trustee, and, on the appointment being made and certified, the person appointed shall become trustee in the place of the person appointed by the Board of Trade.

(8) When a debtor is adjudged bankrupt after the first meeting of creditors has been held, and a trustee has not been appointed prior to the adjudication, the official receiver shall

A.D. 1914. — forthwith summon a meeting of creditors for the purpose of appointing a trustee.

Committee of inspection.

20.—(1) The creditors qualified to vote may, at their first or any subsequent meeting by resolution, appoint a committee of inspection for the purpose of superintending the administration of the bankrupt's property by the trustee.

(2) The committee of inspection shall consist of not more than five nor less than three persons, possessing one or other of the following qualifications—

(a) that of being a creditor or the holder of a general proxy or general power of attorney from a creditor, provided that no creditor and no holder of a general proxy or general power of attorney from a creditor shall be qualified to act as a member of the committee of inspection until the creditor has proved his debt and the proof has been admitted; or

(b) that of being a person to whom a creditor intends to give a general proxy or general power of attorney: provided that no such person shall be qualified to act as a member of the committee of inspection until he holds such a proxy or power of attorney, and until the creditor has proved his debt and the proof has been admitted.

(3) The committee of inspection shall meet at such times as they shall from time to time appoint, and, failing such appointment, at least once a month; and the trustee or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(4) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present at the meeting.

(5) Any member of the committee may resign his office by notice in writing signed by him, and delivered to the trustee.

(6) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee, his office shall thereupon become vacant.

(7) Any member of the committee may be removed by an ordinary resolution at any meeting of creditors of which seven days' notice has been given stating the object of the meeting.

(8) On a vacancy occurring in the office of a member of the committee, the trustee shall forthwith summon a meeting of creditors for the purpose of filling the vacancy, and the meeting may by resolution appoint another creditor or other person eligible as above to fill the vacancy.

(9) The continuing members of the committee, provided there be not less than two such continuing members, may act notwithstanding any vacancy in their body; and, where the number of members of the committee of inspection is for the

time being less than five, the creditors may increase that number so that it do not exceed five. A.D. 1914.

(10) If there be no committee of inspection, any act or thing or any direction or permission by this Act authorised or required to be done or given by the committee may be done or given by the Board of Trade on the application of the trustee.

21.—(1) Where a debtor is adjudged bankrupt the creditors may, if they think fit, at any time after the adjudication, by a majority in number and three fourths in value of all the creditors who have proved, resolve to accept a proposal for a composition in satisfaction of the debts due to them under the bankruptcy, or for a scheme of arrangement of the bankrupt's affairs; and thereupon the same proceedings shall be taken and the same consequences shall ensue as in the case of a composition or scheme accepted before adjudication. Power to accept composition or scheme after bankruptcy adjudication.

(2) If the court approves the composition or scheme, it may make an order annulling the bankruptcy and vesting the property of the bankrupt in him or in such other person as the court may appoint, on such terms, and subject to such conditions, if any, as the court may declare.

(3) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the court that the composition or scheme cannot proceed without injustice or undue delay, or that the approval of the court was obtained by fraud, the court may, if it thinks fit, on application by any person interested, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made, or thing duly done, under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this subsection, all debts, provable in other respects, which have been contracted before the date of such adjudication shall be provable in the bankruptcy.

Control over Person and Property of Debtor.

22.—(1) Every debtor against whom a receiving order is made shall, unless prevented by sickness or other sufficient cause, attend the first meeting of his creditors, and shall submit to such examination and give such information as the meeting may require. Duties of debtor as to discovery and realisation of property.

(2) He shall give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, attend such other meetings of his creditors, wait at such times on the official receiver, special manager, or trustee, execute such powers of attorney, conveyances, deeds, and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the official receiver, special manager, or trustee, or

A.D. 1914. — may be prescribed by general rules, or be directed by the court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the official receiver, special manager, trustee, or any creditor or person interested.

(3) He shall, if adjudged bankrupt, aid, to the utmost of his power, in the realisation of his property and the distribution of the proceeds among his creditors.

(4) If a debtor wilfully fails to perform the duties imposed on him by this section, or to deliver up possession of any part of his property, which is divisible amongst his creditors under this Act, and which is for the time being in his possession or under his control, to the official receiver or to the trustee, or to any person authorised by the court to take possession of it, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of court, and may be punished accordingly.

Arrest of
debtor under
certain circum-
stances.

23.—(1) The court may, by warrant addressed to any constable or prescribed officer of the court, cause a debtor to be arrested, and any books, papers, money and goods in his possession to be seized, and him and them to be safely kept as prescribed until such time as the court may order under the following circumstances :—

- (a) If, after a bankruptcy notice has been issued under this Act, or after presentation of a bankruptcy petition by or against him, it appears to the court that there is probable reason for believing that he has absconded, or is about to abscond, with a view of avoiding payment of the debt in respect of which the bankruptcy notice was issued, or of avoiding service of a bankruptcy petition, or of avoiding appearance to any such petition, or of avoiding examination in respect of his affairs, or of otherwise avoiding delaying or embarrassing proceedings in bankruptcy against him.
- (b) If, after presentation of a bankruptcy petition by or against him, it appears to the court that there is probable cause for believing that he is about to remove his goods with a view of preventing or delaying possession being taken of them by the official receiver or trustee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his goods, or any books, documents or writings which might be of use to his creditors in the course of his bankruptcy.
- (c) If, after service of a bankruptcy petition on him, or after a receiving order is made against him, he removes any goods in his possession above the value of five pounds, without the leave of the official receiver or trustee.

(d) If, without good cause shown, he fails to attend any examination ordered by the court : A.D. 1914.

Provided that no arrest upon a bankruptcy notice shall be valid and protected, unless the debtor before or at the time of his arrest is served with such bankruptcy notice.

(2) No payment or composition made or security given after arrest made under this section shall be exempt from the provisions of this Act relating to fraudulent preferences.

24. Where a receiving order is made against a debtor, the court, on the application of the official receiver or trustee, may from time to time order that for such time, not exceeding three months, as the court thinks fit, post letters, telegrams, and other postal packets, addressed to the debtor at any place or places mentioned in the order for re-direction, shall be re-directed sent or delivered by the Postmaster-General, or the officers acting under him, to the official receiver, or the trustee, or otherwise as the court directs, and the same shall be done accordingly.

Re-direction of debtor's letters.

25.—(1) The court may, on the application of the official receiver or trustee, at any time after a receiving order has been made against a debtor, summon before it the debtor or his wife, or any person known or suspected to have in his possession any of the estate or effects belonging to the debtor, or supposed to be indebted to the debtor, or any person whom the court may deem capable of giving information respecting the debtor, his dealings or property, and the court may require any such person to produce any documents in his custody or power relating to the debtor, his dealings or property.

Enquiry as to debtor's conduct, dealings, and property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to the court at the time of its sitting and allowed by it, the court may, by warrant, cause him to be apprehended and brought up for examination.

(3) The court may examine on oath, either by word of mouth or by written interrogatories, any person so brought before it concerning the debtor, his dealings, or property.

(4) If any person on examination before the court admits that he is indebted to the debtor, the court may, on the application of the official receiver or trustee, order him to pay to the official receiver or trustee, at such time and in such manner as to the court seems expedient, the amount admitted, or any part thereof, either in full discharge of the whole amount in question or not, as the court thinks fit, with or without costs of the examination.

(5) If any person on examination before the court admits that he has in his possession any property belonging to the debtor, the court may, on the application of the official receiver or trustee, order him to deliver to the official receiver or trustee

A.D. 1914. such property, or any part thereof, at such time, and in such manner, and on such terms, as to the court may seem just.

(6) The court may, if it thinks fit, order that any person who if in England would be liable to be brought before it under this section shall be examined in Scotland or Ireland, or in any other place out of England.

Discharge of bankrupt.

26.—(1) A bankrupt may, at any time after being adjudged bankrupt, apply to the court for an order of discharge, and the court shall appoint a day for hearing the application, but the application shall not be heard until the public examination of the bankrupt is concluded. The application shall, except when the court in accordance with rules under this Act otherwise directs, be heard in open court.

(2) On the hearing of the application the court shall take into consideration a report of the official receiver as to the bankrupt's conduct and affairs (including a report as to the bankrupt's conduct during the proceedings under his bankruptcy), and may either grant or refuse an absolute order of discharge, or suspend the operation of the order for a specified time, or grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt, or with respect to his after-acquired property :

Provided that the court shall refuse the discharge in all cases where the bankrupt has committed any misdemeanour under this Act, or any enactment repealed by this Act, or any other misdemeanour connected with his bankruptcy, or any felony connected with his bankruptcy, unless for special reasons the court otherwise determines, and shall, on proof of any of the facts herein-after mentioned, either—

- (i) refuse the discharge ; or
- (ii) suspend the discharge for a period of not less than two years : provided that the period may be less than two years, if the only fact proved of those herein-after mentioned is that his assets are not of a value equal to ten shillings in the pound on the amount of his unsecured liabilities ; or
- (iii) suspend the discharge until a dividend of not less than ten shillings in the pound has been paid to the creditors ; or
- (iv) require the bankrupt as a condition of his discharge to consent to judgment being entered against him by the official receiver or trustee for any balance or part of any balance of the debts provable under the bankruptcy which is not satisfied at the date of the discharge, such balance or part of any balance of the debts to be paid out of the future earnings or after-acquired property of the bankrupt in such manner and subject to such conditions as the court may direct ; but execution shall not be issued on the judgment without leave of the court, which leave

may be given on proof that the bankrupt has since his discharge acquired property or income available towards payment of his debts : A.D. 1914.

Provided that, if at any time after the expiration of two years from the date of any order made under this section the bankrupt satisfies the court that there is no reasonable probability of his being in a position to comply with the terms of such order, the court may modify the terms of the order, or of any substituted order, in such manner and upon such conditions as it may think fit.

(3) The facts herein-before referred to are—

- (a) That the bankrupt's assets are not of a value equal to ten shillings in the pound on the amount of his unsecured liabilities, unless he satisfies the court that the fact that the assets are not of a value equal to ten shillings in the pound on the amount of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible :
- (b) That the bankrupt has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his bankruptcy :
- (c) That the bankrupt has continued to trade after knowing himself to be insolvent :
- (d) That the bankrupt has contracted any debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation (proof whereof shall lie on him) of being able to pay it :
- (e) That the bankrupt has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities :
- (f) That the bankrupt has brought on, or contributed to, his bankruptcy by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs :
- (g) That the bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against him :
- (h) That the bankrupt has, within three months preceding the date of the receiving order, incurred unjustifiable expense by bringing a frivolous or vexatious action :
- (i) That the bankrupt has, within three months preceding the date of the receiving order, when unable to pay his debts as they become due, given an undue preference to any of his creditors :

A.D. 1914.

- (j) That the bankrupt has, within three months preceding the date of the receiving order, incurred liabilities with a view of making his assets equal to ten shillings in the pound on the amount of his unsecured liabilities :
- (k) That the bankrupt has, on any previous occasion, been adjudged bankrupt, or made a composition or arrangement with his creditors :
- (l) That the bankrupt has been guilty of any fraud or fraudulent breach of trust.

(4) With a view to removing any statutory disqualification on account of bankruptcy which is removed if the bankrupt obtains from the court his discharge with a certificate to the effect that the bankruptcy was caused by misfortune without any misconduct on his part, the court may, if it thinks fit, grant such a certificate, but a refusal to grant such a certificate shall be subject to appeal.

(5) For the purposes of this section, a bankrupt's assets shall be deemed of a value equal to ten shillings in the pound on the amount of his unsecured liabilities when the court is satisfied that the property of the bankrupt has realised, or is likely to realise, or with due care in realisation might have realised, an amount equal to ten shillings in the pound on his unsecured liabilities, and a report by the official receiver or the trustee shall be *primâ facie* evidence of the amount of such liabilities.

(6) For the purposes of this section, the report of the official receiver shall be *primâ facie* evidence of the statements therein contained.

(7) Notice of the appointment by the court of the day for hearing the application for discharge shall be published in the prescribed manner, and sent fourteen days at least before the day so appointed to each creditor who has proved, and the court may hear the official receiver and the trustee, and may also hear any creditor. At the hearing the court may put such questions to the debtor and receive such evidence as it may think fit.

(8) The powers of suspending and of attaching conditions to a bankrupt's discharge may be exercised concurrently.

(9) A discharged bankrupt shall, notwithstanding his discharge, give such assistance as the trustee may require in the realisation and distribution of such of his property as is vested in the trustee, and, if he fails to do so, he shall be guilty of a contempt of court ; and the court may also, if it thinks fit, revoke his discharge, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done subsequent to the discharge but before its revocation.

Fraudulent
settlements.

27. In either of the following cases ; that is to say—

- (i) in the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement ; or

- (ii) in the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest (not being money or property of or in right of his wife);

if the settlor is adjudged bankrupt or compounds or arranges with his creditors, and it appears to the court that such settlement, covenant, or contract was made in order to defeat or delay creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the court may refuse or suspend an order of discharge, or grant an order subject to conditions, or refuse to approve a composition or arrangement, as the case may be, in like manner as in cases where the debtor has been guilty of fraud.

28.—(1) An order of discharge shall not release the bankrupt— Effect of order of discharge.

- (a) from any debt on a recognisance nor from any debt with which the bankrupt may be chargeable at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence; and he shall not be discharged from such excepted debts unless the Treasury certify in writing their consent to his being discharged therefrom; or
- (b) from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party, nor from any debt or liability whereof he has obtained forbearance by any fraud to which he was a party; or
- (c) from any liability under a judgment against him in an action for seduction, or under an affiliation order, or under a judgment against him as a co-respondent in a matrimonial cause, except to such an extent and under such conditions as the court expressly orders in respect of such liability.

(2) An order of discharge shall release the bankrupt from all other debts provable in bankruptcy.

(3) An order of discharge shall be conclusive evidence of the bankruptcy, and of the validity of the proceedings therein, and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge.

(4) An order of discharge shall not release any person who at the date of the receiving order was a partner or co-trustee with the bankrupt, or was jointly bound or had made any joint

A.D. 1914. contract with him, or any person who was surety or in the nature of a surety for him.

Power for court to annul adjudication in certain cases.

29.—(1) Where in the opinion of the court a debtor ought not to have been adjudged bankrupt, or where it is proved to the satisfaction of the court that the debts of the bankrupt are paid in full, the court may, on the application of any person interested, by order annul the adjudication.

(2) Where an adjudication is annulled under this section, all sales and dispositions of property and payments duly made, and all acts theretofore done, by the official receiver, trustee, or other person acting under their authority, or by the court, shall be valid, but the property of the debtor who was adjudged bankrupt shall vest in such person as the court may appoint, or, in default of any such appointment, revert to the debtor for all his estate or interest therein on such terms and subject to such conditions, if any, as the court may declare by order.

(3) Notice of the order annulling an adjudication shall be forthwith gazetted and published in a local paper.

(4) For the purposes of this section, any debt disputed by a debtor shall be considered as paid in full if the debtor enters into a bond, in such sum and with such sureties as the court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into court.

PART II.

ADMINISTRATION OF PROPERTY.

Proof of Debts.

Description of debts provable in bankruptcy.

30.—(1) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise, or breach of trust shall not be provable in bankruptcy.

(2) A person having notice of any act of bankruptcy available against the debtor shall not prove under the order for any debt or liability contracted by the debtor subsequently to the date of his so having notice.

(3) Save as aforesaid, all debts and liabilities, present or future, certain or contingent, to which the debtor is subject at the date of the receiving order, or to which he may become subject before his discharge by reason of any obligation incurred before the date of the receiving order, shall be deemed to be debts provable in bankruptcy.

(4) An estimate shall be made by the trustee of the value of any debt or liability provable as aforesaid, which by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value.

(5) Any person aggrieved by any estimate made by the trustee as aforesaid may appeal to the court.

(6) If, in the opinion of the court, the value of the debt or liability is incapable of being fairly estimated, the court may

make an order to that effect, and thereupon the debt or liability shall, for the purposes of this Act, be deemed to be a debt not provable in bankruptcy. A.D. 1914.

(7) If, in the opinion of the court, the value of the debt or liability is capable of being fairly estimated, the court may direct the value to be assessed before the court itself without the intervention of a jury, and may give all necessary directions for this purpose, and the amount of the value when assessed shall be deemed to be a debt provable in bankruptcy.

(8) "Liability" shall, for the purposes of this Act, include—

- (a) any compensation for work or labour done;
- (b) any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement, or undertaking, whether the breach does or does not occur, or is or is not likely to occur or capable of occurring, before the discharge of the debtor;
- (c) generally, any express or implied engagement, agreement, or undertaking, to pay, or capable of resulting in the payment of, money or money's worth; whether the payment is, as respects amount, fixed or unliquidated; as respects time, present or future, certain or dependent on any one contingency or on two or more contingencies; as to mode of valuation, capable of being ascertained by fixed rules or as matter of opinion.

31. Where there have been mutual credits, mutual debts or other mutual dealings, between a debtor against whom a receiving order shall be made under this Act and any other person proving or claiming to prove a debt under the receiving order, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively; but a person shall not be entitled under this section to claim the benefit of any set-off against the property of a debtor in any case where he had, at the time of giving credit to the debtor, notice of an act of bankruptcy committed by the debtor and available against him. Mutual credit and set-off.

32. With respect to the mode of proving debts, the right of proof by secured and other creditors, the admission and rejection of proofs, and the other matters referred to in the Second Schedule to this Act, the rules in that schedule shall be observed. Rules as to proof of debts.

33.—(1) In the distribution of the property of a bankrupt there shall be paid in priority to all other debts— Priority of debts.

- (a) All parochial or other local rates due from the bankrupt at the date of the receiving order, and having become due and payable within twelve months next before that time, and all assessed taxes, land tax, property

A.D. 1914.

or income tax, assessed on the bankrupt up to the fifth day of April next before the date of the receiving order, and not exceeding in the whole one year's assessment ;

(b) All wages or salary of any clerk or servant in respect of services rendered to the bankrupt during four months before the date of the receiving order, not exceeding fifty pounds ;

(c) All wages of any labourer or workman not exceeding twenty-five pounds, whether payable for time or for piece work, in respect of services rendered to the bankrupt during two months before the date of the receiving order : Provided that, where any labourer in husbandry has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the year of hiring, the priority under this section shall extend to the whole of such sum, or a part thereof, as the court may decide to be due under the contract, proportionate to the time of service up to the date of the receiving order ;

6 Edw. 7. c. 58.

(d) All amounts, not exceeding in any individual case one hundred pounds, due in respect of compensation under the Workmen's Compensation Act, 1906, the liability whereof accrued before the date of the receiving order, subject nevertheless to the provisions of section five of that Act ; and

1 & 2 Geo. 5.
c. 55.

(e) All contributions payable under the National Insurance Act, 1911, by the bankrupt, in respect of employed contributors or workmen in an insured trade during four months before the date of the receiving order.

(2) The foregoing debts shall rank equally between themselves and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the foregoing debts shall be discharged forthwith so far as the property of the debtor is sufficient to meet them.

(4) In the event of a landlord or other person distraining or having distrained on any goods or effects of a bankrupt within three months next before the date of the receiving order the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof :

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom such payment is made.

(5) This section shall apply, in the case of a deceased person who dies insolvent, as if he were a bankrupt, and as if the date of his death were substituted for the date of the receiving order.

(6) In the case of partners the joint estate shall be applicable in the first instance in payment of their joint debts, and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts. If there is a surplus of the separate estates, it shall be dealt with as part of the joint estate. If there is a surplus of the joint estate, it shall be dealt with as part of the respective separate estates in proportion to the right and interest of each partner in the joint estate. A.D. 1914.

(7) Subject to the provisions of this Act, all debts proved in the bankruptcy shall be paid *pari passu*.

(8) If there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date of the receiving order at the rate of four pounds per centum per annum on all debts proved in the bankruptcy.

(9) Nothing in this section shall alter the effect of section three of the Partnership Act, 1890, or shall prejudice the provisions of the Friendly Societies Act, 1896, or of section fourteen of the Trustee Savings Banks Act, 1863, or the provisions of any enactment relating to deeds of arrangement respecting the payment of expenses incurred by the trustee under a deed of arrangement which has been avoided by the bankruptcy of the debtor. 53 & 54 Vict.
c. 39.
59 & 60 Vict.
c. 25.
26 & 27 Vict.
c. 87.

34.—(1) Where at the time of the presentation of the bankruptcy petition any person is apprenticed or is an artiched clerk to the bankrupt, the adjudication of bankruptcy shall, if either the bankrupt or apprentice or clerk gives notice in writing to the trustee to that effect, be a complete discharge of the indenture of apprenticeship or articles of agreement; and, if any money has been paid by or on behalf of the apprentice or clerk to the bankrupt as a fee, the trustee may, on the application of the apprentice or clerk, or of some person on his behalf, pay such sum as the trustee, subject to an appeal to the court, thinks reasonable, out of the bankrupt's property, to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the indenture or articles before the commencement of the bankruptcy, and to the other circumstances of the case. Preferential
claim in case of
apprentice-
ship.

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

35.—(1) The landlord or other person to whom any rent is due from the bankrupt may at any time, either before or after the commencement of the bankruptcy, distrain upon the goods or effects of the bankrupt for the rent due to him from the bankrupt, with this limitation, that, if such distress for rent be Landlord's
power of
distress in
case of bank-
ruptcy.

A.D. 1914. levied after the commencement of the bankruptcy, it shall be available only for six months' rent accrued due prior to the date of the order of adjudication and shall not be available for rent payable in respect of any period subsequent to the date when the distress was levied, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the surplus due for which the distress may not have been available.

8 Anne, c. 18.

51 & 52 Vict.
c. 43.

(2) Where any goods of a debtor have been taken in execution, the limit on the amount of rent which the party at whose suit the execution is sued out is liable to pay to the landlord under section one of the Landlord and Tenant Act, 1709, or which the landlord is entitled to be paid under section one hundred and sixty of the County Courts Act, 1888, shall, unless notice of claim for rent due has been served on the sheriff or bailiff or other officer levying the execution by or on behalf of the landlord before the commencement of the debtor's bankruptcy, be six months' rent, instead of one year's rent, and the rights of the landlord under the said provisions shall not extend to any claim for rent payable in respect of any period subsequent to the date of such notice, unless such notice was served as aforesaid before the commencement of the debtor's bankruptcy.

(3) Nothing in the last preceding subsection shall be construed as imposing any liability on the sheriff, bailiff or other officer levying the execution, or on the person at whose suit the execution was sued out, to account for any sum actually paid to the landlord by him before notice was served on him that a receiving order had been made against the debtor, but the landlord shall be liable to pay to the trustee in the bankruptcy any sum he may have received from such sheriff, bailiff, officer or person as aforesaid in excess of the amount which he was entitled to be paid, without prejudice, however, to the right of the landlord to prove for the amount of such excess.

Postponement
of husband's
and wife's
claims.

36.—(1) Where a married woman has been adjudged bankrupt, her husband shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by him to his wife for the purposes of her trade or business until all claims of the other creditors of his wife for valuable consideration in money or money's worth have been satisfied.

(2) Where the husband of a married woman has been adjudged bankrupt, any money or other estate of such woman lent or entrusted by her to her husband for the purpose of any trade or business carried on by him or otherwise, shall be treated as assets of his estate, and the wife shall not be entitled to claim any dividend as a creditor in respect of any such money or other estate until all claims of the other creditors of her husband for valuable consideration in money or money's worth have been satisfied.

Property available for Payment of Debts.

A.D. 1914.

37.—(1) The bankruptcy of a debtor, whether it takes place on the debtor's own petition or upon that of a creditor or creditors, shall be deemed to have relation back to, and to commence at, the time of the act of bankruptcy being committed on which a receiving order is made against him, or, if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to, and to commence at, the time of the first of the acts of bankruptcy proved to have been committed by the bankrupt within three months next preceding the date of the presentation of the bankruptcy petition; but no bankruptcy petition, receiving order or adjudication shall be rendered invalid by reason of any act of bankruptcy anterior to the debt of the petitioning creditor.

Relation back
of trustee's
title.

(2) Where a receiving order is made against a judgment debtor in pursuance of section one hundred and seven of this Act, the bankruptcy of the debtor shall be deemed to have relation back to, and to commence at, the time of the order, or if the bankrupt is proved to have committed any previous act of bankruptcy, then to have relation back to, and to commence at, the time of the first of the acts of bankruptcy proved to have been committed by the debtor within three months next preceding the date of the order.

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

Description of
bankrupt's
property
divisible
amongst credi-
tors.

- (1) Property held by the bankrupt on trust for any other person;
- (2) The tools (if any) of his trade and the necessary wearing apparel and bedding of himself, his wife and children, to a value, inclusive of tools and apparel and bedding, not exceeding twenty pounds in the whole:

But it shall comprise the following particulars:—

- (a) All such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy, or may be acquired by or devolve on him before his discharge; and
- (b) The capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or before his discharge, except the right of nomination to a vacant ecclesiastical benefice; and
- (c) All goods being, at the commencement of the bankruptcy, in the possession, order or disposition of the bankrupt, in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof; provided that things in action other than debts due

A.D. 1914.

or growing due to the bankrupt in the course of his trade or business shall not be deemed goods within the meaning of this section.

Provisions as to second bankruptcy.

39.—(1) In the event of a second or subsequent receiving order being made against a bankrupt, any property acquired by him since he was last adjudged bankrupt, which at the date when the subsequent petition was presented had not been distributed amongst the creditors in such last preceding bankruptcy, shall (subject to any disposition thereof made by the official receiver or trustee in that bankruptcy, without knowledge of the presentation of the subsequent petition, and subject to the provisions of section forty-seven of this Act) vest in the trustee in the subsequent bankruptcy, but any unsatisfied balance of the debts provable under the last preceding bankruptcy may be proved in the subsequent bankruptcy by the trustee in the last preceding bankruptcy.

(2) Where the trustee in any bankruptcy receives notice of a subsequent petition in bankruptcy against the bankrupt, he shall hold any property then in his possession which has been acquired by the bankrupt since he was adjudged bankrupt until the subsequent petition has been disposed of, and, if on the subsequent petition an order of adjudication is made, he shall transfer all such property or the proceeds thereof (after deducting his costs and expenses) to the trustee in the subsequent bankruptcy.

Effect of Bankruptcy on antecedent and other Transactions.

Restriction of rights of creditor under execution or attachment.

40.—(1) Where a creditor has issued execution against the goods or lands of a debtor, or has attached any debt due to him, he shall not be entitled to retain the benefit of the execution or attachment against the trustee in bankruptcy of the debtor, unless he has completed the execution or attachment before the date of the receiving order, and before notice of the presentation of any bankruptcy petition by or against the debtor, or of the commission of any available act of bankruptcy by the debtor.

(2) For the purposes of this Act, an execution against goods is completed by seizure and sale; an attachment of a debt is completed by receipt of the debt; and an execution against land is completed by seizure, or, in the case of an equitable interest, by the appointment of a receiver.

(3) An execution levied by seizure and sale on the goods of a debtor is not invalid by reason only of its being an act of bankruptcy, and a person who purchases the goods in good faith under a sale by the sheriff shall, in all cases, acquire a good title to them against the trustee in bankruptcy.

Duties of sheriff as to goods taken in execution.

41.—(1) Where any goods of a debtor are taken in execution, and before the sale thereof, or the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the sheriff that a receiving order has been made

against the debtor, the sheriff shall, on request, deliver the goods and any money seized or received in part satisfaction of the execution to the official receiver, but the costs of the execution shall be a first charge on the goods or money so delivered, and the official receiver or trustee may sell the goods, or an adequate part thereof, for the purpose of satisfying the charge. A.D. 1914.

(2) Where, under an execution in respect of a judgment for a sum exceeding twenty pounds, the goods of a debtor are sold or money is paid in order to avoid sale, the sheriff shall deduct his costs of the execution from the proceeds of sale or the money paid, and retain the balance for fourteen days, and, if within that time notice is served on him of a bankruptcy petition having been presented by or against the debtor, and a receiving order is made against the debtor thereon or on any other petition of which the sheriff has notice, the sheriff shall pay the balance to the official receiver or, as the case may be, to the trustee, who shall be entitled to retain it as against the execution creditor.

42.—(1) Any settlement of property, not being a settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife, shall, if the settlor becomes bankrupt within two years after the date of the settlement, be void against the trustee in the bankruptcy, and shall, if the settlor becomes bankrupt at any subsequent time within ten years after the date of the settlement, be void against the trustee in the bankruptcy, unless the parties claiming under the settlement can prove that the settlor was, at the time of making the settlement, able to pay all his debts without the aid of the property comprised in the settlement, and that the interest of the settlor in such property passed to the trustee of such settlement on the execution thereof. Avoidance of certain settlements.

(2) Any covenant or contract made by any person (hereinafter called the settlor) in consideration of his or her marriage, either for the future payment of money for the benefit of the settlor's wife or husband, or children, or for the future settlement on or for the settlor's wife or husband or children, of property, wherein the settlor had not at the date of the marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property in right of the settlor's wife or husband, shall, if the settlor is adjudged bankrupt and the covenant or contract has not been executed at the date of the commencement of his bankruptcy, be void against the trustee in the bankruptcy, except so far as it enables the persons entitled under the covenant or contract to claim for dividend in the settlor's bankruptcy under or in respect of the covenant or contract, but any such claim to dividend shall be

A.D. 1914. postponed until all claims of the other creditors for valuable consideration in money or money's worth have been satisfied.

(3) Any payment of money (not being payment of premiums on a policy of life assurance) or any transfer of property made by the settlor in pursuance of such a covenant or contract as aforesaid shall be void against the trustee in the settlor's bankruptcy, unless the persons to whom the payment or transfer was made prove either—

- (a) that the payment or transfer was made more than two years before the date of the commencement of the bankruptcy; or
- (b) that at the date of the payment or transfer the settlor was able to pay all his debts without the aid of the money so paid or the property so transferred; or
- (c) that the payment or transfer was made in pursuance of a covenant or contract to pay or transfer money or property expected to come to the settlor from or on the death of a particular person named in the covenant or contract and was made within three months after the money or property came into the possession or under the control of the settlor;

but, in the event of any such payment or transfer being declared void, the persons to whom it was made shall be entitled to claim for dividend under or in respect of the covenant or contract in like manner as if it had not been executed at the commencement of the bankruptcy.

(4) "Settlement" shall, for the purposes of this section, include any conveyance or transfer of property.

Avoidance of general assignments of book debts unless registered.

41 & 42 Vict. c. 31.

43.—(1) Where a person engaged in any trade or business makes an assignment to any other person of his existing or future book debts or any class thereof, and is subsequently adjudicated bankrupt, the assignment shall be void against the trustee as regards any book debts which have not been paid at the commencement of the bankruptcy, unless the assignment has been registered as if the assignment were a bill of sale given otherwise than by way of security for the payment of a sum of money, and the provisions of the Bills of Sale Act, 1878, with respect to the registration of bills of sale shall apply accordingly, subject to such necessary modifications as may be made by rules under that Act:

Provided that nothing in this section shall have effect so as to render void any assignment of book debts due at the date of the assignment from specified debtors, or of debts growing due under specified contracts, or any assignment of book debts included in a transfer of a business made *bonâ fide* and for value, or in any assignment of assets for the benefit of creditors generally.

(2) For the purposes of this section, "assignment" includes assignment by way of security and other charges on book debts.

44.—(1) Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, or of any person in trust for any creditor, with a view of giving such creditor, or any surety or guarantor for the debt due to such creditor, a preference over the other creditors, shall, if the person making, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within three months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy.

A.D. 1914.
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Avoidance of preference in certain cases.

(2) This section shall not affect the rights of any person making title in good faith and for valuable consideration through or under a creditor of the bankrupt.

(3) Where a receiving order is made against a judgment debtor in pursuance of section one hundred and eight of this Act, this section shall apply as if the debtor had been adjudged bankrupt on a bankruptcy petition presented at the date of the receiving order.

45. Subject to the foregoing provisions of this Act with respect to the effect of bankruptcy on an execution or attachment, and with respect to the avoidance of certain settlements, assignments and preferences, nothing in this Act shall invalidate, in the case of a bankruptcy—

Protection of bonâ fide transactions without notice.

- (a) Any payment by the bankrupt to any of his creditors ;
- (b) Any payment or delivery to the bankrupt ;
- (c) Any conveyance or assignment by the bankrupt for valuable consideration ;
- (d) Any contract, dealing, or transaction by or with the bankrupt for valuable consideration :

Provided that both the following conditions are complied with, namely—

- (i) that the payment, delivery, conveyance, assignment, contract, dealing, or transaction, as the case may be, takes place before the date of the receiving order ; and
- (ii) that the person (other than the debtor) to, by, or with whom the payment, delivery, conveyance, assignment, contract, dealing, or transaction was made, executed, or entered into, has not at the time of the payment, delivery, conveyance, assignment, contract, dealing, or transaction, notice of any available act of bankruptcy committed by the bankrupt before that time.

46. A payment of money or delivery of property to a person subsequently adjudged bankrupt, or to a person claiming by assignment from him, shall, notwithstanding anything in this Act, be a good discharge to the person paying the money or delivering the property, if the payment or delivery is made before the actual date on which the receiving order is made

Validity of certain payments to bankrupt and assignee.

A.D. 1914. — and without notice of the presentation of a bankruptcy petition, and is either pursuant to the ordinary course of business or otherwise bonâ fide.

Dealings with
undischarged
bankrupt.

47.—(1) All transactions by a bankrupt with any person dealing with him bonâ fide and for value, in respect of property, whether real or personal, acquired by the bankrupt after the adjudication, shall, if completed before any intervention by the trustee, be valid against the trustee, and any estate or interest in such property which by virtue of this Act is vested in the trustee shall determine and pass in such manner and to such extent as may be required for giving effect to any such transaction.

This subsection shall apply to transactions with respect to real property completed before the first day of April nineteen hundred and fourteen, in any case where there has not been any intervention by the trustee before that date.

For the purposes of this subsection, the receipt of any money, security, or negotiable instrument from, or by the order or direction of, a bankrupt by his banker, and any payment and any delivery of any security or negotiable instrument made to, or by the order or direction of, a bankrupt by his banker, shall be deemed to be a transaction by the bankrupt with such banker dealing with him for value.

(2) Where a banker has ascertained that a person having an account with him is an undischarged bankrupt, then, unless the banker is satisfied that the account is on behalf of some other person, it shall be his duty forthwith to inform the trustee in the bankruptcy or the Board of Trade of the existence of the account, and thereafter he shall not make any payments out of the account, except under an order of the court or in accordance with instructions from the trustee in the bankruptcy, unless by the expiration of one month from the date of giving the information no instructions have been received from the trustee.

Realisation of Property.

Possession of
property by
trustee.

48.—(1) The trustee shall, as soon as may be, take possession of the deeds, books, and documents of the bankrupt, and all other parts of his property capable of manual delivery.

(2) The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position as if he were a receiver of the property appointed by the High Court, and the court may, on his application, enforce such acquisition or retention accordingly.

(3) Where any part of the property of the bankrupt consists of stock, shares in ships, shares, or any other property transferable in the books of any company, office, or person, the trustee may exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt.

(4) Where any part of the property of the bankrupt is of copyhold or customary tenure, or is any like property passing by surrender and admittance or in any similar manner, the trustee shall not be compellable to be admitted to the property, but may deal with it in the same manner as if it had been capable of being and had been duly surrendered or otherwise conveyed to such uses as the trustee may appoint; and any appointee of the trustee shall be admitted to or otherwise invested with the property accordingly.

(5) Where any part of the property of the bankrupt consists of things in action, such things shall be deemed to have been duly assigned to the trustee.

(6) Subject to the provisions of this Act with respect to property acquired by a bankrupt after adjudication, any treasurer or other officer, or any banker, attorney, or agent of a bankrupt, shall pay and deliver to the trustee all money and securities in his possession or power, as such officer, banker, attorney, or agent, which he is not by law entitled to retain as against the bankrupt or the trustee. If he does not, he shall be guilty of a contempt of court, and may be punished accordingly on the application of the trustee.

49. Any person acting under warrant of the court may seize any part of the property of a bankrupt, or of a debtor against whom a receiving order has been made, in the custody or possession of the bankrupt or the debtor, or of any other person, and with a view to such seizure may break open any house, building, or room of the bankrupt or the debtor, where the bankrupt or the debtor is supposed to be, or any building or receptacle of the bankrupt or the debtor where any of his property is supposed to be; and where the court is satisfied that there is reason to believe that property of a bankrupt, or of a debtor against whom a receiving order has been made, is concealed in a house or place not belonging to him, the court may, if it thinks fit, grant a search warrant to any constable or officer of the court, who may execute it according to its tenor.

50.—(1) Where a bankrupt is a beneficed clergyman, the trustee may apply for a sequestration of the profits of the benefice, and the certificate of the appointment of the trustee shall be sufficient authority for the granting of a sequestration without any writ or other proceeding, and the same shall accordingly be issued as on a writ of *levari facias* founded on a judgment against the bankrupt, and shall have priority over any other sequestration issued after the commencement of the bankruptcy in respect of a debt provable in the bankruptcy, except a sequestration issued before the date of the receiving order by or on behalf of a person who at the time of the issue thereof had not notice of an available act of bankruptcy committed by the bankrupt.

(2) The bishop of the diocese in which the benefice is situate may, if he thinks fit, appoint to the bankrupt such or the like

A.D. 1914. — stipend as he might by law have appointed to a curate duly licensed to serve the benefice in case the bankrupt had been non-resident, and the sequestrator shall pay the sum so appointed out of the profits of the benefice to the bankrupt by quarterly instalments while he performs the duties of the benefice.

(3) The sequestrator shall also pay out of the profits of the benefice the salary payable to any duly licensed curate of the church of the benefice in respect of duties performed by him as such during four months before the date of the receiving order, not exceeding fifty pounds.

34 & 35 Vict.
c. 43.
34 & 35 Vict.
c. 45.
61 & 62 Vict.
c. 48.

(4) Nothing in this section shall prejudice the operation of the Ecclesiastical Dilapidations Act, 1871, the Sequestration Act, 1871, or the Benefices Act, 1898, or any mortgage or charge duly created under any Act of Parliament before the commencement of the bankruptcy on the profits of the benefice.

Appropriation
of portion of
pay or salary
to creditors.

51.—(1) Where a bankrupt is an officer of the army or navy, or an officer or clerk or otherwise employed or engaged in the civil service of the Crown, the trustee shall receive for distribution amongst the creditors so much of the bankrupt's pay or salary as the court, on the application of the trustee, with the consent of the chief officer of the department under which the pay or salary is enjoyed, may direct. Before making any order under this subsection, the court shall communicate with the chief officer of the department as to the amount, time, and manner of the payment to the trustee, and shall obtain the written consent of the chief officer to the terms of such payment.

(2) Where a bankrupt is in receipt of a salary or income other than as aforesaid, or is entitled to any half-pay, or pension, or to any compensation granted by the Treasury, the court, on the application of the trustee, shall from time to time make such order as it thinks just for the payment of the salary, income, half-pay, pension, or compensation, or of any part thereof, to the trustee, to be applied by him in such manner as the court may direct.

(3) Nothing in this section shall take away or abridge any power of the chief officer of any public department to dismiss a bankrupt, or to declare the pension, half-pay, or compensation of any bankrupt to be forfeited.

Appropriation
of income of
property re-
strained from
anticipation.

52. Where a married woman who has been adjudged bankrupt has separate property the income of which is subject to a restraint on anticipation, the court shall have power, on the application of the trustee, to order that, during such time as the court may order, the whole or some part of such income be paid to the trustee for distribution amongst the creditors, and in the exercise of such power the court shall have regard to the means of subsistence available for the woman and her children.

Vesting and
transfer of
property.

53.—(1) Until a trustee is appointed, the official receiver shall be the trustee for the purposes of this Act, and, immediately

on a debtor being adjudged bankrupt, the property of the bankrupt shall vest in the trustee. A.D. 1914.

(2) On the appointment of a trustee, the property shall forthwith pass to and vest in the trustee appointed.

(3) The property of the bankrupt shall pass from trustee to trustee, including under that term the official receiver when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment, or transfer whatever.

(4) The certificate of appointment of a trustee shall, for all purposes of any law in force in any part of the British dominions requiring registration, enrolment, or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled, and recorded accordingly.

54.—(1) Where any part of the property of the bankrupt consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the trustee, notwithstanding that he has endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, but subject to the provisions of this section, may, by writing signed by him, at any time within twelve months after the first appointment of a trustee or such extended period as may be allowed by the court, disclaim the property : Disclaimer of onerous property.

Provided that, where any such property has not come to the knowledge of the trustee within one month after such appointment, he may disclaim such property at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the court.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests, and liabilities of the bankrupt and his property in or in respect of the property disclaimed, and shall also discharge the trustee from all personal liability in respect of the property disclaimed as from the date when the property vested in him, but shall not, except so far as is necessary for the purpose of releasing the bankrupt and his property and the trustee from liability, affect the rights or liabilities of any other person.

(3) A trustee shall not be entitled to disclaim a lease without the leave of the court, except in any cases which may be prescribed by general rules, and the court may, before or on granting such leave, require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such orders with respect to fixtures, tenant's improvements, and other matters arising out of the tenancy, as the court thinks just.

A.D. 1914.

(4) The trustee shall not be entitled to disclaim any property in pursuance of this section in any case where an application in writing has been made to the trustee by any person interested in the property requiring him to decide whether he will disclaim or not, and the trustee has for a period of twenty-eight days after the receipt of the application, or such extended period as may be allowed by the court, declined or neglected to give notice whether he disclaims the property or not; and, in the case of a contract, if the trustee, after such application as aforesaid, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

(5) The court may, on the application of any person who is, as against the trustee, entitled to the benefit or subject to the burden of a contract made with the bankrupt, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise, as to the court may seem equitable, and any damages payable under the order to any such person may be proved by him as a debt under the bankruptcy.

(6) The court may, on application by any person either claiming any interest in any disclaimed property or under any liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or delivery thereof to any person entitled thereto, or to whom it may seem just that the same should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the court thinks just; and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided that, where the property disclaimed is of a leasehold nature, the court shall not make a vesting order in favour of any person claiming under the bankrupt, whether as under-lessee or as mortgagee by demise except upon the terms of making that person—

- (a) subject to the same liabilities and obligations as the bankrupt was subject to under the lease in respect of the property at the date when the bankruptcy petition was filed; or
- (b) if the court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date;

and in either event (if the case so requires) as if the lease had comprised only the property comprised in the vesting order; and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and, if there is no person claiming under the bankrupt who is willing to accept an order

upon such terms, the court shall have power to vest the bankrupt's estate and interest in the property in any person liable either personally or in a representative character, and either alone or jointly with the bankrupt to perform the lessee's covenants in the lease, freed and discharged from all estates, incumbrances, and interests created therein by the bankrupt.

A.D. 1914.

(7) Where, on the release removal resignation or death of a trustee in bankruptcy, an official receiver is acting as trustee, he may disclaim any property which might be disclaimed by a trustee under the foregoing provisions, notwithstanding that the time prescribed by this section for such disclaimer has expired, but such power of disclaimer shall be exerciseable only within twelve months after the official receiver has become trustee in the circumstances aforesaid, or has become aware of the existence of such property, whichever period may last expire.

(8) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the injury, and may accordingly prove the same as a debt under the bankruptcy.

55. Subject to the provisions of this Act, the trustee may do all or any of the following things:—

Powers of trustee to deal with property.

- (1) Sell all or any part of the property of the bankrupt (including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt), by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels:
- (2) Give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof:
- (3) Prove, rank, claim, and draw a dividend in respect of any debt due to the bankrupt:
- (4) Exercise any powers, the capacity to exercise which is vested in the trustee under this Act, and execute any powers of attorney, deeds and other instruments, for the purpose of carrying into effect the provisions of this Act:
- (5) Deal with any property to which the bankrupt is beneficially entitled as tenant in tail in the same manner as the bankrupt might have dealt with it; and sections fifty-six to seventy-three of the Fines and Recoveries Act, 1833, shall extend and apply to proceedings under this Act as if those sections were herein re-enacted and in terms made applicable to those proceedings.

3 & 4 Will. 4. c. 74.

56. The trustee may, with the permission of the committee of inspection, do all or any of the following things:—

Powers exercisable by trustee with permission of committee of inspection.

- (1) Carry on the business of the bankrupt, so far as may be necessary for the beneficial winding up of the same;

A.D. 1914.

- (2) Bring, institute, or defend any action or other legal proceeding relating to the property of the bankrupt ;
- (3) Employ a solicitor or other agent to take any proceedings or do any business which may be sanctioned by the committee of inspection ;
- (4) Accept as the consideration for the sale of any property of the bankrupt a sum of money payable at a future time subject to such stipulations as to security and otherwise as the committee think fit ;
- (5) Mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts ;
- (6) Refer any dispute to arbitration, compromise any debts, claims, and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt, on the receipt of such sums, payable at such times, and generally on such terms as may be agreed on ;
- (7) Make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of any debts provable under the bankruptcy ;
- (8) Make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the trustee by any person or by the trustee on any person ;
- (9) Divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

The permission given for the purposes of this section shall not be a general permission to do all or any of the above-mentioned things, but shall only be a permission to do the particular thing or things for which permission is sought in the specified case or cases.

Power to allow bankrupt to manage property.

57. The trustee, with the permission of the committee of inspection, may appoint the bankrupt himself to superintend the management of the property of the bankrupt or of any part thereof, or to carry on the trade (if any) of the bankrupt for the benefit of his creditors, and in any other respect to aid in administering the property, in such manner and on such terms as the trustee may direct.

Allowance to bankrupt for maintenance or service.

58. The trustee may from time to time, with the permission of the committee of inspection, make such allowance as he may think just to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services

if he is engaged in winding up his estate, but any such allowance may be reduced by the court. A.D. 1914.

59. Where any goods of a debtor against whom a receiving order has been made are held by any person by way of pledge, pawn, or other security, it shall be lawful for the official receiver or trustee, after giving notice in writing of his intention to do so, to inspect the goods, and, where such notice has been given, such person as aforesaid shall not be entitled to realise his security until he has given the trustee a reasonable opportunity of inspecting the goods and of exercising his right of redemption if he thinks fit to do so.

Right of trustee to inspect goods pawned, &c.

60. Where the property of a bankrupt comprises the copyright in any work or any interest in such copyright, and he is liable to pay to the author of the work royalties or a share of the profits in respect thereof, the trustee shall not be entitled to sell, or authorise the sale of, any copies of the work, or to perform or authorise the performance of the work, except on the terms of paying to the author such sums by way of royalty or share of the profits as would have been payable by the bankrupt, nor shall he, without the consent of the author or of the court, be entitled to assign the right or transfer the interest or to grant any interest in the right by licence, except upon terms which will secure to the author payments by way of royalty or share of the profits at a rate not less than that which the bankrupt was liable to pay.

Limitation of trustee's powers in relation to copyright.

61. Where the official receiver or trustee has seized or disposed of any goods, chattels, property, or other effects in the possession or on the premises of a debtor against whom a receiving order has been made, without notice of any claim by any person in respect of the same, and it is thereafter made to appear that the said goods, chattels, property, or other effects were not, at the date of the receiving order, the property of the debtor, the official receiver or trustee shall not be personally liable for any loss or damage arising from such seizure or disposal sustained by any person claiming such property, nor for the costs of any proceedings taken to establish a claim thereto, unless the court is of opinion that the official receiver or trustee has been guilty of negligence in respect of the same.

Protection of official receivers and trustees from personal liability in certain cases.

Distribution of Property.

62.—(1) Subject to the retention of such sums as may be necessary for the costs of administration, or otherwise, the trustee shall, with all convenient speed, declare and distribute dividends amongst the creditors who have proved their debts.

Declaration and distribution of dividends.

(2) The first dividend, if any, shall be declared and distributed within four months after the conclusion of the first meeting of creditors, unless the trustee satisfies the committee of inspection that there is sufficient reason for postponing the declaration to a later date.

A.D. 1914.

(3) Subsequent dividends shall, in the absence of sufficient reason to the contrary, be declared and distributed at intervals of not more than six months.

(4) Before declaring a dividend, the trustee shall cause notice of his intention to do so to be gazetted in the prescribed manner, and shall also send reasonable notice thereof to each creditor mentioned in the bankrupt's statement who has not proved his debt.

(5) When the trustee has declared a dividend, he shall send to each creditor who has proved a notice showing the amount of the dividend and when and how it is payable, and a statement in the prescribed form as to the particulars of the estate.

Joint and separate dividends.

63.—(1) Where one partner of a firm is adjudged bankrupt, a creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.

(2) Where joint and separate properties are being administered, dividends of the joint and separate properties shall, unless otherwise directed by the Board of Trade on the application of any person interested, be declared together, and the expenses of and incidental to such dividends shall be fairly apportioned by the trustee between the joint and separate properties, regard being had to the work done for and the benefit received by each property.

Provision for creditors residing at a distance, &c.

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

(2) He shall also make provision for any disputed proofs or claims, and for the expenses necessary for the administration of the estate or otherwise.

(3) Subject to the foregoing provisions, he shall distribute as dividend all money in hand.

Right of creditor who has not proved debt before declaration of a dividend.

65. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any money for the time being in the hands of the trustee any dividend or dividends he may have failed to receive before that money is applied to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

Interest on debts.

66.—(1) Where a debt has been proved, and the debt includes interest, or any pecuniary consideration in lieu of interest,

such interest or consideration shall, for the purposes of dividend, be calculated at a rate not exceeding five per centum per annum, without prejudice to the right of a creditor to receive out of the estate any higher rate of interest to which he may be entitled after all the debts proved in the estate have been paid in full. A.D. 1914.

(2) In dealing with the proof of the debt, the following rules shall be observed:—

- (a) Any account settled between the debtor and the creditor within three years preceding the date of the receiving order may be examined, and, if it appears that the settlement of the account forms substantially one transaction with any debt alleged to be due out of the debtor's estate (whether in the form of renewal of a loan or capitalisation of interest or ascertainment of loans or otherwise), the account may be re-opened and the whole transaction treated as one;
- (b) Any payments made by the debtor to the creditor before the receiving order, whether by way of bonus or otherwise, and any sums received by the creditor before the receiving order from the realisation of any security for the debt, shall, notwithstanding any agreement to the contrary, be appropriated to principal and interest in the proportion that the principal bears to the sum payable as interest at the agreed rate;
- (c) Where the debt due is secured and the security is realised after the receiving order, or the value thereof is assessed in the proof, the amount realised or assessed shall be appropriated to the satisfaction of principal and interest in the proportion that the principal bears to the sum payable as interest at the agreed rate.

67.—(1) When the trustee has realised all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of inspection, be realised without needlessly protracting the trusteeship, he shall declare a final dividend, but before so doing he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified to him, but not established to his satisfaction, that if they do not establish their claims to the satisfaction of the court within a time limited by the notice, he will proceed to make a final dividend, without regard to their claims. Final dividend.

(2) After the expiration of the time so limited, or, if the court on application by any such claimant grants him further time for establishing his claim, then on the expiration of such further time, the property of the bankrupt shall be divided among the creditors who have proved their debts, without regard to the claims of any other persons.

68. No action for a dividend shall lie against the trustee, but, if the trustee refuses to pay any dividend, the court may, if it thinks fit, order him to pay it, and also to pay out of his No action for dividend.

A.D. 1914. own money interest thereon for the time that it is withheld, and
 — the costs of the application.

Right of bank- 69. The bankrupt shall be entitled to any surplus remain-
 rupt to surplus. ing after payment in full of his creditors, with interest, as by
 this Act provided, and of the costs, charges, and expenses of the
 proceedings under the bankruptcy petition.

PART III.

OFFICIAL RECEIVERS AND STAFF OF BOARD OF TRADE.

Official re- 70.—(1) There shall continue to be official receivers of
 ceivers of debtors' estates, who shall be appointed and removable by, and
 debtors' estates. shall act under the general authority and directions of, the
 Board of Trade, but shall also be officers of the courts to which
 they are respectively attached.

(2) The number of official receivers, and the districts to be
 assigned to them, shall be fixed by the Board of Trade, with the
 concurrence of the Treasury. One person only shall be appointed
 for each district unless the Board of Trade, with the concurrence
 of the Treasury, otherwise direct; but the same person may,
 with the like concurrence, be appointed to act for more than one
 district.

(3) Where more than one official receiver is attached to the
 court, such one of them as is for the time being appointed by
 the court for any particular estate shall be the official receiver
 for the purposes of that estate. The court shall distribute the
 receiverships of the particular estates among the official receivers
 in the prescribed manner.

Deputy for 71.—(1) The Board of Trade may by order direct that any
 official receiver. of its officers mentioned in the order shall be capable of dis-
 charging the duties of any official receiver during any temporary
 vacancy in the office, or during the temporary absence of any
 official receiver through illness or otherwise.

(2) The Board of Trade may, on the application of an official
 receiver, at any time by order nominate some fit person to be
 his deputy, and to act for him for such time not exceeding two
 months as the order may fix, and under such conditions as to
 remuneration and otherwise as may be prescribed.

(3) The Board of Trade may by order, for reasons to be
 stated therein, direct in any special case that any of its officers
 mentioned in the order shall be capable of discharging any
 portion of the duties of the official receiver for the performance
 of which it is, in the opinion of the Board, expedient that some
 person other than the official receiver be appointed, provided
 that no additional expense be thereby incurred.

Status of 72.—(1) The duties of the official receiver shall have relation
 official receiver. both to the conduct of the debtor and to the administration of
 his estate.

(2) An official receiver may, for the purpose of affidavits verifying proofs, petitions, or other proceedings under this Act, administer oaths. A.D. 1914.

(3) All provisions in this or any other Act referring to the trustee in a bankruptcy shall, unless the context otherwise requires, or the Act otherwise provides, include the official receiver when acting as trustee.

(4) The trustee shall supply the official receiver with such information, and give him such access to and facilities for inspecting the bankrupt's books and documents, and generally shall give him such aid, as may be requisite for enabling the official receiver to perform his duties under this Act.

73. As regards the debtor, it shall be the duty of the official receiver— Duties of
official receiver
as regards the
debtor's con-
duct.

- (a) To investigate the conduct of the debtor and to report to the court, stating whether there is reason to believe that the debtor has committed any act which constitutes a misdemeanour under this Act or any enactment repealed by this Act, or which would justify the court in refusing, suspending or qualifying an order for his discharge ;
- (b) To make such other reports concerning the conduct of the debtor as the Board of Trade may direct ;
- (c) To take such part as may be directed by the Board of Trade in the public examination of the debtor ;
- (d) To take such part and give such assistance in relation to the prosecution of any fraudulent debtor as the Board of Trade may direct.

74.—(1) As regards the estate of a debtor, it shall be the duty of the official receiver— Duties of
official receiver
as to debtor's
estate.

- (a) Pending the appointment of a trustee, to act as interim receiver of the debtor's estate, and, where a special manager is not appointed, as manager thereof ;
- (b) To authorise the special manager to raise money or make advances for the purposes of the estate in any case where, in the interests of the creditors, it appears necessary so to do ;
- (c) To summon and preside at the first meeting of creditors ;
- (d) To issue forms of proxy for use at the meetings of creditors ;
- (e) To report to the creditors as to any proposal which the debtor may have made with respect to the mode of liquidating his affairs ;
- (f) To advertise the receiving order, the date of the creditors' first meeting and of the debtor's public examination, and such other matters as it may be necessary to advertise ;
- (g) To act as trustee during any vacancy in the office of trustee.

A.D. 1914. (2) For the purpose of his duties as interim receiver or manager, the official receiver shall have the same powers as if he were a receiver and manager appointed by the High Court, but shall, as far as practicable, consult the wishes of the creditors with respect to the management of the debtor's property, and may for that purpose, if he thinks it advisable, summon meetings of the persons claiming to be creditors, and shall not, unless the Board of Trade otherwise order, incur any expense beyond such as is requisite for the protection of the debtor's property or the disposing of perishable goods:

Provided that, when the debtor cannot himself prepare a proper statement of affairs, the official receiver may, subject to any prescribed conditions, and at the expense of the estate, employ some person or persons to assist in the preparation of the statement of affairs.

(3) Every official receiver shall account to the Board of Trade and pay over all moneys and deal with all securities in such manner as the Board from time to time direct.

Power for Board of Trade to appoint officers.

75. The Board of Trade may, with the approval of the Treasury as to number, appoint such officers, including official receivers, clerks, and servants, as may be required by the Board for the execution of this Act, and may dismiss any such officer clerk or servant.

PART IV.

TRUSTEES IN BANKRUPTCY.

Official Name.

Official name of trustee.

76. The official name of a trustee in bankruptcy shall be "the trustee of the property of a bankrupt" (inserting the name of the bankrupt), and by that name the trustee may, in any part of the British dominions or elsewhere, hold property of every description, make contracts, sue and be sued, enter into any engagements binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office.

Appointment.

Power to appoint joint or successive trustees.

77.—(1) The creditors may, if they think fit, appoint more persons than one to the office of trustee, and when more persons than one are appointed they shall declare whether any act required or authorised to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are in this Act included under the term "trustee," and shall be joint tenants of the property of the bankrupt.

(2) The creditors may also appoint persons to act as trustees in succession in the event of one or more of the persons first named declining to accept the office of trustee, or failing to give security, or of the appointment of any such person not being certified by the Board of Trade.

78.—(1) If a vacancy occurs in the office of a trustee, the creditors in general meeting may appoint a person to fill the vacancy, and thereupon the same proceedings shall be taken as in the case of a first appointment.

A.D. 1914.
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Proceedings in case of vacancy in office of trustee.

(2) The official receiver shall, on the requisition of any creditor, summon a meeting for the purpose of filling any such vacancy.

(3) If the creditors do not, within three weeks after the occurrence of a vacancy, appoint a person to fill the vacancy, the official receiver shall report the matter to the Board of Trade, and the Board may appoint a trustee; but in such case the creditors or committee of inspection shall have the same power of appointing a trustee in the place of the person so appointed by the Board of Trade as in the case of a first appointment.

(4) During any vacancy in the office of trustee the official receiver shall act as trustee.

Control over Trustee.

79.—(1) Subject to the provisions of this Act, the trustee shall, in the administration of the property of the bankrupt and in the distribution thereof amongst his creditors, have regard to any directions that may be given by resolution of the creditors at any general meeting, or by the committee of inspection, and any directions so given by the creditors at any general meeting shall, in case of conflict, be deemed to override any directions given by the committee of inspection.

Discretionary powers of trustee and control thereof.

(2) The trustee may from time to time summon general meetings of the creditors for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors, by resolution, either at the meeting appointing the trustee or otherwise may direct, and it shall be lawful for any creditor, with the concurrence of one-sixth in value of the creditors (including himself), at any time to request the trustee or official receiver to call a meeting of the creditors, and the trustee or official receiver shall call such meeting accordingly within fourteen days:

Provided that the person at whose instance the meeting is summoned shall deposit with the trustee or the official receiver, as the case may be, a sum sufficient to pay the costs of summoning the meeting, such sum to be repaid to him out of the estate if the creditors or the court so direct.

(3) The trustee may apply to the court in manner prescribed for directions in relation to any particular matter arising under the bankruptcy.

(4) Subject to the provisions of this Act, the trustee shall use his own discretion in the management of the estate and its distribution among the creditors.

80. If the bankrupt or any of the creditors, or any other person, is aggrieved by any act or decision of the trustee, he may apply to the court, and the court may confirm, reverse,

Appeal to court against trustee.

A.D. 1914. or modify the act or decision complained of, and make such order in the premises as it thinks just.

Control of
Board of Trade
over trustees.

81.—(1) The Board of Trade shall take cognizance of the conduct of trustees, and, in the event of any trustee not faithfully performing his duties, and duly observing all the requirements imposed on him by statute, rules, or otherwise, with respect to the performance of his duties, or in the event of any complaint being made to the Board by any creditor in regard thereto, the Board shall inquire into the matter and take such action thereon as may be deemed expedient.

(2) The Board may at any time require any trustee to answer any inquiry made by them in relation to any bankruptcy in which the trustee is engaged, and may, if the Board think fit, apply to the court to examine on oath the trustee or any other person concerning the bankruptcy.

(3) The Board may also direct a local investigation to be made of the books and vouchers of the trustee.

Remuneration and Costs.

Remuneration
of trustee.

82.—(1) Where the creditors appoint any person to be trustee of a debtor's estate, his remuneration (if any) shall be fixed by an ordinary resolution of the creditors, or, if the creditors so resolve, by the committee of inspection, and shall be in the nature of a commission or percentage, of which one part shall be payable on the amount realised by the trustee, after deducting any sums paid to secured creditors out of the proceeds of their securities, and the other part on the amount distributed in dividend.

(2) If one fourth in number or value of the creditors dissent from the resolution, or the bankrupt satisfies the Board of Trade that the remuneration is unnecessarily large, the Board of Trade shall fix the amount of the remuneration.

(3) The resolution shall express what expenses the remuneration is to cover, and no liability shall attach to the bankrupt's estate, or to the creditors, in respect of any expenses which the remuneration is expressed to cover.

(4) Where a trustee acts without remuneration, he shall be allowed out of the bankrupt's estate such proper expenses incurred by him in or about the proceedings of the bankruptcy as the creditors may, with the sanction of the Board of Trade, approve.

(5) A trustee shall not, under any circumstances whatever, make any arrangement for or accept from the bankrupt, or any solicitor, auctioneer, or any other person that may be employed about a bankruptcy, any gift, remuneration, or pecuniary or other consideration or benefit whatever beyond the remuneration fixed by the creditors and payable out of the estate, nor shall he make any arrangement for giving up, or give up, any part of his remuneration, either as receiver, manager, or trustee, to

the bankrupt or any solicitor or other person that may be employed about a bankruptcy. A.D. 1914.

83.—(1) Where a trustee or manager receives remuneration for his services as such, no payment shall be allowed in his accounts in respect of the performance by any other person of the ordinary duties which are required by statute or rules to be performed by himself. Allowance and taxation of costs.

(2) Where the trustee is a solicitor, he may contract that the remuneration for his services as trustee shall include all professional services.

(3) All bills and charges of solicitors, managers, accountants, auctioneers, brokers, and other persons, not being trustees, shall be taxed by the prescribed officer, and no payments in respect thereof shall be allowed in the trustee's accounts without proof of such taxation having been made. The taxing master shall satisfy himself before passing such bills and charges that the employment of such solicitors and other persons, in respect of the particular matters out of which such charges arise, has been duly sanctioned. The sanction must be obtained before the employment, except in cases of urgency, and in such cases it must be shown that no undue delay took place in obtaining the sanction.

(4) Every such person shall, on request by the trustee (which request the trustee shall make a sufficient time before declaring a dividend), deliver his bill of costs or charges to the proper officer for taxation, and, if he fails to do so within seven days after receipt of the request, or such further time as the court, on application, may grant, the trustee shall declare and distribute the dividend without regard to any claim by him, and thereupon any such claim shall be forfeited as well against the trustee personally as against the estate.

Receipts, Payments, Accounts, Audit.

84. The trustee or official receiver shall, whenever required by any creditor so to do, furnish and transmit to him by post a list of the creditors showing the amount of the debt due to each creditor, and shall be entitled to charge for such list the sum of threepence per folio of seventy-two words, together with the cost of the postage thereof. Trustee to furnish list of creditors.

85. It shall be lawful for any creditor, with the concurrence of one sixth of the creditors (including himself), at any time to call upon the trustee or official receiver to furnish and transmit to the creditors a statement of the accounts up to the date of such notice, and the trustee shall, upon receipt of such notice, furnish and transmit such statement of the accounts: Trustee to furnish statement of accounts.

Provided that the person at whose instance the accounts are furnished shall deposit with the trustee or official receiver, as the case may be, a sum sufficient to pay the costs of furnishing and transmitting the accounts, which sum shall be repaid to him out of the estate if the creditors or the court so direct.

A.D. 1914.

Books to be kept by trustee.

86. The trustee shall keep, in manner prescribed, proper books, in which he shall from time to time cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor of the bankrupt may, subject to the control of the court, personally or by his agent, inspect any such books.

Annual statement of proceedings.

87.—(1) Every trustee in a bankruptcy shall from time to time, as may be prescribed, and not less than once in every year during the continuance of the bankruptcy, transmit to the Board of Trade a statement showing the proceedings in the bankruptcy up to the date of the statement, containing the prescribed particulars, and made out in the prescribed form.

(2) The Board of Trade shall cause the statements so transmitted to be examined, and shall call the trustee to account for any misfeasance, neglect, or omission, which may appear on the said statements or in his accounts or otherwise, and may require the trustee to make good any loss which the estate of the bankrupt may have sustained by the misfeasance, neglect, or omission.

Trustee not to pay into private account.

88. No trustee in a bankruptcy or under any composition or scheme of arrangement shall pay any sums received by him as trustee into his private banking account.

Payment of money into Bank of England.

89.—(1) The Bankruptcy Estates Account shall continue to be kept by the Board of Trade with the Bank of England, and all moneys received by the Board of Trade in respect of proceedings under this Act shall be paid to that account.

(2) Every trustee in bankruptcy shall, in such manner and at such times as the Board of Trade with the concurrence of the Treasury direct, pay the money received by him to the Bankruptcy Estates Account at the Bank of England, and the Board of Trade shall furnish him with a certificate of receipt of the money so paid.

Provided that—

(a) if it appears to the committee of inspection that, for the purpose of carrying on the debtor's business or of obtaining advances, or because of the probable amount of the cash balance, or if the committee shall satisfy the Board of Trade that for any other reason it is for the advantage of the creditors that the trustee should have an account with a local bank, the Board of Trade shall, on the application of the committee of inspection, authorise the trustee to make his payments into and out of such local bank as the committee may select;

(b) in any bankruptcy composition or scheme of arrangement in which the official receiver is acting as trustee, or in which a trustee is acting without a committee of inspection, the Board of Trade may, if for special reasons they think fit to do so, upon

the application of the official receiver or other trustee, authorise the trustee to make his payments into and out of such local bank as the Board may direct. A.D. 1914.

(3) Where the trustee opens an account in a local bank, he shall open and keep it in the name of the debtor's estate, and any interest receivable in respect of the account shall be part of the assets of the estate, and the trustee shall make his payments into and out of the local bank in the prescribed manner.

(4) Subject to any general rules relating to small bankruptcies under section one hundred and twenty-nine of this Act, where the debtor at the date of the receiving order has an account at a bank, such account shall not be withdrawn until the expiration of seven days from the day appointed for the first meeting of creditors, unless the Board of Trade, for the safety of the account, or other sufficient cause, order the withdrawal of the account.

(5) If a trustee at any time retains for more than ten days a sum exceeding fifty pounds, or such other amount as the Board of Trade in any particular case authorise him to retain, then, unless he explains the retention to the satisfaction of the Board of Trade, he shall pay interest on the amount so retained in excess at the rate of twenty per centum per annum, and shall have no claim to remuneration, and may be removed from his office by the Board of Trade, and shall be liable to pay any expenses occasioned by reason of his default.

(6) All payments out of money standing to the credit of the Board of Trade in the Bankruptcy Estates Account shall be made by the Bank of England in the prescribed manner.

90.—(1) Whenever the cash balance standing to the credit of the Bankruptcy Estates Account is in excess of the amount which in the opinion of the Board of Trade is required for the time being to answer demands in respect of bankrupts' estates, the Board of Trade shall notify the same to the Treasury, and shall pay over the same or any part thereof as the Treasury may require to the Treasury, to such account as the Treasury may direct, and the Treasury may invest the said sums or any part thereof in Government securities to be placed to the credit of the said account. Investment of surplus funds.

(2) Whenever any part of the money so invested is, in the opinion of the Board of Trade, required to answer any demands in respect of bankrupts' estates, the Board of Trade shall notify to the Treasury the amount so required, and the Treasury shall thereupon repay to the Board of Trade such sum as may be required to the credit of the Bankruptcy Estates Account, and for that purpose may direct the sale of such part of the said securities as may be necessary.

(3) The Treasury, out of any sums so paid to them, may pay such sums as they consider necessary for defraying the expenses of providing office accommodation for any officer performing duties under this Act.

A.D. 1914.

(4) If, after any sum is so expended, the Board of Trade notify to the Treasury that an amount is required to answer the demands in respect of bankrupts' estates, and the securities and moneys held by the Treasury on the account mentioned in this section are insufficient to pay the amount so required, the Treasury shall, for the purpose of meeting the deficiency, charge on and pay out of the Consolidated Fund or the growing produce thereof, the sum expended in pursuance of the last subsection, or of any corresponding enactment repealed by this Act, or such part thereof as appears to them to be required.

(5) The dividends on the investments under this section shall be paid to such account as the Treasury may direct, and regard shall be had to the amount thus derived in fixing the fees payable in respect of bankruptcy proceedings.

Certain receipts and fees to be applied in aid of expenditure.

91. The Treasury may issue to the Board of Trade in aid of the votes of Parliament, out of the receipts arising from fees, fee stamps, and dividends on investments under this Act, any sums which may be necessary to meet the charges estimated by the Board of Trade in respect of salaries and expenses under this Act.

Audit of trustee's accounts

92.—(1) Every trustee shall, at such times as may be prescribed, but not less than twice in each year during his tenure of office, send to the Board of Trade, or as they direct, an account of his receipts and payments as such trustee.

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

(3) The Board of Trade shall cause the accounts so sent to be audited, and, for the purposes of the audit, the trustee shall furnish the Board with such vouchers and information as the Board may require, and the Board may at any time require the production of and inspect any books or accounts kept by the trustee.

(4) When any such account has been audited, one copy thereof shall be filed and kept by the Board, and the other copy shall be filed with the court, and each copy shall be open to the inspection of any creditor, or of the bankrupt, or of any person interested.

Vacation of Office by Trustee.

Release of trustee.

93.—(1) When the trustee has realised all the property of the bankrupt, or so much thereof as can, in his opinion, be realised without needlessly protracting the trusteeship, and distributed a final dividend, if any, or has ceased to act by reason of a composition having been approved, or has resigned, or has been removed from his office, the Board of Trade shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the Board, shall take into consideration the report, and any objection which may be urged by any creditor or person interested against the

release of the trustee, and shall either grant or withhold the release accordingly, subject nevertheless to an appeal to the High Court. A.D. 1914.

(2) Where the release of a trustee is withheld, the court may, on the application of any creditor or person interested, make such order as it thinks just, charging the trustee with the consequences of any act or default he may have done or made contrary to his duty.

(3) An order of the Board releasing the trustee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) The foregoing provisions of this section shall apply to an official receiver when he is, or is acting as, trustee, and when an official receiver has been released under this section, or any previous similar enactment, he shall continue to act as trustee for any subsequent purposes of the administration of the debtor's estate, but no liability shall attach to him personally by reason of his so continuing in respect of any act done, default made, or liability incurred before his release.

(5) Where the trustee has not previously resigned or been removed, his release shall operate as a removal of him from his office, and thereupon the official receiver shall be the trustee.

(6) Where, on the release of a trustee, an official receiver is, or is acting as, trustee, no liability shall attach to him personally in respect of any act done or default made, or liability incurred, by any prior trustee.

94. If a receiving order is made against a trustee, he shall thereby vacate his office of trustee. Office of trustee vacated by insolvency.

95.—(1) The creditors may, by ordinary resolution, at a meeting specially called for that purpose, of which seven days' notice has been given, remove a trustee appointed by them, and may, at the same or any subsequent meeting, appoint another person to fill the vacancy as herein-after provided in case of a vacancy in the office of trustee. Removal of trustee.

(2) If the Board of Trade are of opinion—

- (a) that a trustee appointed by the creditors is guilty of misconduct, or fails to perform his duties under this Act; or
- (b) that his trusteeship is being needlessly protracted without any probable advantage to the creditors; or
- (c) that he is by reason of lunacy, or continued sickness or absence, incapable of performing his duties; or
- (d) that his connection with or relation to the bankrupt or his estate, or any particular creditor, might make it difficult for him to act with impartiality in the interest of the creditors generally; or

A.D. 1914. — where in any other matter he has been removed from office on the ground of misconduct, the Board may remove him from his office, but if the creditors by ordinary resolution disapprove of his removal, he or they may appeal against it to the High Court.

PART V.

CONSTITUTION, PROCEDURE, AND POWERS OF COURT.

Jurisdiction.

Jurisdiction to be exercised by High Court and county courts.

96.—(1) The courts having jurisdiction in bankruptcy shall be the High Court and the county courts.

(2) But the Lord Chancellor may from time to time, by order under his hand, exclude any county court from having jurisdiction in bankruptcy, and for the purposes of bankruptcy jurisdiction may attach its district or any part thereof to the High Court, or to any other county court, and may from time to time revoke or vary any order so made. The Lord Chancellor may, in like manner and subject to the like conditions, detach the district of any county court or any part thereof from the district and jurisdiction of the High Court.

(3) The term “district,” when used in this Act with reference to a county court, means the district of the court for the purposes of bankruptcy jurisdiction.

(4) A county court which at the commencement of this Act is excluded from having bankruptcy jurisdiction shall continue to be so excluded until the Lord Chancellor otherwise orders, and the districts existing at the commencement of this Act shall subsist until the Lord Chancellor otherwise orders.

(5) Periodical sittings for the transaction of bankruptcy business by county courts having jurisdiction in bankruptcy shall be held at such times and at such intervals as the Lord Chancellor prescribes for each such court.

Transaction of bankruptcy business by special judge of High Court. 36 & 37 Vict. c. 66.

97.—(1) Subject to general rules, and to orders of transfer made under the authority of the Supreme Court of Judicature Act, 1873, and Acts amending it, all matters in respect of which jurisdiction is given to the High Court by this Act shall be assigned to such division of the High Court as the Lord Chancellor may from time to time direct.

(2) All such matters shall, subject as aforesaid, be ordinarily transacted and disposed of by or under the direction of one of the judges of the High Court, and the Lord Chancellor shall from time to time assign a judge for that purpose.

Provided that during vacation, or during the illness of the judge so assigned, or during his absence, or for any other reasonable cause, such matters or any part thereof, may be transacted and disposed of by or under the directions of any judge of the High Court named for that purpose by the Lord Chancellor.

(3) Subject to general rules, all bankruptcy matters shall be entitled, “In bankruptcy.”

98.—(1) If the debtor by or against whom a bankruptcy petition is presented has resided or carried on business within the London bankruptcy district as defined by this Act for the greater part of the six months immediately preceding the presentation of the petition, or for a longer period during those six months than in the district of any county court, or is not resident in England, or if the petitioning creditor is unable to ascertain the residence of the debtor, the petition shall be presented to the High Court.

A.D. 1914.

Petition, where
to be pre-
sented.

(2) In any other case the petition shall be presented to the county court for the district in which the debtor has resided or carried on business for the longest period during the six months immediately preceding the presentation of the petition.

(3) Nothing in this section shall invalidate a proceeding by reason of its being taken in a wrong court.

99. The London bankruptcy district shall, for the purposes of this Act, comprise the city of London and the liberties thereof, and all such parts of the metropolis and other places as are situated within the district of any county court described as a metropolitan county court in the list contained in the Third Schedule to this Act.

Definition of
London bank-
ruptcy district.

100.—(1) Subject to the provisions of this Act, every court having original jurisdiction in bankruptcy shall have jurisdiction throughout England.

Transfer of
proceedings
from court to
court.

(2) Any proceedings in bankruptcy may at any time, and at any stage thereof, and either with or without application from any of the parties thereto, be transferred by any prescribed authority and in the prescribed manner from one court to another court, or may, by the like authority, be retained in the court in which the proceedings were commenced, although it may not be the court in which the proceedings ought to have been commenced.

(3) If any question of law arises in any bankruptcy proceeding in a county court which all the parties to the proceeding desire, or which one of them and the judge of the county court desire, to have determined in the first instance in the High Court, the judge shall state the facts in the form of a special case for the opinion of the High Court. The special case and the proceedings, or such of them as may be required, shall be transmitted to the High Court for the purposes of the determination.

101. Subject to the provisions of this Act and to general rules, the judge of the High Court exercising jurisdiction in bankruptcy may exercise in chambers the whole or any part of his jurisdiction.

Exercise in
chambers of
High Court
jurisdiction.

102.—(1) The registrars in bankruptcy of the High Court, and the registrars of county courts having jurisdiction in bankruptcy, shall have the powers and jurisdiction in this section mentioned, and any order made or act done by such

Jurisdiction in
bankruptcy of
registrar.

A.D. 1914. registrars in the exercise of the said powers and jurisdiction shall be deemed the order or act of the court.

(2) Subject to general rules limiting the powers conferred by this section, a registrar shall have power—

- (a) To hear bankruptcy petitions, and to make receiving orders and adjudications thereon ;
- (b) To hold the public examination of debtors ;
- (c) To grant orders of discharge where the application is not opposed ;
- (d) To approve compositions or schemes of arrangement where they are not opposed ;
- (e) To make interim orders in cases of urgency ;
- (f) To make any order or exercise any jurisdiction which by any rule in that behalf is prescribed as proper to be made or exercised in chambers ;
- (g) To hear and determine any unopposed or ex parte application ;
- (h) To summon and examine any person known or suspected to have in his possession effects of the debtor or to be indebted to him, or capable of giving information respecting the debtor, his dealings or property.

(3) The registrars in bankruptcy of the High Court shall also have power to grant orders of discharge and certificates of removal of disqualifications, and to approve compositions and schemes of arrangement.

(4) A registrar shall not have power to commit for contempt of court.

(5) The Lord Chancellor may by order direct that any specified registrar of a county court shall have and exercise all the powers of a registrar in bankruptcy of the High Court.

Powers of county court.

103. A county court shall, for the purposes of its bankruptcy jurisdiction, in addition to the ordinary powers of the court, have all the powers and jurisdiction of the High Court, and the orders of the court may be enforced accordingly in manner prescribed.

Board of Trade to make payments in accordance with directions of court.

104. Where any moneys or funds have been received by an official receiver or by the Board of Trade, and the court makes an order declaring that any person is entitled to such moneys or funds, the Board of Trade shall make an order for the payment thereof to that person.

General power of bankruptcy courts.

105.—(1) Subject to the provisions of this Act, every court having jurisdiction in bankruptcy under this Act, shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, which may arise in any case of bankruptcy coming within the cognizance of the court, or which the court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case :

Provided that the jurisdiction hereby given shall not be exercised by the county court for the purpose of adjudicating upon any claim, not arising out of the bankruptcy, which might heretofore have been enforced by action in the High Court, unless all parties to the proceeding consent thereto, or the money, money's worth, or right in dispute does not, in the opinion of the judge, exceed in value two hundred pounds. A.D. 1914.

(2) A court having jurisdiction in bankruptcy under this Act shall not be subject to be restrained in the execution of its powers under this Act by the order of any other court, nor shall any appeal lie from its decisions, except in manner directed by this Act.

(3) If in any proceeding in bankruptcy there arises any question of fact which either of the parties desire to be tried before a jury instead of by the court itself, or which the court thinks ought to be tried by a jury, the court may, if it thinks fit, direct the trial to be had with a jury, and the trial may be had accordingly in the High Court in the same manner as if it were the trial of an issue of fact in an action, and in the county court in the manner in which jury trials in ordinary cases are by law held in that court.

(4) Where a receiving order has been made in the High Court under this Act, the judge by whom such order was made shall have power, if he sees fit, without any further consent, to order the transfer to such judge of any action pending in any other division and brought or continued by or against the bankrupt.

(5) Where default is made by a trustee, debtor, or other person, in obeying any order or direction given by the Board of Trade, or by an official receiver or any other officer of the Board of Trade under any power conferred by this Act or any enactment repealed by this Act, the court may, on the application of the Board of Trade or an official receiver or other duly authorised person, order such defaulting trustee, debtor, or person to comply with the order or direction so given; and the court may also, if it thinks fit, upon any such application, make an immediate order for the committal of such defaulting trustee, debtor, or other person; provided that the power given by this subsection shall be deemed to be in addition to and not in substitution for any other right or remedy in respect of such default.

106.—(1) If a peer of the United Kingdom or of any part of the United Kingdom or any other Lord of Parliament is adjudged bankrupt, the court shall cause the fact of his having been adjudged bankrupt to be certified as soon as may be to the Speaker of the House of Lords and the Clerk of the Crown in Chancery. Notification of bankruptcy of peers and members of Parliament.

(2) If a member of the House of Commons is adjudged bankrupt, and the disqualifications arising from his bankruptcy are not removed within six months from the date of the order,

A.D. 1914. the court shall immediately after the expiration of that time certify the same to the Speaker of the House of Commons.

Judgment Debtors.

Judgment
debtor's sum-
mons to be
bankruptcy
business.
32 & 33 Vict.
c. 62.

107.—(1) It shall be lawful for the Lord Chancellor by order to direct that the jurisdiction and powers under section five of the Debtors Act, 1869, now vested in the High Court, shall be assigned to and exercised by the judge to whom bankruptcy business is assigned.

(2) It shall be lawful also for the Lord Chancellor in like manner to direct that the whole or any part of the said jurisdiction and powers shall be delegated to and exercised by the registrars in bankruptcy of the High Court.

(3) Any order made under this section may, at any time, in like manner, be rescinded or varied.

(4) Where, under section five of the Debtors Act, 1869, application is made by a judgment creditor to a court having bankruptcy jurisdiction for the committal of a judgment debtor, the court may, if it thinks fit, decline to commit, and in lieu thereof, with the consent of the judgment creditor and on payment by him of the prescribed fee, make a receiving order against the debtor. In such case the judgment debtor shall be deemed to have committed an act of bankruptcy at the time the order is made, and the provisions of this Act except Part VII. thereof shall apply as if for references to the presentation of a petition by or against a person there were substituted references to the making of such a receiving order.

(5) General rules under this Act may be made for the purpose of carrying into effect the provisions of the Debtors Act, 1869.

Appeals.

Appeals in
bankruptcy.

108.—(1) Every court having jurisdiction in bankruptcy under this Act may review, rescind or vary any order made by it under its bankruptcy jurisdiction.

(2) Orders in bankruptcy matters shall, at the instance of any person aggrieved, be subject to appeal as follows :—

(a) Where the order is made by a county court, an appeal shall lie to a divisional court of the High Court, of which the judge to whom bankruptcy business is for the time being assigned shall, for the purpose of hearing any such appeal, be a member. The decision of the divisional court upon any such appeal shall be final and conclusive, unless in any case the divisional court or the Court of Appeal sees fit to give special leave to appeal therefrom to the court of appeal, whose decision in such case shall be final and conclusive ;

(b) Where the order (not being an order on appeal from a county court) is made by the High Court, an appeal shall lie to the Court of Appeal, and an appeal

shall, with the leave of the Court of Appeal, but not otherwise, lie from the order of that court to the House of Lords; A.D. 1914.

(c) No appeal shall be entertained except in conformity with such general rules as may for the time being be in force in relation to the appeal.

(3) Where by this Act an appeal to the High Court is given against any decision of the Board of Trade, or of the official receiver, the appeal shall be brought within twenty-one days from the time when the decision appealed against is pronounced or made.

Procedure.

109.—(1) Subject to the provisions of this Act and to general rules, the costs of and incidental to any proceeding in court under this Act shall be in the discretion of the court: Discretionary powers of court.
Provided that, where any issue is tried by a jury, the costs shall follow the event, unless, upon application made at the trial, for good cause shown, the judge before whom such issue is tried otherwise orders.

(2) The court may at any time adjourn any proceedings before it upon such terms, if any, as it may think fit to impose.

(3) The court may at any time amend any written process or proceeding under this Act upon such terms, if any, as it may think fit to impose.

(4) Where by this Act, or by general rules, the time for doing any act or thing is limited, the court may extend the time either before or after the expiration thereof, upon such terms, if any, as the court may think fit to impose.

(5) Subject to general rules, the court may in any matter take the whole or any part of the evidence either *vivâ voce*, or by interrogatories, or upon affidavit, or, out of the United Kingdom, by commission.

110. Where two or more bankruptcy petitions are presented against the same debtor or against joint debtors, the court may consolidate the proceedings, or any of them, on such terms as the court thinks fit. Consolidation of petitions.

111. Where the petitioner does not proceed with due diligence on his petition, the court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of the petitioning creditor. Power to change carriage of proceedings.

112. If a debtor by or against whom a bankruptcy petition has been presented dies, the proceedings in the matter shall, unless the court otherwise orders, be continued as if he were alive. Continuance of proceedings on death of debtor.

113. The court may at any time, for sufficient reason, make an order staying the proceedings under a bankruptcy petition, either altogether or for a limited time, on such terms and subject to such conditions as the court may think just. Power to stay proceedings.

A.D. 1914. **114.** Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm without including the others.

Power to present petition against one partner.

Power to dismiss petition against some respondents only.

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

Property of partners to be vested in same trustee.

116. Where a receiving order has been made on a bankruptcy petition by or against one member of a partnership, any other bankruptcy petition by or against a member of the same partnership shall be filed in or transferred to the court in which the first-mentioned petition is in course of prosecution, and, unless the court otherwise directs, the same trustee or receiver shall be appointed as may have been appointed in respect of the property of the first-mentioned member of the partnership, and the court may give such directions for consolidating the proceedings under the petitions as it thinks just.

Actions by trustee and bankrupt's partners.

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

Actions on joint contracts.

118. Where a bankrupt is a contractor in respect of any contract jointly with any person or persons, such person or persons may sue or be sued in respect of the contract without the joinder of the bankrupt.

Proceedings in partnership name.

119. Any two or more persons, being partners, or any person carrying on business under a partnership name, may take proceedings or be proceeded against under this Act in the name of the firm, but in such case the court may, on application by any person interested, order the names of the persons who are partners in such firm or the name of such person to be disclosed in such manner, and verified on oath or otherwise, as the court may direct.

Officers.

Disabilities of officers.

120.—(1) No registrar or other officer attached to any court having jurisdiction in bankruptcy shall, during his continuance in office, be capable of being elected or sitting as a member of the House of Commons.

(2) No registrar or official receiver or other officer attached to any such court shall, during his continuance in office, either

directly or indirectly, by himself, his clerk, or partner, act as solicitor in any proceeding in bankruptcy or in any prosecution of a debtor by order of the court, and, if he does so act, he shall be liable to be dismissed from office. A.D. 1914.

Provided that nothing in this section shall affect the right of any registrar or officer appointed before the twenty-fifth day of August eighteen hundred and eighty-three to act as solicitor by himself, his clerk, or partner to the extent permitted by section sixty-nine of the Bankruptcy Act, 1869.

32 & 33 Vict.
c. 71.

Orders and Warrants of Court.

121. Any order made by a court having jurisdiction in bankruptcy in England under this Act or any enactment repealed by this Act shall be enforced in Scotland and Ireland in the courts having jurisdiction in bankruptcy in those parts of the United Kingdom respectively, in the same manner in all respects as if the order had been made by the court hereby required to enforce it; and in like manner any order made by a court having jurisdiction in bankruptcy in Scotland shall be enforced in England and Ireland, and any order made by a court having jurisdiction in bankruptcy in Ireland shall be enforced in England and Scotland by the courts respectively having jurisdiction in bankruptcy in the part of the United Kingdom where the orders may require to be enforced, and in the same manner in all respects as if the order had been made by the court required to enforce it in a case of bankruptcy within its own jurisdiction. Enforcement of orders of courts throughout United Kingdom.

122. The High Court, the county courts, the courts having jurisdiction in bankruptcy in Scotland and Ireland, and every British court elsewhere having jurisdiction in bankruptcy or insolvency, and the officers of those courts respectively, shall severally act in aid of and be auxiliary to each other in all matters of bankruptcy, and an order of the court seeking aid, with a request to another of the said courts, shall be deemed sufficient to enable the latter court to exercise, in regard to the matters directed by the order, such jurisdiction as either the court which made the request, or the court to which the request is made, could exercise in regard to similar matters within their respective jurisdictions. Courts to be auxiliary to each other.

123.—(1) Any warrant of a court having jurisdiction in bankruptcy in England may be enforced in Scotland, Ireland, the Isle of Man, the Channel Islands, and elsewhere in His Majesty's dominions, in the same manner and subject to the same privileges in and subject to which a warrant issued by any justice of the peace against a person for an indictable offence against the laws of England, may be executed in those parts of His Majesty's dominions respectively, in pursuance of the Acts of Parliament in that behalf. Warrants of bankruptcy courts.

(2) A search warrant issued by a court having jurisdiction in bankruptcy for the discovery of any property of a debtor may

A.D. 1914. — be executed in manner prescribed or in the same manner and subject to the same privileges in and subject to which a search warrant for property supposed to be stolen may be executed according to law.

Commitment to prison.

124. Where the court commits any person to prison, the commitment may be to such convenient prison as the court thinks expedient, and, if the gaoler of any prison refuses to receive any prisoner so committed, he shall be liable for every such refusal to a fine not exceeding one hundred pounds.

PART VI.

SUPPLEMENTAL PROVISIONS.

Application of Act.

Married women.

125.—(1) Every married woman who carries on a trade or business, whether separately from her husband or not, shall be subject to the bankruptcy laws as if she were a feme sole.

(2) Where a married woman carries on a trade or business and a final judgment or order for any amount has been obtained against her, whether or not expressed to be payable out of her separate property, that judgment or order shall be available for bankruptcy proceedings against her by a bankruptcy notice as though she were personally bound to pay the judgment debt or sum ordered to be paid.

Exclusion of companies.
8 Edw. 7.
c. 69.

126. A receiving order shall not be made against any corporation or against any partnership or association or company registered under the Companies (Consolidation) Act, 1908, or any enactment repealed by that Act.

Application to limited partnerships.

127. Subject to such modifications as may be made by general rules under this Act, the provisions of this Act shall apply to limited partnerships in like manner as if limited partnerships were ordinary partnerships, and, on all the general partners of a limited partnership being adjudged bankrupt, the assets of the limited partnership shall vest in the trustee.

Privilege of Parliament.

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

Application of Act in case of small estates.

129. Where a petition is presented by or against a debtor, if the court is satisfied by affidavit or otherwise, or the official receiver reports to the court, that the property of the debtor is not likely to exceed in value three hundred pounds, the court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications:—

- (i) If the debtor is adjudged bankrupt the official receiver shall be the trustee in the bankruptcy;
- (ii) There shall be no committee of inspection, but the official receiver may do with the permission of the

Board of Trade all things which may be done by the trustee with the permission of the committee of inspection ;

A.D. 1914.

- (iii) Such other modifications may be made in the provisions of this Act as may be prescribed by general rules with the view of saving expense and simplifying procedure ; but nothing in this section shall permit the modification of the provisions of this Act relating to the examination or discharge of the debtor.

Provided that the creditors may at any time, by special resolution, resolve that some person other than the official receiver be appointed trustee in the bankruptcy, and thereupon the bankruptcy shall proceed as if an order for summary administration had not been made.

130.—(1) Any creditor of a deceased debtor whose debt would have been sufficient to support a bankruptcy petition against the debtor, had he been alive, may present to the court a petition in the prescribed form praying for an order for the administration of the estate of the deceased debtor, according to the law of bankruptcy.

Administration
in bankruptcy
of estate of
person dying
insolvent.

(2) Upon the prescribed notice being given to the legal personal representative of the deceased debtor, the court may, in the prescribed manner, upon proof of the petitioner's debt, unless the court is satisfied that there is a reasonable probability that the estate will be sufficient for the payment of the debts owing by the deceased, make an order for the administration in bankruptcy of the deceased debtor's estate, or may, upon cause shown, dismiss the petition with or without costs.

(3) A petition for administration under this section shall not be presented to the court after proceedings have been commenced in any court of justice for the administration of the deceased debtor's estate, but that court may, when satisfied that the estate is insufficient to pay its debts, transfer the proceedings to the court exercising jurisdiction in bankruptcy, and thereupon the last-mentioned court may, in the prescribed manner, make an order for the administration of the estate of the deceased debtor, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

(4) Upon an order being made for the administration of a deceased debtor's estate, the property of the debtor shall vest in the official receiver of the court, as trustee thereof, and he shall forthwith proceed to realise and distribute it in accordance with the provisions of this Act.

Provided that the creditors shall have the same powers as to appointment of trustees and committees of inspection as they have in other cases where the estate of a debtor is being administered or dealt with in bankruptcy, and the provisions of this Act, relating to trustees and committees of inspection, shall apply to trustees and committees of inspection appointed under the power so conferred.

A.D. 1914. If no committee of inspection is appointed, any act or thing or any direction or permission which might have been done or given by a committee of inspection may be done or given by the Board of Trade.

(5) With the modifications herein-after mentioned, all the provisions of Part II. of this Act (relating to the administration of the property of a bankrupt) and, subject to any modification that may be made therein by general rules under subsection eleven of this section, the following provisions, namely, section twenty-five of this Act (which relates to inquiries as to the debtor's conduct, dealings, and property); section eighty-three of this Act (which relates to the costs of trustees, managers, and other persons); section one hundred and twenty-nine of this Act (which relates to the summary administration of small estates); and subsection (4) of section ninety-three of this Act so far as it relates to the effect of the release of official receivers; shall, so far as the same are applicable, apply to the case of an administration order under this section in like manner as to an order of adjudication under this Act, and subsection (1) of section thirty-five of this Act shall apply as if for the reference to an order of adjudication there were substituted a reference to an administration order under this section.

(6) In the administration of the property of the deceased debtor under an order of administration, the official receiver or trustee shall have regard to any claim by the legal personal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate, and such claims shall be deemed a preferential debt under the order, and shall, notwithstanding anything to the contrary in the provisions of this Act relating to the priority of other debts, be payable in full, out of the debtor's estate, in priority to all other debts.

(7) If, on the administration of a deceased debtor's estate, any surplus remains in the hands of the official receiver or trustee, after payment in full of all the debts due from the debtor, together with the costs of the administration and interest as provided by this Act in case of bankruptcy, such surplus shall be paid over to the legal personal representative of the deceased debtor's estate, or dealt with in such other manner as may be prescribed.

(8) Notice to the legal personal representative of a deceased debtor of the presentation by a creditor of a petition under this section shall, in the event of an order for administration being made thereon, be deemed to be equivalent to notice of an act of bankruptcy, and after such notice no payment or transfer of property made by the legal personal representative shall operate as a discharge to him as between himself and the official receiver or trustee; save as aforesaid nothing in this section shall invalidate any payment made or any act or thing done in good faith by the legal personal representative before the date of the order for administration.

(9) A petition for the administration of the estate of a deceased debtor under this section may be presented by the legal personal representative of the debtor; and, where a petition is so presented by such a representative, this section shall apply subject to such modifications as may be prescribed by general rules made under subsection eleven of this section. A.D. 1914.

(10) Unless the context otherwise requires, "court," in this section, means the court within the jurisdiction of which the debtor resided or carried on business for the greater part of the six months immediately prior to his decease; "creditor" means one or more creditors qualified to present a bankruptcy petition as in this Act provided.

(11) General rules for carrying into effect the provisions of this section may be made in the same manner and to the like effect and extent as in bankruptcy.

131.—(1) The enactments set out in the Fourth Schedule to this Act, and re-enacted in the manner therein appearing, shall apply as respects debtors who have been adjudged bankrupt or whose affairs have been liquidated by arrangement under the Bankruptcy Act, 1869, or any previous Bankruptcy Act, and as respects proceedings under any such Act outstanding at the commencement of this Act. Outstanding bankruptcies under earlier enactments.

(2) Save as aforesaid, nothing in this Act shall affect such proceedings as aforesaid, but they shall continue, and the provisions of the Bankruptcy Act, 1869, or any previous Bankruptcy Acts, and any rules, orders, and tables of fees made thereunder, which were applicable to the case immediately before the commencement of this Act, shall continue to apply thereto as if this Act had not been passed.

General Rules.

132.—(1) The Lord Chancellor may, with the concurrence of the President of the Board of Trade, make general rules for carrying into effect the objects of this Act. Power to make general rules.

Provided that the general rules so made shall not extend the jurisdiction of the court.

(2) All general rules made under this section shall be laid before Parliament within three weeks after they are made if Parliament is then sitting, and, if Parliament is not then sitting, within three weeks after the beginning of the then next session of Parliament, and shall be judicially noticed, and shall have effect as if enacted by this Act.

Fees, Salaries, Expenditure, and Returns.

133.—(1) The Lord Chancellor may, with the sanction of the Treasury, prescribe a scale of fees and percentages to be charged for or in respect of proceedings under this Act; and the Treasury shall direct by whom and in what manner they are to be collected and accounted for, and to what account they shall be paid. Fees and remuneration.

A.D. 1914.

(2) The Board of Trade, with the concurrence of the Treasury, shall direct whether any and what remuneration is to be allowed to any officer of, or person attached to, the Board of Trade, performing any duties under this Act, and may vary, increase, or diminish such remuneration, as they may think fit.

Judicial salaries, &c.

134. The Lord Chancellor, with the concurrence of the Treasury, shall direct whether any and what remuneration is to be allowed to any person (other than an officer of the Board of Trade) performing any duties under this Act, and may vary, increase, or diminish such remuneration, as he may think fit.

Annual accounts of receipts and expenditure in respect of bankruptcy proceedings.

135.—(1) The Treasury shall annually cause to be prepared and laid before both Houses of Parliament an account for the year ending with the thirty-first day of March, showing the receipts and expenditure during that year in respect of bankruptcy proceedings, whether commenced under this or any previous Act, and the provisions of section twenty-eight of the Supreme Court of Judicature Act, 1875, shall apply to the account as if the account had been required by that section.

38 & 39 Vict. c. 77.

(2) The accounts of the Board of Trade, under this Act, shall be audited in such manner as the Treasury direct, and for the purpose of the account to be laid before Parliament the Board of Trade shall make such returns and give such information as the Treasury may direct.

Returns by bankruptcy officers.

136. The registrars and other officers of the courts acting in bankruptcy shall make to the Board of Trade such returns of the business of their respective courts and offices, at such times and in such manner and form as may be prescribed, and from such returns the Board of Trade shall cause books to be prepared which shall, under the regulations of the Board, be open for public information and searches.

The Board of Trade shall also cause a general annual report of all matters, judicial and financial, within this Act, to be prepared and laid before both Houses of Parliament.

Evidence.

Gazette to be evidence.

137.—(1) A copy of the London Gazette containing any notice inserted therein in pursuance of this Act, shall be evidence of the facts stated in the notice.

(2) The production of a copy of the London Gazette containing any notice of a receiving order, or of an order adjudging a debtor bankrupt, shall be conclusive evidence in all legal proceedings of the order having been duly made, and of its date.

Evidence of proceedings at meetings of creditors.

138.—(1) A minute of proceedings at a meeting of creditors under this Act, signed at the same or the next ensuing meeting, by a person describing himself as, or appearing to be, chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(2) Until the contrary is proved, every meeting of creditors in respect of the proceedings whereof a minute has been so signed shall be deemed to have been duly convened and held, and all resolutions passed or proceedings had thereat to have been duly passed or had. A.D. 1914.

139. Any petition or copy of a petition in bankruptcy, any order or certificate or copy of an order or certificate made by any court having jurisdiction in bankruptcy, any instrument or copy of an instrument, affidavit, or document made or used in the course of any bankruptcy proceedings or other proceedings had under this Act, shall, if it appears to be sealed with the seal of any court having jurisdiction in bankruptcy, or purports to be signed by any judge thereof, or is certified as a true copy by any registrar thereof, be receivable in evidence in all legal proceedings whatever. Evidence of proceedings in bankruptcy.

140. Subject to general rules, any affidavit to be used in a bankruptcy court may be sworn before any person authorised to administer oaths in the High Court, or in the Court of Chancery of the county palatine of Lancaster, or before any registrar of a bankruptcy court, or before any officer of a bankruptcy court authorised in writing in that behalf by the judge of the court, or before a justice of the peace for the county or place where it is sworn, or in the case of a person residing in Scotland or in Ireland, before a judge ordinary, magistrate, or justice of the peace, or, in the case of a person who is out of the United Kingdom, before a magistrate or justice of the peace or other person qualified to administer oaths in the country where he resides (he being certified to be a magistrate or justice of the peace, or qualified as afore-said, by a British minister or British consul, or by a notary public). Swearing of affidavits.

141. In the case of the death of the debtor or his wife, or of a witness whose evidence has been received by any court in any proceeding under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to. Death of debtor or witness.

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

143. A certificate of the Board of Trade that a person has been appointed trustee under this Act shall be conclusive evidence of his appointment. Certificate of appointment of trustee.

144.—(1) All documents purporting to be orders or certificates made or issued by the Board of Trade, and to be sealed with the seal of the Board, or to be signed by a secretary or Proceedings of Board of Trade.

A.D. 1914. — assistant secretary of the Board, or any person authorised in that behalf by the President of the Board, shall be received in evidence, and deemed to be such orders or certificates without further proof unless the contrary is shown.

(2) A certificate signed by the President of the Board of Trade that any order made, certificate issued, or act done, is the order, certificate, or act of the Board of Trade shall be conclusive evidence of the fact so certified.

Miscellaneous.

Computation
of time.

145.—(1) Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time the same shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at latest on the last day of that limited time as so computed, unless the last day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter Week, or a day appointed for public fast, humiliation, or thanksgiving, or a day on which the court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards which is not one of the days in this section specified.

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

Service of
notices.

146. All notices and other documents for the service of which no special mode is directed may be sent by post to the last known address of the person to be served therewith.

Formal defect
not to invali-
date proceed-
ings.

147.—(1) No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the court before which an objection is made to the proceeding is of opinion that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of that court.

(2) No defect or irregularity in the appointment or election of a receiver, trustee, or member of a committee of inspection shall vitiate any act done by him in good faith.

Exemption of
deeds, &c.
from stamp
duty.

148. Every deed, conveyance, assignment, surrender, admission or other assurance relating solely to freehold, leasehold, copyhold or customary property, or to any mortgage charge or other incumbrance on, or any estate, right or interest in, any real or personal property which is part of the estate of any bankrupt, and which, after the execution of the deed, conveyance, assignment, surrender, admission or other assurance, either at

law or in equity, is or remains the estate of the bankrupt or of the trustee under the bankruptcy, and every power of attorney, proxy paper, writ, order, certificate, affidavit, bond or other instrument or writing relating solely to the property of any bankrupt, or to any proceeding under any bankruptcy, shall be exempt from stamp duty, except in respect of fees under this Act. A.D. 1914.

149. For all or any of the purposes of this Act, a corporation may act by any of its officers authorised in that behalf under the seal of the corporation, a firm may act by any of its members, and a lunatic may act by his committee or curator bonis. Acting of corporations, partners, &c.

150.—(1) Where in any Act, instrument, or proceeding, passed, executed, or taken before the commencement of this Act, mention is made of a commission of bankruptcy or fiat in bankruptcy, the same shall be construed, with reference to the proceedings under a bankruptcy petition, as if a commission of or a fiat in bankruptcy had been actually issued at the time of the presentation of such petition. Construction of Acts mentioning commission of bankruptcy, &c.

(2) Where by any Act or instrument reference is made to the Bankruptcy Act, 1869, or to any enactment repealed by this Act, that Act or instrument shall, unless the context otherwise requires, be construed and have effect as if this Act or the corresponding provision (if any) of this Act were therein referred to.

151. Save as provided in this Act, the provisions of this Act relating to the remedies against the property of a debtor, the priorities of debts, the effect of a composition or scheme of arrangement, and the effect of a discharge, shall bind the Crown. Certain provisions to bind Crown.

152. Nothing in this Act shall take away or affect any right of audience that any person may have had at the commencement of this Act. Saving for existing rights of audience.

Unclaimed Funds or Dividends.

153.—(1) Where the trustee, under any bankruptcy composition or scheme, pursuant to this Act or any enactment repealed by this Act, has under his control any unclaimed dividend which has remained unclaimed for more than six months, or where, after making a final dividend, he has in his hands or under his control any unclaimed or undistributed money arising from the property of the debtor, he shall forthwith pay it to the Bankruptcy Estates Account at the Bank of England. The Board of Trade shall furnish him with a certificate of receipt of the money so paid, which shall be an effectual discharge to him in respect thereof. Unclaimed and undistributed dividends or funds under this and former Acts.

(2) Where any unclaimed or undistributed funds or dividends in the hands or under the control of any trustee or other person

A.D. 1914. empowered to collect, receive, or distribute any funds or dividends under any Act of Parliament mentioned in the Fifth Schedule to this Act, or any petition, resolution, deed or other proceeding under or in pursuance of any such Act, have remained or remain unclaimed or undistributed for six months after they became claimable or distributable, or in any other case for two years after the receipt thereof by such trustee or other person, it shall be the duty of such trustee or other person forthwith to pay them to the Bankruptcy Estates Account at the Bank of England. The Board of Trade shall furnish the trustee or other person with a certificate of receipt of the money so paid, which shall be an effectual discharge to him in respect thereof.

The Board of Trade may at any time order any such trustee or other person to submit to them an account verified by affidavit of the sums received and paid by him under or in pursuance of any such petition, resolution, deed, or other proceeding as aforesaid, and may direct and enforce an audit of the account.

The Board of Trade, with the concurrence of the Treasury, may from time to time appoint a person to collect and get in all such unclaimed or undistributed funds or dividends, and for the purposes of this section any court having jurisdiction in bankruptcy shall have and, at the instance of the person so appointed or of the Board of Trade, may exercise, all the powers conferred by this Act with respect to the discovery and realisation of the property of a debtor, and the provisions of Part I. of this Act with respect thereto shall, with any necessary modifications, apply to proceedings under this section.

(3) The provisions of this section shall not, except as expressly declared herein, deprive any person of any larger or other right or remedy to which he may be entitled against such trustee or other person.

(4) Any person claiming to be entitled to any moneys paid in to the Bankruptcy Estates Account, pursuant to this section, may apply to the Board of Trade for payment to him of the same, and the Board of Trade, if satisfied that the person claiming is entitled, shall make an order for the payment to such person of the sum due.

Any person dissatisfied with the decision of the Board of Trade in respect of his claim may appeal to the High Court.

PART VII.

BANKRUPTCY OFFENCES.

154. Any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made shall in each of the cases following be guilty of a misdemeanour:—

- (1) If he does not to the best of his knowledge and belief fully and truly discover to the trustee all his property, real and personal, and how and to whom and for what consideration and when he disposed of any part thereof, except such part as has been disposed of in

Fraudulent
debtors.

- the ordinary way of his trade (if any) or laid out in the ordinary expense of his family, unless he proves that he had no intent to defraud :
- (2) If he does not deliver up to the trustee, or as he directs, all such part of his real and personal property as is in his custody or under his control, and which he is required by law to deliver up, unless he proves that he had no intent to defraud :
 - (3) If he does not deliver up to the trustee, or as he directs, all books, documents, papers, and writings in his custody or under his control relating to his property or affairs, unless he proves that he had no intent to defraud :
 - (4) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he conceals any part of his property to the value of ten pounds or upwards, or conceals any debt due to or from him, unless he proves that he had no intent to defraud :
 - (5) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he fraudulently removes any part of his property to the value of ten pounds or upwards :
 - (6) If he makes any material omission in any statement relating to his affairs, unless he proves that he had no intent to defraud :
 - (7) If, knowing or believing that a false debt has been proved by any person under the bankruptcy, he fails for the period of a month to inform the trustee thereof :
 - (8) If, after the presentation of a bankruptcy petition by or against him, he prevents the production of any book, document, paper, or writing affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law :
 - (9) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation or falsification of any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law :
 - (10) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law :

A.D. 1914.

- (11) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he fraudulently parts with, alters, or makes any omission in, or is privy to the fraudulently parting with, altering, or making any omission in, any document affecting or relating to his property or affairs :
- (12) If, after the presentation of a bankruptcy petition by or against him, or at any meeting of his creditors within six months next before such presentation, he attempts to account for any part of his property by fictitious losses or expenses :
- (13) If, within six months next before the presentation of a bankruptcy petition by or against him, or, in the case of a receiving order made under section one hundred and seven of this Act, before the date of the order, or after the presentation of a bankruptcy petition and before the making of a receiving order, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same :
- (14) If, within six months next before the presentation of a bankruptcy petition by or against him, or, in the case of a receiving order made under section one hundred and seven of this Act, before the date of the order, or after the presentation of a bankruptcy petition and before the making of a receiving order, he obtains under the false pretence of carrying on business, and, if a trader, of dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless he proves that he had no intent to defraud :
- (15) If, within six months next before the presentation of a bankruptcy petition by or against him, or, in the case of a receiving order made under section one hundred and seven of this Act, before the date of the order, or after the presentation of a bankruptcy petition and before the making of a receiving order, he pawns, pledges, or disposes of any property which he has obtained on credit and has not paid for, unless, in the case of a trader, such pawning, pledging, or disposing is in the ordinary way of his trade, and unless in any case he proves that he had no intent to defraud :
- (16) If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to an agreement with reference to his affairs or to his bankruptcy.

For the purpose of this section, the expression "trustee" means the official receiver of the debtor's estate or trustee administering his estate for the benefit of his creditors.

155. Where an undischarged bankrupt—

A.D. 1914.

- (a) either alone or jointly with any other person obtains credit to the extent of ten pounds or upwards from any person without informing that person that he is an undischarged bankrupt; or
- (b) engages in any trade or business under a name other than that under which he was adjudicated bankrupt without disclosing to all persons with whom he enters into any business transaction the name under which he was adjudicated bankrupt;

Undischarged
bankrupt ob-
taining credit.

he shall be guilty of a misdemeanour.

156. If any person who has been adjudged bankrupt or in respect of whose estate a receiving order has been made—

Frauds by
bankrupts, &c.

- (a) in incurring any debt or liability has obtained credit under false pretences or by means of any other fraud;
- (b) with intent to defraud his creditors or any of them, has made or caused to be made any gift or transfer of, or charge on, his property;
- (c) with intent to defraud his creditors, has concealed or removed any part of his property since, or within two months before, the date of any unsatisfied judgment or order for payment of money obtained against him;

he shall be guilty of a misdemeanour.

157.—(1) Any person who has been adjudged bankrupt, or in respect of whose estate a receiving order has been made, shall be guilty of a misdemeanour, if, having been engaged in any trade or business, and having outstanding at the date of the receiving order any debts contracted in the course and for the purposes of such trade or business,—

Bankrupt
guilty of
gambling, &c.

- (a) he has, within two years prior to the presentation of the bankruptcy petition, materially contributed to or increased the extent of his insolvency by gambling or by rash and hazardous speculations, and such gambling or speculations are unconnected with his trade or business; or
- (b) he has, between the date of the presentation of the petition and the date of the receiving order, lost any part of his estate by such gambling or rash and hazardous speculations as aforesaid; or
- (c) on being required by the Official Receiver at any time, or in the course of his public examination by the court, to account for the loss of any substantial part of his estate incurred within a period of a year next preceding the date of the presentation of the bankruptcy petition, or between that date and the date of the receiving order, he fails to give a satisfactory explanation of the manner in which such loss was incurred:

A.D. 1914.

Provided that, in determining for the purposes of this section whether any speculations were rash and hazardous, the financial position of the accused person at the time when he entered into the speculations shall be taken into consideration.

(2) A prosecution shall not be instituted against any person under this section except by order of the court, nor where the receiving order in the bankruptcy is made within two years from the first day of April nineteen hundred and fourteen.

(3) Where a receiving order is made against a person under section one hundred and seven of this Act, this section shall apply as if for references to the presentation of a petition there were substituted references to the making of the receiving order.

Bankrupt
failing to keep
proper ac-
counts.

158.—(1) If any person who has on any previous occasion been adjudged bankrupt or made a composition or arrangement with his creditors is adjudged bankrupt, or if a receiving order is made in respect of his estate, he shall be guilty of a misdemeanour, if, having during the whole or any part of the two years immediately preceding the date of the presentation of the bankruptcy petition been engaged in any trade or business, he has not kept proper books of account throughout those two years or such part thereof as aforesaid, and, if so engaged at the date of presentation of the petition, thereafter, whilst so engaged, up to the date of the receiving order, or has not preserved all books of account so kept :

Provided that a person who has not kept or has not preserved such books of account shall not be convicted of an offence under this section if his unsecured liabilities at the date of the receiving order did not exceed one hundred pounds, or if he proves that in the circumstances in which he traded or carried on business the omission was honest and excusable.

(2) A prosecution shall not be instituted against any person under this section except by order of the court, nor where the receiving order in the bankruptcy is made within two years from the first day of April nineteen hundred and fourteen.

(3) For the purposes of this section, a person shall be deemed not to have kept proper books of account if he has not kept such books or accounts as are necessary to exhibit or explain his transactions and financial position in his trade or business, including a book or books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, also accounts of all goods sold and purchased, and statements of annual stocktakings.

(4) Paragraphs (9), (10), and (11) of section one hundred and fifty-four of this Act (which relate to the destruction, mutilation, and falsification and other fraudulent dealing with books and documents), shall, in their application to such books as aforesaid, have effect as if "two years next before the presentation of the bankruptcy petition" were substituted for

the time mentioned in those paragraphs as the time prior to the presentation within which the acts or omissions specified in those paragraphs constitute an offence. A.D. 1914.

(5) Where a receiving order is made against a person under section one hundred and seven of this Act, this section shall apply as if for references to the presentation of a petition there were substituted references to the making of the receiving order.

159. If any person who is adjudged bankrupt, or in respect of whose estate a receiving order has been made, after the presentation of a bankruptcy petition by or against him, or within six months before such presentation, quits England and takes with him, or attempts or makes preparation to quit England and take with him, any part of his property to the amount of twenty pounds or upwards, which ought by law to be divided amongst his creditors, he shall (unless he proves that he had no intent to defraud) be guilty of felony. Bankrupt absconding with property.

160. If any creditor, or any person claiming to be a creditor, in any bankruptcy proceedings, wilfully and with intent to defraud makes any false claim, or any proof, declaration or statement of account, which is untrue in any material particular, he shall be guilty of a misdemeanour, and shall on conviction on indictment be liable to imprisonment with or without hard labour for a term not exceeding one year. False claim, &c.

161. Where an official receiver or a trustee in a bankruptcy reports to any court exercising jurisdiction in bankruptcy that in his opinion a debtor who has been adjudged bankrupt or in respect of whose estate a receiving order has been made has been guilty of any offence under this Act or any enactment repealed by this Act, or where the court is satisfied upon the representation of any creditor or member of the committee of inspection that there is ground to believe that the debtor has been guilty of any such offence, the court shall, if it appears to the court that there is a reasonable probability that the debtor will be convicted, order that the debtor be prosecuted for such offence. Order by court for prosecution on report of trustee.

Provided that it shall not be obligatory on the court in the absence of any application by the official receiver for such an order to make an order under this section for the prosecution of an offence, unless it appears to the court that the circumstances are such as to render a prosecution desirable.

162. Where a debtor has been guilty of any criminal offence, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved. Criminal liability after discharge or composition.

163.—(1) Where there is, in the opinion of the court, ground to believe that the bankrupt or any other person has been guilty of any offence which is by statute made a misdemeanour in cases Power for court to commit for trial.

A.D. 1914. of bankruptcy, the court may commit the bankrupt or such other person for trial.

(2) For the purpose of committing the bankrupt or such other person for trial, the court shall have all the powers of a stipendiary magistrate as to taking depositions, binding over witnesses to appear, admitting the accused to bail, or otherwise.

Nothing in this subsection shall be construed as derogating from the powers or jurisdiction of the High Court.

Trial and
punishment of
offences.

164.—(1) A person guilty of an offence declared to be a felony or a misdemeanour under this Act in respect of which no special penalty is imposed by this Act shall be liable, on conviction on indictment, to imprisonment with or without hard labour for a term not exceeding two years, or, on summary conviction, to imprisonment with or without hard labour for a term not exceeding six months.

Provided that the maximum term of imprisonment with or without hard labour which may be awarded on conviction on indictment of a misdemeanour under section one hundred and fifty-six of this Act shall be one year.

(2) Summary proceedings in respect of any such offence shall not be instituted after one year from the first discovery thereof either by the official receiver or by the trustee in the bankruptcy, or, in the case of proceedings instituted by a creditor, by the creditor, nor in any case shall they be instituted after three years from the commission of the offence.

22 & 23 Vict.
c. 17.

(3) Every misdemeanour under this Act shall be deemed to be an offence under and subject to the provisions of the Vexatious Indictments Act, 1859, and any Act amending that Act, and when any person is charged with any such misdemeanour before a court of summary jurisdiction the court shall take into consideration any evidence adduced before them tending to show that the act charged was not committed with a guilty intent.

(4) In an indictment for an offence under this Act, it shall be sufficient to set forth the substance of the offence charged in the words of this Act specifying the offence, or as near thereto as circumstances admit, without alleging or setting forth any debt, act of bankruptcy, trading, adjudication, or any proceedings in, or order, warrant, or document of, any court acting under this Act or any Act repealed by this Act.

Public Prose-
cutor to act in
certain cases.

165. Where the court orders the prosecution of any person for any offence under this Act or any enactment repealed by this Act, or for any offence arising out of or connected with any bankruptcy proceedings, it shall be the duty of the Director of Public Prosecutions to institute and carry on the prosecution :

Provided that, where the order of the court is made on the application of the official receiver and based on his report, the Board of Trade may themselves, or through the official receiver, institute the prosecution and carry on the proceedings, if or so long as those proceedings are conducted before a court of summary jurisdiction, unless in the course thereof circumstances

arise which, in the opinion of such court or of the Board, render it desirable that the remainder of the proceedings should be carried on by the Director of Public Prosecutions. A.D. 1914.

166. A statement or admission made by any person in any compulsory examination or deposition before any court on the hearing of any matter in bankruptcy shall not be admissible as evidence against that person in any proceeding in respect of any of the misdemeanours referred to in section eighty-five of the Larceny Act, 1861, (which section relates to frauds by agents, bankers and factors). Evidence as to frauds by agents. 24 & 25 Vict. c. 96.

PART VIII.

GENERAL.

Interpretation.

167. In this Act, unless the context otherwise requires,— Interpretation.

- “The court” means the court having jurisdiction in bankruptcy under this Act;
- “Affidavit” includes statutory declaration, affirmation, and attestation on honour;
- “Available act of bankruptcy” means any act of bankruptcy available for a bankruptcy petition at the date of the presentation of the petition on which the receiving order is made;
- “Debt provable in bankruptcy” or “provable debt” includes any debt or liability by this Act made provable in bankruptcy;
- “Gazetted” means published in the London Gazette;
- “General rules” include forms;
- “Goods” includes all chattels personal;
- “Local bank” means any bank in, or in the neighbourhood of, the bankruptcy district in which the proceedings are taken;
- “Oath” includes affirmation, declaration, and attestation on honour;
- “Ordinary resolution” means a resolution decided by a majority in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution;
- “Prescribed” means prescribed by general rules within the meaning of this Act;
- “Property” includes money, goods, things in action, land, and every description of property, whether real or personal and whether situate in England or elsewhere; also obligations, easements, and every description of estate, interest, and profit, present or future, vested or contingent, arising out of or incident to property as above defined;
- “Resolution” means ordinary resolution;

A.D. 1914.

- “Secured creditor” means a person holding a mortgage charge or lien on the property of the debtor, or any part thereof, as a security for a debt due to him from the debtor ;
- “Sheriff” includes any officer charged with the execution of a writ or other process ;
- “Special resolution” means a resolution decided by a majority in number and three-fourths in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution ;
- “Trustee” means the trustee in bankruptcy of a debtor’s estate.

Repeals.

Repeal of enactments and savings.

168.—(1) The Acts mentioned in the Sixth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

(2) This Act shall apply to proceedings under the Bankruptcy Acts, 1883 to 1913, pending at the commencement of this Act, as if commenced under this Act.

(3) Until revoked or altered under the powers of this Act, any fees prescribed and any general rules and orders made under the Bankruptcy Acts, 1883 to 1913, and the Bankruptcy (Discharge and Closure) Act, 1887, which are in force at the commencement of this Act, shall continue in force, and shall have effect as if made under this Act.

(4) Nothing in the repeals effected by this Act shall affect the powers or duties, tenure of office, terms of remuneration, or right to pension, of any officer appointed before the commencement of this Act.

(5) Nothing in this Act shall affect any provisions of the Bankruptcy Acts, 1883 to 1913, relating to disqualifications on account of bankruptcy to executions or to the administration of small estates in county courts which are left unrepealed by this Act.

Short title, extent, and commencement.

169.—(1) This Act may be cited as the Bankruptcy Act, 1914.

(2) This Act shall not, except so far as is expressly provided, extend to Scotland or Ireland.

(3) This Act shall come into operation on the first day of January nineteen hundred and fifteen.

SCHEDULES.

A.D. 1914.

THE FIRST SCHEDULE.

Section 13.

MEETINGS OF CREDITORS.

1. The first meeting of creditors shall be summoned for a day not later than fourteen days after the date of the receiving order, unless the court for any special reason deem it expedient that the meeting be summoned for a later day.

2. The official receiver shall summon the meeting by giving not less than six clear days notice of the time and place thereof in the London Gazette and in a local paper.

3. The official receiver shall also, as soon as practicable, send to each creditor mentioned in the debtor's statement of affairs, a notice of the time and place of the first meeting of creditors, accompanied by a summary of the debtor's statement of affairs, including the cause of his failure, and any observations thereon which the official receiver may think fit to make; but the proceedings at the first meeting shall not be invalidated by reason of any such notice or summary not having been sent or received before the meeting.

4. The meeting shall be held at such place as is in the opinion of the official receiver most convenient for the majority of the creditors.

5. The official receiver or the trustee may at any time summon a meeting of creditors, and shall do so whenever so directed by the court, or so requested by a creditor in accordance with the provisions of this Act.

6. Meetings subsequent to the first meeting shall be summoned by sending notice of the time and place thereof to each creditor at the address given in his proof, or if he has not proved, at the address given in the debtor's statement of affairs, or at such other address as may be known to the person summoning the meeting.

7. The official receiver, or some person nominated by him shall be the chairman at the first meeting. The chairman at subsequent meetings shall be such person as the meeting by resolution appoint.

8. A person shall not be entitled to vote as a creditor at the first or any other meeting of creditors unless he has duly proved a debt provable in bankruptcy to be due to him from the debtor, and the proof has been duly lodged before the time appointed for the meeting.

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

10. For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him, after deducting the value of his security. If he votes in respect of his whole debt he shall be deemed to have surrendered his security unless the court on application is satisfied that the omission to value the security has arisen from inadvertence.

A.D. 1914.

11. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the debtor, and against whom a receiving order has not been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

12. It shall be competent to the trustee or to the official receiver, within twenty-eight days after a proof estimating the value of a security as aforesaid has been made use of in voting at any meeting, to require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated, with an addition thereto of twenty per centum: Provided that where a creditor has put a value on such security, he may, at any time before he has been required to give up such security as aforesaid, correct such valuation by a new proof, and deduct such new value from his debt, but in that case such addition of twenty per centum shall not be made if the trustee requires the security to be given up.

13. If a receiving order is made against one partner of a firm, any creditor to whom that partner is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to vote thereat.

14. The chairman of a meeting shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the court. If he is in doubt whether the proof of a creditor should be admitted or rejected he shall mark the proof as objected to and shall allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

15. A creditor may vote either in person or by proxy.

16. Every instrument of proxy shall be in the prescribed form, and shall be issued by the official receiver of the debtor's estate, or by some other official receiver, or, after the appointment of a trustee, by the trustee, and every insertion therein shall be in the handwriting of the person giving the proxy, or of any manager or clerk, or other person in his regular employment, or of any commissioner to administer oaths in the Supreme Court.

17. General and special forms of proxy shall be sent to the creditors, together with a notice summoning a meeting of creditors, and neither the name nor the description of the official receiver, or of any other person, shall be printed or inserted in the body of any instrument of proxy before it is so sent.

18. A creditor may give a general proxy to his manager or clerk, or any other person in his regular employment. In such case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

19. A creditor may give a special proxy to any person to vote at any specified meeting or adjournment thereof on all or any of the following matters:—

- (a) For or against any specific proposal for a composition or scheme of arrangement;
- (b) For or against the appointment of any specified person as trustee at a specified rate of remuneration, or as member of the committee of inspection, or for or against the continuance in office of any specified person as trustee or member of a committee of inspection;

(c) On all questions relating to any matter other than those above referred to, arising at any specified meeting or adjournment thereof. A.D. 1914

20. A proxy shall not be used unless it is deposited with the official receiver or trustee before the meeting at which it is to be used.

21. Where it appears to the satisfaction of the court that any solicitation has been used by or on behalf of a trustee or receiver in obtaining proxies, or in procuring the trusteeship or receivership, except by the direction of a meeting of creditors, the court shall have power, if it thinks fit, to order that no remuneration shall be allowed to the person by whom or on whose behalf such solicitation may have been exercised, notwithstanding any resolution of the committee of inspection or of the creditors to the contrary.

22. A creditor may appoint the official receiver of the debtor's estate to act in manner prescribed as his general or special proxy.

23. The chairman of a meeting may, with the consent of the meeting, adjourn the meeting from time to time and from place to place.

24. A meeting shall not be competent to act for any purpose, except the election of a chairman, the proving of debts, and the adjournment of the meeting, unless there are present, or represented thereat, at least three creditors, or all the creditors if their number does not exceed three.

25. If within half an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven nor more than twenty-one days.

26. The chairman of every meeting shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book kept for that purpose, and the minutes shall be signed by him or by the chairman of the next ensuing meeting.

27. No person acting either under a general or special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer, in a position to receive any remuneration out of the estate of the debtor otherwise than as a creditor rateably with the other creditors of the debtor: Provided that where any person holds special proxies to vote for the appointment of himself as trustee he may use the said proxies and vote accordingly.

28. The vote of the trustee, or of his partner, clerk, solicitor, or solicitor's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the trustee.

THE SECOND SCHEDULE.

Section 32.

PROOF OF DEBTS.

Proof in ordinary cases.

1. Every creditor shall prove his debt as soon as may be after the making of a receiving order.

2. A debt may be proved by delivering or sending through the post in a prepaid letter to the official receiver, or, if a trustee has been appointed, to the trustee, an affidavit verifying the debt.

A.D. 1914. — computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted.

Admission or Rejection of Proofs.

23. The trustee shall examine every proof and the grounds of the debt, and in writing admit or reject it, in whole or in part, or require further evidence in support of it. If he rejects a proof he shall state in writing to the creditor the grounds of the rejection.

24. If the trustee thinks that a proof has been improperly admitted, the court may, on the application of the trustee, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

25. If a creditor is dissatisfied with the decision of the trustee in respect of a proof, the court may, on the application of the creditor, reverse or vary the decision.

26. The court may also expunge or reduce a proof upon the application of a creditor if the trustee declines to interfere in the matter, or, in the case of a composition or scheme, upon the application of the debtor.

27. For the purpose of any of his duties in relation to proofs, the trustee may administer oaths and take affidavits.

28. The official receiver, before the appointment of a trustee, shall have all the powers of a trustee with respect to the examination, admission, and rejection of proofs, and any act or decision of his in relation thereto shall be subject to the like appeal.

Section 99.

THE THIRD SCHEDULE.

LIST OF METROPOLITAN COUNTY COURTS.

The Bloomsbury County Court of Middlesex.
 The Bow County Court of Middlesex.
 The Brompton County Court of Middlesex.
 The Clerkenwell County Court of Middlesex.
 The Lambeth County Court of Surrey.
 The Marylebone County Court of Middlesex.
 The Shoreditch County Court of Middlesex.
 The Southwark County Court of Surrey.
 The Westminster County Court of Middlesex.
 The Whitechapel County Court of Middlesex.

Section 131.

THE FOURTH SCHEDULE.

RE-ENACTMENT OF PROVISIONS RELATING TO PRE-1884
 BANKRUPTCIES.

46 & 47 Vict.
 c. 52.
 s. 153 (4) &
 (5).

(4) On the occurrence at any time after the passing of this Act of any vacancy in the office of any person who has under subsection (4) of section one hundred and fifty-three of the Bankruptcy Act, 1883, been appointed to perform the remaining duties of any of the officers mentioned

in subsection (2) of that section, the Board of Trade may, with the approval of the Treasury, appoint a fit person to fill the vacancy, and all estates, rights and effects, which at the time of the vacancy are by virtue of the said section vested in the officer whose office is so vacated, shall by virtue of such appointment, become vested in the person so appointed, provided that any person so appointed shall be an officer of the Board of Trade, and shall in all respects act under the directions of the Board of Trade.

A.D. 1914.

(5) The Board of Trade may, with the approval of the Lord Chancellor, from time to time direct that any duties or functions not of a judicial character relating to any bankruptcies, insolvencies, or other proceedings under any Act prior to the Bankruptcy Act, 1869, which were at the time of the passing of the Bankruptcy Act, 1883, performed or exercised by registrars of county courts, shall devolve on and be performed by the official receiver, and thereupon all powers and authorities of the registrar, and all estates, rights and effects vested in the registrar shall become vested in the official receiver.

In every liquidation by arrangement under the Bankruptcy Act, 1869, which was pending at the commencement of the Bankruptcy Act, 1883, if at any time there is no trustee acting under the liquidation by reason of death or for any other cause, such of the official receivers of bankrupts' estates as is appointed by the Board of Trade for that purpose shall become and be the trustee in the liquidation, and the property of the liquidating debtor shall pass to and vest in him accordingly; but this provision shall not prejudice the right of the creditors in the liquidation to appoint a new trustee in the manner directed by the Bankruptcy Act, 1869, or the rules thereunder; and on such appointment the property of the liquidating debtor shall pass to and vest in the new trustee.

159.

The provisions of this Act with respect to the duties and responsibilities of and accounting by a trustee in a bankruptcy under this Act shall apply, as nearly as may be, to a trustee acting under the provisions of this section.

Where a bankruptcy or liquidation by arrangement under the Bankruptcy Act, 1869, has been or is hereafter closed, any property of the bankrupt or liquidating debtor which vested in the trustee and has not been realised or distributed shall vest in such person as may be appointed by the Board of Trade for that purpose and he shall thereupon proceed to get in, realise, and distribute the property in like manner and with and subject to the like powers and obligations, as far as applicable, as if the bankruptcy or liquidation were continuing and he were acting as trustee thereunder.

s. 160

In every bankruptcy under the Bankruptcy Act, 1869, pending at the commencement of the Bankruptcy Act, 1883, where a registrar of the London Bankruptcy Court or of any county court would hereafter but for this enactment become the trustee under the bankruptcy, such of the official receivers of bankrupts' estates as may be appointed by the Board of Trade for that purpose shall be the trustee in the place of the registrar, and the property of the bankrupt shall pass to and vest in the Official Receiver accordingly.

s. 161.

(1) A debtor who has been adjudged bankrupt, or whose affairs have been liquidated by arrangement under the Bankruptcy Act, 1869, or any previous Bankruptcy Act, and who has not obtained his discharge, may apply to the court for an order of discharge, and thereupon the court shall appoint a day for hearing the application in open court.

50 & 51 Vict.

c. 66.

s. 2.

(2) Notice of the appointment by the court of the day for hearing the application for discharge shall, twenty-one days at least before the day so appointed, be sent by the debtor to each creditor who has proved in the bankruptcy or liquidation, or to those of them whose addresses appear in

A.D. 1914. the debtor's statement of affairs or are known to the debtor, and shall also, fourteen days at least before the day so appointed, be published in the "London Gazette."

(3) On the hearing of the application the court may hear any creditor, and may put such questions to the debtor and receive such evidence as the court thinks fit, and, on being satisfied that the notice required by this section has been duly sent and published, may either grant or refuse the order of discharge or suspend the operation of the order for a specified time, or grant the order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the debtor, or with respect to his after-acquired property :

Provided that the court shall refuse the discharge in all cases where the court is satisfied by evidence that the debtor has committed any misdemeanour under Part II. of the Debtors Act, 1869, or any amendment thereof.

(4) The Court may, as one of the conditions referred to in this section, require the debtor to consent to judgment being entered against him in the court having jurisdiction in the bankruptcy or liquidation by the official receiver of the court, or the trustee or assignee in the bankruptcy or liquidation, for any balance of the debts provable under the bankruptcy or liquidation which is not satisfied at the date of the discharge, or for such sum as the court shall think fit, but in such case execution shall not be issued on the judgment without the leave of the court, which leave may be given on proof that the debtor has since his discharge acquired property or income available for payment of his debts.

(5) A discharge granted under this section shall have the same effect as if it had been granted in pursuance of the Act under which the debtor was adjudged bankrupt or liquidated his affairs by arrangement.

s. 4.

(1) In each of the following cases, that is to say—

- (a) Any insolvency under any Act for the relief of insolvent debtors ;
- (b) Any commission, fiat, or adjudication in bankruptcy within the jurisdiction of the old London Bankruptcy Court, under any Act prior to the Bankruptcy Act, 1869 ;
- (c) Any administration by way of arrangement pursuant to an Act of the session held in the seventh and eighth years of the reign of Her Majesty Queen Victoria, chapter seventy, entitled "An Act for facilitating arrangements between Debtors and Creditors," or pursuant to the provisions of the Bankrupt Law Consolidation Act, 1849, or the hundred and ninety-second section of the Bankruptcy Act, 1861, within the jurisdiction of the old London Bankruptcy Court ;

in which the estate is now vested in a creditors' assignee, or trustee, or inspector, either alone or jointly with the official assignee, the court may at any time, upon the application of any creditor and upon being satisfied that there is good ground for removing such creditors' assignee, trustee, or inspector, or in any other case in which it shall appear to the court just or expedient, appoint the official assignee or any person appointed under the one hundred and fifty-third section of the Bankruptcy Act, 1883, to perform the remaining duties of the office of official assignee to be sole assignee, or trustee, or inspector of the estate in the place of such creditors' assignee, trustee, or inspector, as the case may be.

(2) Such appointment shall operate as a removal of the creditors' assignee, trustee, or inspector of the estate, and shall vest the whole of the property of the bankrupt or debtor in the official assignee or person appointed by the Board of Trade, as aforesaid, alone ; and all estate,

rights, powers, and duties of such former creditors' assignee, trustee, or inspector shall thereupon vest in and devolve upon the official assignee or person appointed by the Board of Trade, as aforesaid, alone. A.D. 1914.

(1) Where on the close of a bankruptcy or liquidation, or on the release of a trustee, a registrar or official receiver or official assignee is or is acting as trustee, and where under section one hundred and fifty-nine, section one hundred and sixty, or section one hundred and sixty-one of the Bankruptcy Act, 1883, either as originally enacted or as re-enacted in this schedule, an official receiver is or is acting as trustee, no liability shall attach to him personally in respect of any act done, or default made, or liability incurred by any prior trustee. s. 6.

(2) Section ninety-three of this Act (which section relates to the release of a trustee) shall, with the exception of subsection five thereof, apply to an official receiver or an official assignee when he is or is acting as trustee, and when an official receiver or official assignee has been released under that section, he shall continue to act as trustee for any subsequent purposes of the administration of the debtors' estate, but no liability shall attach to him personally by reason of his so continuing in respect of any act done, default made, or liability incurred, before his release.

All books and papers in the custody of an official receiver or official assignee or of the Acting Comptroller in Bankruptcy, and relating to any bankruptcy under the Bankruptcy Act, 1869, may, on the expiration of one year after the close of the bankruptcy, be disposed of in accordance with rules made under section one of the Public Records Office Act, 1877, and that section shall apply accordingly. s. 7.

(1) General rules for carrying into effect the objects of the foregoing sections of the Bankruptcy (Discharge and Closure) Act, 1887, as re-enacted in this Schedule, may from time to time be made, revoked, or altered by the same authority, and subject to the same provisions as general rules carrying into effect the objects of this Act. s. 8.

(2) There shall be paid in respect of proceedings under such foregoing sections such fees as the Lord Chancellor may, with the sanction of the Treasury, from time to time prescribe, and the Treasury may direct by whom, and in what manner the same are to be collected and accounted for, and to what account they are to be paid.

THE FIFTH SCHEDULE.

Section 153.

STATUTES RELATING TO UNCLAIMED DIVIDENDS.

Session and Chapter.	Title of Act.
7 & 8 Vict. c. 70 - -	An Act for facilitating arrangements between debtors and creditors.
12 & 13 Vict. c. 106 - -	The Bankruptcy Law Consolidation Act, 1849.
24 & 25 Vict. c. 134 - -	The Bankruptcy Act, 1861.
32 & 33 Vict. c. 71 - -	The Bankruptcy Act, 1869.

A.D. 1914.

THE SIXTH SCHEDULE.

Section 168.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
32 & 33 Vict. c. 62.	The Debtors Act, 1869	Sections eleven, twelve, fourteen, fifteen, and sixteen.
45 & 46 Vict. c. 75.	The Married Women's Property Act, 1882.	Subsection (5) of section one, and section three so far as they relate to England and Wales.
46 & 47 Vict. c. 52.	The Bankruptcy Act, 1883.	The whole Act, except sections one, two, thirty-two, thirty-three, thirty-four, one hundred and twenty-two, one hundred and forty-five, and one hundred and forty-six, and except sections forty-two and one hundred and twenty-seven so far as they relate to cases of orders under section one hundred and twenty-two of the said Act.
47 & 48 Vict. c. 9.	The Bankruptcy Appeals (County Courts) Act, 1884.	The whole Act.
48 & 49 Vict. c. 47.	The Bankruptcy (Office Accommodation) Act, 1885.	The whole Act.
& 50 Vict. c. 12.	The Bankruptcy (Office Accommodation) Act, 1886.	The whole Act.
50 & 51 Vict. c. 66.	The Bankruptcy (Discharge and Closure) Act, 1887.	The whole Act.
51 & 52 Vict. c. 62.	The Preferential Payments in Bankruptcy Act, 1888.	The whole Act so far as unrepealed.
53 & 54 Vict. c. 71.	The Bankruptcy Act, 1890.	The whole Act, except sections nine, twelve, and twenty-five, and subsection one of section thirty-one, and except section twenty-eight so far as it relates to cases of orders under section one hundred and twenty-two of the Bankruptcy Act, 1883.

A.D. 1914.
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Session and Chapter.	Short Title.	Extent of Repeal.
54 & 55 Vict. c. 21.	The Savings Banks Act, 1891.	Section thirteen.
3 & 4 Geo. 5. c. 34.	The Bankruptcy Act, 1913.	Part I. (except sections fifteen and twenty-seven, and except subsection (1) of section eighteen so far as it relates to cases of orders under section one hundred and twenty-two of the Bankruptcy Act, 1883), and in section forty-two the words from "and Part I. of this Act" to "the Bankruptcy Acts, 1883 to 1913," and subsection (3), Schedule I., and (except so far as it amends section twenty-five of the Bankruptcy Act, 1890) Schedule II.

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