



THE HONGKONG Government Gazette.

Published by Authority.

No. 18.

VICTORIA, SATURDAY, 30TH APRIL, 1864.

VOL. X.

HONGKONG.

ANNO VICESIMO SEPTIMO VICTORIÆ REGINÆ.

No. 5 of 1864.

By His Excellency SIR HERCULES GEORGE ROBERT ROBINSON, Knight, Governor and Commander-in-Chief of the Colony of Hongkong and its Dependencies, and Vice-Admiral of the same, with the Advice of the Legislative Council of Hongkong.

HERCULES G. R. ROBINSON.

An Ordinance to amend the Law of Debtor and Creditor.

Title.

[16th April, 1864.]

Whereas it is expedient to amend the Laws relating to Persons who are unable to meet their engagements: Be it therefore enacted and ordained by the Governor of Hongkong, with the Advice of the Legislative Council thereof, in manner following:

Preamble.

I. This Ordinance unless where otherwise specially provided shall commence and take effect from the First day of July next, and may be cited as "The Bankruptcy Ordinance, 1864."

When to commence and how to be cited.

II. The Ordinance No. 3 of 1846 for the relief of Insolvent Debtors within the Colony of Hongkong, Ordinances No. 5 of 1846, and No. 2 of 1849, respectively amending the first mentioned Ordinance, are hereby repealed: Provided that every Petition or Proceeding which shall have been presented or commenced under the said Ordinance, before the passing of this Ordinance, shall be carried on and concluded in the same manner as if this Ordinance had not been passed: and that every Offence which shall have been wholly or partly committed before the commencement of this Ordinance, shall be dealt with as if this Ordinance had not been passed: and that every act duly done, and every adjudication, appointment, order, discharge, warrant or other instrument duly made or granted before the passing of this Ordinance shall continue and be of the same force and effect as if this Ordinance had not been passed: and that no right which has arisen or may arise in respect of anything duly done under the said Ordinance shall be affected by this Ordinance: and that where any act of Bankruptcy, Petitioning Creditors Debt, Imprisonment or any other matter or thing whatsoever shall have taken place in whole or in part before the commencement of this Ordinance, but no proceeding shall have been had or taken in respect thereof before the commencement of this Ordinance, every proceeding in respect thereof may be had or taken under the provisions of this Ordinance, in the same manner as if the same had taken place after the commencement of this Ordinance.

Ordinances No. 3 of 1846, No. 5 of 1846 and No. 2 of 1849, repealed.

Proviso.

III. This Ordinance shall apply to all persons of full age in the Colony of Hongkong whether traders or non-traders, except as hereinbefore ordained.

Ordinance to apply to all adults.

IV. The Supreme Court shall have jurisdiction in Bankruptcy under this Ordinance, and the Chief Justice when sitting in Bankruptcy shall have all the powers, rights and privileges which are now exercised or enjoyed by him, except where this Ordinance otherwise specially provides.

Supreme Court to have Jurisdiction in Bankruptcy.

Section 33 of Ordinance No. 7 of 1862 incorporated with this Ordinance.

V. The Provisions contained in Section 33 of the Ordinance No. 7 of 1862, relating to the power of the Judge of the Court of Summary Jurisdiction to preside in the Supreme Court shall be deemed and taken to be applicable to the Supreme Court exercising jurisdiction in Bankruptcy, and to have in all respects the same force and effect as if they had been specially inserted herein.

Registrar of Supreme Court to be Official Assignee.

VI. The Registrar of the Supreme Court shall be the Official Assignee under this Ordinance.

As to General Orders.

Purposes for which General Orders to be framed.

VII. The Chief Justice may, with the Advice and Approval of the Legislative Council, frame General Orders for the following purposes:

(1.) For regulating the Practice and Procedure of the Court and the several Forms of Petitions, Orders, and other Proceedings to be used in the said Court in all matters under this Ordinance.

(2.) For regulating the Duties of the various Officers of such Court.

(3.) For regulating the Fees payable and the Charges and Costs to be allowed with respect to all Proceedings before such Court.

(4.) For regulating the filing, custody and inspection of Records.

(5.) For regulating the custody of unpaid Dividends.

(6.) And generally for carrying the Provisions of this Ordinance into effect, and for appointing the Sittings of the Court.

Proviso.

Provided always that if any case should arise which shall not have been expressly provided for by such General Orders, but for which provision has been made by the General Orders framed in pursuance of "The Bankruptcy Act, 1861," the Chief Justice may in his discretion apply to such case any of the General Orders so framed as last aforesaid.

Alteration of General Orders.

VIII. After such General Orders shall have been so framed, they or any of them may in like manner be rescinded or varied, and other General Orders may be framed in manner as aforesaid.

As to the Definition and Explanation of Terms.

Interpretation of Terms.

IX. The Terms and Words hereinafter enumerated or explained wheresoever occurring in this Ordinance shall be understood as hereinafter defined or explained, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such definition or explanation, that is to say:—

"Annulling." "Annulling" shall mean also "Superseding."

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

"Bankrupt." "Bankrupt" shall mean any Person who shall have been under any former Ordinance adjudged insolvent or who shall be under the provisions of this Ordinance, adjudicated bankrupt.

"Adjudication." "Adjudication" shall mean Adjudication of Bankruptcy."

"Court." "The Court" shall mean the Supreme Court exercising Jurisdiction in Bankruptcy.

"Registrar." "The Registrar" shall mean the Registrar of the Supreme Court exercising Jurisdiction in Bankruptcy.

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

"Creditors present at any Meeting." "Creditors present at any Meeting" shall include Creditors who are represented by some Person duly authorised by any such Creditor.

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

“Oath,” “Affidavit,” shall mean and include the Declaration or Affirmation of any Person whom any Act of Parliament or local Ordinance shall have authorised to make such Declaration or Affirmation in lieu of an Oath. “Oath,” “Affidavit.”

“Petitioning Creditor” shall mean the Creditor who filed the Petition for Adjudication. “Petitioning Creditor.”

“Property” shall mean and include all the real and personal estate and effects of the Petitioner or Bankrupt, except as herein provided, and all the future estate, right, title, interest, and trust of such Petitioner or Bankrupt in or to any real or personal estate and effects which may revert, descend, be devised or bequeathed or come, and all debts due or to be due, to him before he shall have obtained his discharge. “Property.”

“Prisoner” shall mean any Person in actual custody within the walls of any Prison in Hongkong for any debt, damages, costs, sum or sums of money, or for any contempt by reason of non-payment of any sum or sums of money or costs. “Prisoner.”

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

Words importing the singular number or the masculine gender only, shall be understood to include several matters as well as one matter, and several Persons as well as one Person, and Bodies Corporate as well as Individuals, and Females as well as Males; and Words importing the plural number shall be understood to apply to one matter as well as to more than one, and to one Person as well as more than one. Number and Gender.

As to acts of Bankruptcy.

X. If any Debtor shall, with intent to defeat or delay his Creditors, depart from this Colony, or, being out of this Colony, shall, with such intent, remain away from the Colony for more than Twelve Months after the passing of this Ordinance, or shall, with such intent, depart from his dwelling house or otherwise absent himself or begin to keep his house or suffer himself to be taken in execution for any debt not due, or yield himself to Prison or procure himself to be arrested or taken in execution, or his goods, money, or chattels to be attached or taken in execution, or shall with such intent within this Colony or elsewhere, make any fraudulent conveyance, gift, delivery or transfer of his real or personal property or any part thereof respectively, such Debtor shall in any such case be deemed to have committed an act of Bankruptcy: Provided always that before any adjudication shall be made against such Debtor under this Section the following Rules shall be observed: Departing the Colony.
Departing from his House.
Beginning to keep his House.
Yielding himself to Prison.
Fraudulent surrender of his Property.

(1.) A Copy of the Petition for Adjudication shall be served personally on the Debtor, either within the Jurisdiction, or in such Place or Country, or within such limits abroad as the Court shall upon application for that purpose direct. Rules to be observed before adjudication under this Section.

(2.) Such Copy of Petition shall have endorsed thereon, a Memorandum in a form to be settled by General Order, specifying the time within which the Debtor is to appear on such Petition: and such time shall, when the service is to be made out of this Colony, be the time which the Court shall think reasonable, having regard to the Place or Country where the service is to be made.

(3.) In no case shall the time for appearance be less than Fifteen Days after service.

(4.) If such personal service be not effected, the Court must be satisfied that every reasonable effort was made to effect the same, and that the attempts to serve such Petition came to the knowledge of the Debtor and were defeated by his conduct.

XI. If any Debtor, after the filing of any Petition for Adjudication against him, shall pay money to the Petitioning Creditor or give or deliver to such Petitioning Creditor any satisfaction or security for his debt or for any part thereof, whereby such Petitioning Creditor may receive more in the pound in respect of his debt than the other Creditors, such payment, gift, delivery, satisfaction or security shall be an act of Bankruptcy; and, if any Adjudication shall have been made upon such Petition, the Compounding with the Petitioning Creditor.

Court may either declare such Adjudication to be valid and direct the same to be proceeded in; or may order it to be annulled and a new Petition for Adjudication to be filed, which may be supported either by Proof of such last mentioned or any other act of Bankruptcy.

Petitions for adjudication out of this Colony.

XII. The filing of a Petition by a Debtor for relief as an Insolvent Debtor, after the passing of this Ordinance in any Court having Jurisdiction for the relief of Insolvent Debtors in any of Her Majesty's Dominions, Colonies, or Dependencies, shall be evidence of an act of Bankruptcy committed by the Debtor at the date of such Petition; and the filing of a Petition, in any of the said Courts, after the passing of this Ordinance against a Debtor for Adjudication of Insolvency, or Bankruptcy, followed by such an Adjudication shall together with such Adjudication be evidence of an act of Bankruptcy committed by the Debtor at the date of the filing of such Petition.

Lying in or escaping out of Prison.

XIII. If any Debtor, having been arrested or committed to prison for debt, or on any attachment for non-payment of money, shall, upon such or any other arrest, or commitment for debt, or non-payment of money, or upon any detention for debt lie in Prison Fourteen Days, or having been arrested for any cause shall lie in Prison as aforesaid after any detainer for debt lodged against him and not discharged; every such Debtor shall thereby be deemed to have committed an act of Bankruptcy from the time of such arrest, commitment or detainer: or, if any such Debtor having been arrested, committed or detained for Debt shall escape out of Prison or Custody, every such Debtor shall be deemed to have committed an act of Bankruptcy from the time of such arrest, commitment or detention: but no Debtor shall be adjudged Bankrupt on the ground of having laid in Prison as aforesaid, unless having been summoned he shall not offer such Security for the debt or debts in respect of which he is imprisoned or detained as the Court shall see fit: and when such Debtor is in Custody such Summons shall be delivered to the Person in whose Custody he is: who shall bring him up according to the Summons, at the cost of such Person as the Court shall determine.

Debtor suffering execution to be levied on his Goods.

XIV. If the goods or chattels of any Debtor be seized and sold under an execution issued in any Action for the recovery of any debt or money demand exceeding Three hundred Dollars, such Debtor shall be deemed to have committed an act of Bankruptcy from the date of the said seizure; but the Execution Creditor shall be entitled to the proceeds of the sale notwithstanding such act of Bankruptcy: Provided that if the Debtor be adjudged a Bankrupt within Fourteen Days from the Day of such Sale, the proceeds of such sale shall be paid by the Creditor to the Assignee under the Bankruptcy, after deducting the Costs and Expenses of the sale and of the Action and Execution upon which such Sale was grounded, and such sum may be recovered by the Assignee from the Execution Creditor as if it were a Debt due to the Bankrupt's Estate.

No person liable on act of Bankruptcy committed more than Twelve Months before the filing of Petition.

XV. No Person shall be liable to become Bankrupt by reason of any act of Bankruptcy committed more than Twelve Months prior to the filing of any Petition for Adjudication against him, and no Adjudication shall be deemed invalid by reason of any act of Bankruptcy prior to the Debt of the Petitioning Creditor: Provided there be a sufficient act of Bankruptcy subsequent to such Debt.

Debtor Petitioning against himself.

XVI. If any Debtor petition for adjudication against himself, under this Ordinance, otherwise than in *formâ pauperis*, he shall be deemed to have committed an act of Bankruptcy at the time of filing such Petition.

Court may summon Witnesses before Adjudication.

XVII. The Court, before adjudication, may summon before it any Person whom such Court shall believe capable of giving any information concerning any act of Bankruptcy committed by the Person against whom any Petition for Adjudication has been filed, and may require any Person so summoned to produce any books, papers, deeds, writings and other documents in his custody, possession or power, which may appear to the Court to be necessary to establish such act of Bankruptcy. and the Court may examine any such Person, upon Oath, by word of mouth, or interrogatories in writing, concerning such act of Bankruptcy.

Debtor Petitioning in *formâ pauperis*.

XVIII. Every Debtor who shall petition in *formâ pauperis* under this Ordinance shall, if adjudged Bankrupt, be deemed to have committed an act of Bankruptcy at the date of his commitment or detention as the case may be.

As to acts of Bankruptcy by non-payment after Judgment Debtor Summons, and the Proceedings thereon.

XIX. Any Judgment Creditor entitled to sue out against a Debtor a Writ of *Capias* Judgment Creditor may sue out Summons., or to charge the Debtor in execution in respect of any Debt amounting to Three hundred Dollars, exclusive of Costs, shall, upon filing an Affidavit of Debt in the Court, and at the end of One Week from the signing of Judgment, be entitled to sue out against a Debtor whether he be in custody or not a Summons, to be called a Judgment Debtor Summons, requiring him to appear and be examined respecting his ability to satisfy the Debt.

XX. If after the commencement of this Ordinance an Order of any Court having power to direct the payment of money by way of Costs or otherwise be made ordering the payment of any sum amounting to Three hundred Dollars upon a certain Day, and such Order be disobeyed the same having been duly served upon the Debtor, the Person, entitled to receive the money, or interested in enforcing payment of it, may, after Seven Days from the Day of payment mentioned in the said Order, sue out against the Debtor a Judgment Debtor Summons. If order of any Court directing payment of Money be disobeyed, the Person entitled to the Money may sue out Judgment Debtor Summons.

XXI. The Judgment Debtor Summons shall issue out of the Court, and must be a Summons in respect of a Judgment given after the passing of this Ordinance. Judgment to be given after the passing of this Ordinance.

XXII. When the Debtor is in the Colony of Hongkong the Summons shall be served personally, unless the Court shall in any case direct that service in some other manner shall be good. Summons to be served personally.

XXIII. When the Debtor is not in the Colony of Hongkong, the Court, upon such evidence as shall satisfy it that the service will be effectual to give notice to the Debtor, may order service to be made in such manner and form as it shall see fit, and shall appoint a time by such Order for the appearance of the Debtor. Service of Summons out of the Colony.

XXIV. Where the Debtor is in Custody a Duplicate of the Summons shall be delivered to the Sheriff, Gaoler or other Person in whose Custody he is; who shall bring him up according to the Summons at the cost of the summoning Creditor. Duplicate of Summons.

XXV. If service of the Summons be not effected and the Court is satisfied that the Debtor is keeping out of the way to avoid service, it may order that one or more notices be inserted in the *Hongkong Government Gazette* and in such other Newspaper or Newspapers as the Court may direct, requiring him to appear on a Day named, being not less than Fourteen Days after the publication of the First Notice. Insertion of Notice in Hongkong Government Gazette.

XXVI. Upon the appearance of the Debtor he may be examined on Oath, by or on behalf of the Creditor, and by the Court, respecting his ability to satisfy the Debt, and for the discovery of Property applicable in that behalf, and shall be bound to produce, on Oath, or otherwise, such books, papers and documents in his possession or power, relating to property applicable or alleged to be applicable to the satisfaction of the Debt, as the Court shall see fit, and to sign his examination when reduced to writing. Examination of Debtor.

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

XXVIII. The Debtor shall be allowed Seven Days from such Notice or such further time as the Court shall think fit, for appearing to show cause against the adjudication, and if he appear within the time allowed, and show sufficient cause, the adjudication may be annulled; otherwise, at the end of the time allowed, or on the Judgment of the Court against the sufficiency of the cause shown, the adjudication shall become absolute, and Notice thereof shall be forthwith given in the *Hongkong Government Gazette*, and in such other Newspapers as the Court may direct, and the adjudication shall have relation back to the service of the Summons or the insertion of the First Notice in the *Hongkong Government Gazette* as the case may be. Debtor to be allowed Seven Days to show cause against adjudication.

XXIX. If any Debtor, who shall be summoned on a Judgment Debtor Summons, shall refuse to be sworn or shall refuse to answer any lawful Question put by the Court, How Debtor refusing to be sworn to be dealt with.

or shall not fully answer any such Question to the satisfaction of the Court, or refuse to produce such Books, Papers and Documents in his possession or power relating to any of the matters under enquiry as the Court shall think fit, or shall refuse to sign his examination when reduced into writing, the Court may by Warrant commit such Debtor to such Prison as the Court shall think fit, there to remain until he shall have conformed to the Order of the Court.

Debtor to be subject to order of Court.

XXX. Except as is herein specially provided, the Debtor, personally, and all his estate and effects real and personal, shall, upon the issuing of such Judgment Debtor Summons, be subject to the order and direction of the Court in the same manner as if a Petition for adjudication had been filed by a Creditor against such Debtor under this Ordinance.

Debtor may petition against himself.

XXXI. Any Debtor, unable to meet his engagements, may petition for adjudication against himself, and such Petition shall be supported by the oath of the Petitioner and shall be filed of record and prosecuted in the Court; and the Debtor, so petitioning, personally, and all his estate and effects real and personal, shall upon the filing of such Petition be subject to the order and direction of the Court; and in the case of a Petition for adjudication filed by such Debtor, the computation of Debts shall be reckoned, in the same manner as is provided under this Ordinance, in the case of a Petition for adjudication filed by a Creditor.

Debtor to deliver to Court Schedule of all his Goods, &c.

XXXII. Every such Debtor shall, within Three Days or within such further time as the Court shall think reasonable, deliver in to the Court a Schedule containing a full and fair description of such Debtor, as to his name, trade, or profession, together with the last usual place of abode of such Debtor, and the place or places where he has resided during the time when his Debts were contracted: and also a full and true description of all Debts due or growing due from such Debtor, at the time of the filing his Petition; and of all and any person and persons to whom such Debtor shall be indebted, or who to his knowledge or belief shall claim to be his Creditors, together with the nature and amount of such Debts and claims respectively, distinguishing such as shall be admitted, from such as shall be disputed, by such Debtor: and also a full, true and perfect account of all the estate and effects of such Debtor, real and personal, in possession, reversion, remainder or expectancy: and also of such places of benefit or advantage held by such Debtor, whether the emoluments of the same arise from fixed salaries, or from Fees, or otherwise: and also of all pensions and allowances of the said Debtor, in possession or reversion or held by any other person or persons for or on behalf of the said Debtor, or of, and from which the said Debtor derives or may derive any manner of benefit or advantage: and also of any rights and powers of any nature and kind whatsoever which such Debtor, or any person or persons in trust for such Debtor, or for his use, benefit or advantage, in any manner whatsoever, shall be seized or possessed of, or interested in, or entitled unto, or which such Debtor or any person or persons in trust for him or for his benefit or advantage shall have any power to dispose of, charge or exercise for the benefit of the said Debtor: together with a full, true and perfect account of all the Debts at the time of the filing of his Petition due or growing due to such Debtor, or to any person or persons in trust for him or for his benefit or advantage, either solely or jointly with any other person or persons: and the names and places of abode of the several persons from whom such Debts shall be due or growing due, and of the witnesses who can prove such Debts, so far as such Debtor can set forth the same: and the said Schedule shall also contain a balance sheet of so much of the receipts and expenditure of such Debtor, and of the items composing the same as shall be at any time required by the said Court in that behalf: and also shall fully and truly describe the wearing apparel, bedding and other necessaries of such Debtor, and his or her family, and the working tools and implements of such Debtor, not exceeding in the whole the value of One hundred Dollars, which may be excepted by such Debtor from the operation of this Ordinance, together with the value of such excepted articles respectively: and the said Schedule shall be subscribed and verified on oath by such Debtor, and shall forthwith be filed in the said Court together with all books, papers, deeds and writings in any way relating to such Debtor's estate or effects, in his or her possession, or under his or her custody or control.

Court may adjudge such Debtor Bankrupt.

XXXIII. The Court may upon proof of the filing of such Schedule adjudge the Debtor, Bankrupt, or may adjourn the adjudication of such Debtor.

Debtors in prison to give notice to Gaoler before presenting Petition.

XXXIV. Every Debtor who shall present a Petition for adjudication whilst a prisoner in Prison, shall by writing give notice to the Keeper of such Gaol or Prison of his intention so to do, and shall in his petition state that such notice has been given.

XXXV. If any Debtor petitioning against himself shall not obtain adjudication within Seven Days after filing such Petition, the Court may proceed to adjudge the Debtor Bankrupt on the Petition of any competent Creditor.

Debtors not obtaining Adjudication may be adjudged Bankrupt on Petition of Competent Creditor.

As to Pauper and other Prisoners for Debt.

XXXVI. If any Debtor, now being, or who shall be imprisoned for any Debt or demand, shall through poverty be unable to petition the Court for adjudication against himself in manner hereinbefore mentioned, he shall be at liberty to petition in *formâ pauperis*, upon making an Affidavit that he has not the means of paying the fees and expenses usually payable in respect of a Petition for adjudication by a Debtor. Such Affidavit may be sworn before the Gaoler of the Prison where such Debtor is confined, and such Gaoler is hereby empowered and required to take such Affidavit and swear the Deponent thereto without fee or reward.

Debtor unable to pay may Petition in *formâ pauperis*.

Gaoler to swear such Prisoner.

XXXVII. Every Person so petitioning in *formâ pauperis* as aforesaid, shall be brought up to the Court, at its next Sitting after the presentation of such Petition, and shall be examined by the Court touching his estate and effects, debts, dealings and transactions: and, if the Court shall be satisfied with such examination, it shall make an Order of adjudication against the Petitioner, and, if it think fit, may make an Order for his release from Prison.

Petitioner to be brought up for examination.

XXXVIII. Every Adjudication against any Debtor for Debt, so brought up as aforesaid shall, unless the Court shall otherwise direct, have relation back to the date of his commitment or detention as the case may be: and the Debtor so petitioning in *formâ pauperis* personally, and all his estate and effects, real and personal, if he has any, shall upon the filing of such Petition be subject to the order and direction of the Court in the same manner as is provided by this Ordinance in the case of a Debtor unable to meet his engagements.

Adjudication to have relation back to date of commitment.

XXXIX. If any such Debtor shall refuse to be sworn, or to answer any lawful question of the Court or of any Creditor respecting his Debts, liabilities, dealings and transactions, or to make a full discovery of his estate and effects, and of all his books of account, or to produce the same, or to sign his examination when taken, the Court may by Warrant commit him to Gaol, there to be kept, with or without hard labour, for any time not exceeding One Month, and the Court may at the same time adjudge such Person Bankrupt. Provided that, if after such adjudication the Bankrupt shall, before the period of such commitment has expired, submit to be examined, and in all things conform to the Jurisdiction of the Court, he shall have in all respects the same benefits as if he had submitted to the Court in the first instance.

Debtor refusing to be sworn.

Proviso.

As to Petitions by Creditors.

XL. Any Creditor, whose Debt is sufficient to entitle him to petition under this Ordinance, may petition for adjudication against a Debtor, and such Petition shall be supported by the oath of the Petitioner, and shall be filed of record and prosecuted in the Court as directed by this Ordinance: and from and after the filing of such Petition the said Court shall have full power and authority to take such order and directions with the body of the Debtor as is mentioned in this Ordinance, as also with all his lands, tenements and hereditaments, which he shall have in his own right before adjudication, as also with all such interest in any such lands, tenements and hereditaments as such Debtor may lawfully depart withal and with all his monies, fees, offices, annuities, goods, chattels, wares, merchandize and debts and to make or order sale thereof in manner herein mentioned, or otherwise order the same for satisfaction and payment of the Creditors of the Bankrupt.

Creditor may petition for Adjudication.

Court to have power over Body and Property of Debtor.

XLI. To entitle any Creditor to petition for adjudication against a Debtor, the amount of the Debt of such Creditor shall be as follows, that is to say:

Amount of petitioning Creditors Debts.

The Debt of a single Creditor or of two or more persons, being partners, shall amount to Three hundred Dollars or upwards.

The Debt of two Creditors shall amount to Four hundred Dollars or upwards.

The Debt of three or more Creditors shall amount to Five hundred Dollars or upwards.

Every person who has given credit to any Debtor upon valuable consideration for money payable at a certain time, which time shall not have arrived when such Debtor

committed an act of Bankruptcy, may so petition or join in petitioning, whether he shall have any security for such sum or not.

If Petition filed fraudulently or maliciously, how to be dealt with.

XLII. If the Debt, stated by the Petitioning Creditor in his Affidavit, or in his petition for adjudication, to be due to him from any Debtor, shall not be really due, or, if after a Petition for adjudication be filed, it shall not have been proved that the person against whom such Petition has been filed, was liable to an adjudication at the time of the filing of such Petition, and it shall also appear that such Petition was filed fraudulently or maliciously, the Court shall and may, upon petition of any person aggrieved by such petition, examine into the same, and order satisfaction to be made to him for the damages by him sustained.

Computation of Debts.

XLIII. In the computation of Debts for the purposes of any Petition under this Ordinance there shall be reckoned as Debts—

(1.) Sums due to Creditors holding mortgages, or other available securities, or liens, after deducting the value of the property comprised in such mortgages, securities or liens.

(2.) Such interest and costs as shall be due in respect of any of the Debts.

But there shall not be reckoned—

(1.) The amount of any Debt in respect of which the Petitioner has already been adjudged entitled to have the benefit of the Ordinance No. 3 of 1846.

(2.) Debts barred by any Statute of Limitations.

Creditor, whose Debt is sufficient to entitle him to petition against all the Partners of a Firm, may petition against one: and the Court may dismiss Petitions.

XLIV. Any Creditor, whose Debt is sufficient to entitle him to petition for adjudication against all the partners of any firm, may petition for such adjudication against one or more partners of such firm; and every such Petition shall be valid, although it does not include all the partners of the firm; and in every Petition for adjudication against two or more persons, the Court may dismiss the same, as to one or more of such persons, and the validity of such Petition shall not be thereby affected as to any person as to whom such Petition is not ordered to be dismissed, nor shall any such person's discharge be thereby affected.

Where Petitioner does not proceed.

XLV. If the Petitioning Creditor shall not proceed and obtain adjudication within Three Days after his Petition shall have been filed, or within such time as shall be allowed by the Court, the Court may at any time on the expiration of such Three Days, or of such extended time as the case may be, upon the Petition of any other Creditor entitled to petition, proceed to adjudicate on such last mentioned Petition.

Court may adjudge the Debtor Bankrupt.

XLVI. The Court may upon due proof of the Petitioning Creditors Debt, and upon due proof of an act of Bankruptcy having been committed by the Debtor, adjudge the Debtor Bankrupt, and may appoint a day for the Bankrupt to surrender and conform.

If Petitioning Creditor's Debt be found insufficient, Court may proceed on Petition of any other Creditor.

XLVII. If after adjudication the Debt of the Petitioning Creditor be found by the Court to be insufficient to support such adjudication, the Court may, upon the application of any other Creditor, having proved any Debt sufficient to support an adjudication, order the Petition for adjudication to be proceeded in, and it shall by such order be deemed valid.

Court may impound and consolidate Proceedings or Petitions.

XLVIII. If two or more Petitions for adjudication be filed by, or against, the same person, or if a Petition be filed by, or against, a member of a firm, and another Petition be filed by, or against, another member of the same firm, the Court may consolidate the proceedings or any Part thereof under such Petitions, or may impound any such Petition or Petitions, or annul the proceedings thereunder, or any part thereof, upon such terms as the Court shall see fit; and may order any Petition or Petitions to be proceeded in either separately or in conjunction with any other or others; and may remove the Assignees under any such Petition or Petitions, and appoint others as it shall see fit.

If Debtor is about to leave the Colony or conceal his Goods, Court may order him to be arrested.

XLIX. Whenever any Petition for adjudication shall have been filed against any person, and it shall be proved to the satisfaction of the Court that there is probable cause for believing that such Person is about to quit the Colony, or to remove or conceal any of his Goods or Chattels with intent to defraud or defeat his Creditors unless he be forthwith apprehended, the Court may issue a Warrant, directed to such person

as the Court shall think fit, whereby such last mentioned person shall have authority to arrest the person against whom such Petition shall have been filed, and also to seize his books, papers, monies, securities for monies, goods and chattels, wheresoever he or they may be found, and him or them safely keep until the expiration of the time allowed for adjudication on such Petition, or until such person shall be adjudged Bankrupt under such Petition, and be thereon dealt with according to this Ordinance: Provided, that any person arrested upon any such Warrant, or any person whose books, papers, monies, securities for monies, goods or chattels, have been seized under any such Warrant, may apply, at any time after such arrest or seizure, to the Court for an Order or Rule on the Petitioning Creditor to show cause why the person arrested, should not be discharged out of custody, or why his books, papers, monies, securities for monies, goods and chattels, should not be delivered up to him, and the Court may make absolute, or discharge such Order or Rule.

As to Adjudication of Bankruptcy.

L. Notice of all adjudications shall be given in the *Hongkong Government Gazette*. Notice of Adjudication.

LI. Before notice of any adjudication granted upon a Creditor's Petition shall be given in the *Hongkong Government Gazette* and such other Newspapers as the Court may direct, and at or before the time of putting in execution any Warrant of seizure which shall have been granted upon such adjudication, a Duplicate of such adjudication shall be served on the person adjudged Bankrupt, personally, or by leaving the same at the usual or last known place of abode, or place of business of such person; and such person shall be allowed Seven Days, or such extended time, as the Court shall think fit, from the service of such Duplicate to show cause to the Court against the validity of such adjudication: and if such person shall, within such time, show to the satisfaction of the Court that the Petitioning Creditor's Debt and act of Bankruptcy upon which such adjudication has been grounded, or any or either of such matters are insufficient to support such adjudication, and upon such showing no other Creditor's Debt and act of Bankruptcy sufficient to support such adjudication, or such of the said last mentioned matters as shall be requisite to support such adjudication, in lieu of the Petitioning Creditor's Debt, and act of Bankruptcy or any or either of such matters, which shall be deemed insufficient in that behalf as the case may be, shall be proved to the satisfaction of the Court, the Court shall thereupon order such adjudication to be annulled and the same shall by such order be annulled accordingly: but if at the expiration of the said time no cause shall have been shown to the satisfaction of the Court for the annulling of such adjudication the Court shall forthwith after the expiration of such time, cause notice of such adjudication to be given in the *Hongkong Government Gazette* and such other Newspapers as the Court may direct, and shall, if necessary, appoint a day for such Bankrupt to surrender and conform: Provided that the Court shall have power from time to time to enlarge the time for the Bankrupt surrendering himself, for such time as the Court shall think fit, so as every such order be made Six Days at least before the day on which such Bankrupt was to surrender himself: Provided also, that if any person so adjudged Bankrupt shall before the expiration of the time allowed for showing cause, surrender himself, and give his consent, testified in writing under his hand, to such adjudication being advertised, the Court after such consent so given, shall forthwith cause the notice of adjudication to be advertised and appoint the sittings for the Bankrupt to surrender and conform.

LII. Whenever any Bankrupt is in Prison, or in custody under any process, attachment, execution, commitment or sentence, the Court may appoint a person to attend him from time to time to produce to him his books, papers and writings, in order that he may prepare his balance sheet and show the particulars of his estate and effects. If Bankrupt in prison, Court may appoint a Person to attend him.

LIII. When any person shall have been adjudged a Bankrupt, all his personal estate and effects present and future, wheresoever the same may be found or known, and all property which he may purchase, or which may revert, descend, be devised or bequeathed, or come, to him before he shall have obtained his discharge, and all Debts due, or to be due to him, wheresoever the same may be found or known, and the property, right and interest in such Debts, shall become absolutely vested in the Official or other Assignee for the time being for the benefit of the Creditors of the Bankrupt by virtue of their appointment, and after such appointment neither the Bankrupt nor any person claiming through or under him shall have power to recover the same, nor to make any release or discharge thereof, neither shall the same be attached as the Debt of the Bankrupt's Property to vest in the Assignees.

Bankrupt, or otherwise, but such Assignees shall have like remedy to recover the same in their own names, as the Bankrupt himself might have had if he had not been adjudged Bankrupt.

Bankrupt may retain Household Furniture, &c.

LIV. Provided that every person who shall be so adjudged Bankrupt, shall be entitled to retain for the use of himself and family, under the name of excepted articles, such articles of household furniture, and tools and implements of trade and other like necessaries as he shall specify and select; not exceeding in the whole the value of One hundred Dollars, and such excepted articles shall not be subject to be sold or disposed of in the Bankruptcy, nor to be taken in execution at the suit of any Creditor entitled to prove under the Bankruptcy: and in all cases there shall be filed with the proceedings in the Court an Inventory of such excepted articles: and if it shall appear to the Court that the value of the excepted articles retained by the Bankrupt exceed One hundred Dollars, the Court may order so much of such articles as it shall see fit to be given up to the Assignees.

Bankrupt's lands, &c., to vest in Assignee.

LV. When any person shall have been adjudged a Bankrupt, all lands, tenements and hereditaments, to which any Bankrupt is entitled, and all interest to which such Bankrupt is entitled in any of such lands, tenements or hereditaments, and of which he might have disposed, and all such lands, tenements and hereditaments as he shall purchase, or shall descend, be devised, revert to, or come to such Bankrupt before he shall have obtained his discharge, and all deeds, papers and writings respecting the same, shall become absolutely vested in the Official or other Assignee for the time being for the benefit of the Creditors of the Bankrupt, by virtue of his appointment, without any deed of conveyance for that purpose: and as often as any such Assignee or Assignees shall die or be lawfully removed or displaced, and a new Assignee or Assignees shall be duly appointed, such of the aforesaid estate as shall remain unsold or unconveyed, shall, by virtue of such appointment vest in the new Assignee or Assignees, either alone or jointly with the existing Assignee as the case may require, without any conveyance for that purpose.

Assignees not entitled to Bankrupts Pension, &c., but Court may order part thereof for benefit of Creditors.

LVI. Nothing in this Ordinance contained shall extend to entitle the Assignee or Assignees of the estate and effects of any Bankrupt being or having been an Officer of the Army or Navy or an Officer or Clerk or otherwise employed or engaged in the Service of Her Majesty in any Civil or Military Office, or being otherwise in the enjoyment of any Pension whatever under any Department of Her Majesty's Government, to the Pay, Half-pay, Salary, Emoluments, or Pension of any such Bankrupt for the purposes of this Ordinance: Provided that the Court may order such portion of the Pay, Half-pay, Salary, Emoluments or Pension of any such Bankrupt, as on communication from the said Court, the Secretary at War, or the Lords Commissioners of the Admiralty, or the Commissioners of Excise, or the Chief Officer of the Department to which such Bankrupt may belong or have belonged, may officially consent to in writing, to be paid to such Assignee or Assignees, in order that the same may be applied in payment of the Debts of such Bankrupt: and such Order and Consent being lodged in the Office of Her Majesty's Paymaster General, or of any other Officer or person appointed to pay or paying any such Pay, Half-pay, Salary, Emoluments or Pension, such portion of the said Pay, Half-pay, Salary, Emoluments or Pension as shall be specified in such Order and Consent shall be paid to the said Assignee or Assignees until the said Court shall make order to the contrary.

If Bankrupt be not in Prison or Custody, to be free from arrest in coming to surrender, &c., and if in Prison may be brought up by Warrant to be examined or to surrender, and if in Prison for Debt the Court may, except in certain cases, order release.

LVII. If the Bankrupt be not in prison or custody at the date of the adjudication he shall be free from arrest or imprisonment by any Creditor in coming to surrender, and after such surrender for such further time as shall be allowed him for finishing his examination, and for such time after his examination until his discharge be allowed, as the Court shall from time to time by endorsement upon the Summons of such Bankrupt think fit to appoint: and whenever any Bankrupt is in prison or in custody under any process, attachment, execution, commitment or sentence, the Court may, by Warrant directed to the person in whose custody he is confined, cause him to be brought before it at any Sitting either public or private, and if he be desirous to surrender he shall be so brought up, and the expense thereof shall be paid out of his estate, and such person shall be indemnified by the Warrant of the Court for bringing up such Bankrupt: and where any Person who has been adjudged Bankrupt and has surrendered and obtained his protection from arrest, is in Prison or custody for Debt at the time of his obtaining such protection, the Court may, except in the cases hereinafter mentioned, order his immediate release, either absolutely or upon such conditions as it shall think fit: Provided always that the Court shall not order such release where it shall appear by any judgment, order, commitment or sentence

under which the Bankrupt is in Prison or custody, or by the record or entry of any such judgment, order, commitment or sentence, and the pleadings or proceedings previously thereto that he is in Prison or custody for any Debt contracted by fraud, or breach of trust, or by reason of any prosecution against him whereby he had been convicted of any offence, or for any Debt contracted by reason of any judgment in any proceedings for breach of the Revenue Laws; or in any action for breach of promise of marriage, seduction, libel, slander, assault, battery, malicious arrest, or malicious trespass: Provided also that such release shall in no wise affect any rights of the Creditor at whose suit the Bankrupt may be in Prison or in custody, against the Bankrupt, except the right of detaining him in Prison or in custody whilst protected from imprisonment by order of the Court.

LVIII. If any Bankrupt shall be arrested for Debt, or on any escape warrant in coming to surrender, or shall after surrender, and while protected by order of the Court, be so arrested, he shall on producing such protection to the Officer who shall arrest him and giving such Officer a copy thereof, be immediately discharged, and if any Officer shall detain any such Bankrupt after he shall have shown such protection to him, except for so long as shall be necessary for obtaining a copy of the same, such Officer shall forfeit to such Bankrupt for his own use the sum of Twenty-five Dollars for every day he shall detain such Bankrupt, to be recovered by action of Debt in the name of such Bankrupt.

If arrested to be discharged on producing protection.

As to the duty of the Bankrupt after Adjudication.

LIX. Forthwith after the insertion of the notice of adjudication in the *Hongkong Government Gazette*, or if the Bankrupt before the expiration of the time allowed for showing cause against the adjudication, surrender himself and give consent to such insertion, forthwith after such surrender the Bankrupt shall (if thereto required by the Official Assignee) deliver up to the Official Assignee upon oath before the Court all books of account, papers and writings relating to his estate in his custody or power and discover such as are in the custody or power of any other person: and the Court may give such directions as it shall deem expedient with regard to such books, papers and writings: and every Bankrupt not in Prison or custody shall at all times after such surrender, attend the Assignees, upon every reasonable notice in writing for that purpose given by them to him or left at his usual or last known place of abode, and shall assist such Assignees in making out the accounts of his estate: and such Bankrupt after he shall have surrendered may at all reasonable times before the expiration of such time as shall be allowed to him to finish his examination, inspect his books, papers and writings in the presence of his Assignees or any person appointed by them, and bring with him each time any two persons to assist him: and every such Bankrupt after he shall have obtained his discharge, shall upon demand in writing given to him or left at his usual or last known place of abode attend the Assignees to settle any accounts between his estate and any Debtor to or Creditor thereof, or attend any Court of Record to give evidence touching the same, or do any act necessary for getting in or protecting the said estate: for which attendance he shall be paid such sum as the Court shall see fit out of his estate.

Bankrupt to deliver up his Books of Account to Official Assignee

and to attend Assignees.

As to the last Examination.

LX. The Court shall forthwith after the meeting for the choice of an Assignee by the Creditors appoint a Public Sitting on a day not later than Sixty Days from the date of such meeting, and shall give notice of such Sitting in the *Hongkong Government Gazette* and in such other Newspapers as the Court may direct for the Bankrupt to pass his last examination and the Court may from time to time enlarge the time appointed for such Sitting or may adjourn the same.

Sitting for last examination.

LXI. The Bankrupt shall prepare such statements of his accounts and in such form as General Orders or the Court shall direct, and shall subscribe such statement and shall file the same in Court Ten Days at least before the day appointed for the last examination or adjournment thereof, and such statement may before such last examination be amended, from time to time, as occasion may require, and the Court shall direct, and the Bankrupt shall make oath of the truth of such statement whenever he shall be duly required by the Court so to do, and the last examination of the Bankrupt shall in no case be passed unless his Statement shall have been duly filed as aforesaid.

Statement of Bankrupt.

LXII. The Statement of Accounts when filed in Court shall be open to the inspection of all Creditors who may take Copies of and extracts from the same, subject to such Regulations as the Court or General Order may direct.

Statement of Accounts to be open to inspection.

Bankrupt to be assisted by Official Assignee in preparing statement of accounts.

LXIII. In the preparation of such statement of his accounts, the Bankrupt shall be assisted by the Official Assignee, who shall prepare and file in Court together with such statement a report upon the state of the affairs of the Bankrupt setting forth such facts and particulars as may be required by the Court, or as it shall in the opinion of such Assignee be important for the Court to be informed of: Provided that if it shall in any case appear to the Court that there are special circumstances rendering it necessary that the Bankrupt should be assisted in the preparation of such statement of accounts by some person other than such Official Assignee, the Court may nominate such person to assist the Bankrupt in that behalf, and may allow to such person out of the Bankrupt's estate such remuneration as it shall think fit; and in such case the statements so prepared shall have appended thereto a certificate signed by the person appointed to assist the Bankrupt in the preparation thereof expressing his approval or disapproval thereof and the particulars and reasons of such disapproval.

As to the Official Assignee.

Official Assignee to take possession of Bankrupt's property.

LXIV. Immediately on adjudication it shall be the duty of the Official Assignee to take possession of the Bankrupt's estate, and to retain possession thereof until the appointment of a Creditor's Assignee; but if such Official Assignee, or if the Court, upon the representation of any creditor, shall be of opinion that the keeping possession of the Bankrupt's property is not requisite for the due protection of the creditors, such possession shall not be taken or retained by the Official Assignee, and the Official Assignee may be directed by the Court to give up such possession to such person as the Court shall see fit.

Official Assignee to act as sole Assignee till Creditors Assignees chosen, and may sell or otherwise dispose of property of a perishable nature, &c.

LXV. Until Assignees shall be chosen by the creditors of the Bankrupt and appointed by the Court, the Official Assignee shall to all intents and purposes whatsoever be deemed to be the sole Assignee of the Bankrupt's estate and effects: and if the Court shall so order, may, before Assignees shall be chosen by the creditors, sell or otherwise dispose of any property of a Bankrupt which shall be of a perishable nature, or the holding possession whereof until the choice of Assignees would, in the judgment of the Court, be prejudicial to the Bankrupt's estate: Provided always that nothing herein contained shall extend to authorise any Official Assignee to interfere with the Assignees chosen by the creditors in the appointment or removal of a Solicitor or Attorney or after such choice, in directing the time and manner of effecting any sale of a Bankrupt's estate or effects.

Official Assignee not personally liable for acts done in execution of his duty or for receipt of bills or money, upon certain conditions being performed.

LXVI. No Official Assignee shall be personally responsible or liable for any act done by him, or by his order or authority, in the execution of his duty as such Official Assignee, by reason of the petitioning creditors, debt or act of Bankruptcy upon which any adjudication shall have been grounded, or of any or either of such matters, being insufficient to support such adjudication: and no Official Assignee shall be deemed personally answerable for, or by reason of his having received any money, bills, notes or other negotiable instruments under any Bankruptcy in his character of Official Assignee, provided he shall have paid and deposited such money, bills, notes or other negotiable instruments during the prosecution of the Bankruptcy to and in such bank as the Court shall by order direct to the credit of the particular estate for which such money, bills, notes or other negotiable instruments shall have been received, and shall have given notice of such payment or deposit (as the case may be) to any person claiming such money, bills, notes or other negotiable instruments of the Official Assignee: and provided also that the Official Assignee after such payment or deposit, shall not have dealt with such money, bills, notes or other negotiable instruments otherwise than in the execution of his duty as Official Assignee and under the order of the Court: and if any action shall be brought against the Official Assignee, either solely or jointly with the Creditor's Assignee, in respect of such money, bills, notes or other negotiable instruments, it shall be lawful for the Judge of the Court in which the same action shall be brought upon the application of the Official Assignee, and upon an affidavit of facts, to set aside the proceedings in such action so far as the Official Assignee is concerned, with such costs or without costs, as the Judge shall see fit.

As to First Meeting of Creditors.

First meeting of Creditors, and proof of debts.

LXVII. As soon as conveniently may be after adjudication the Court shall appoint a meeting of the creditors of which ten days notice shall be given in the *Hongkong Government Gazette* and such other Newspapers as the Court may direct, and such meeting shall be held at such time and place as the Court shall appoint, and at such meeting such officer as the Court shall appoint for that purpose shall preside, and

receive the proofs of the debts of the creditors: the Official Assignee shall attend, and give to the meeting the fullest information in his power of the estate and effects of the Bankrupt and of the debts due from his estate; and a majority in value of the creditors present may determine whether any allowance for support shall be made to the Bankrupt up to the time of passing his last examination, and may fix the amount of such allowance if any be allowed.

As to choice of Creditors Assignees, and their Power.

LXVIII. At the first meeting of creditors, or at any adjournment thereof, it shall be competent to the majority in value of the creditors who have proved debts to choose an Assignee or Assignees of the Bankrupt's estate and effects to be called the Creditors' Assignee: Provided that the Court shall by certificate appoint such Assignee so chosen and shall have power to reject any person so chosen who shall appear to such Court unfit to be such Assignee, and, upon such rejection, a new choice of Creditors' Assignee and a new appointment shall be made.

Creditors to choose Assignee.

LXIX. The petitioning creditor shall at his own cost file and prosecute his petition until the choice of Assignees by the creditors: and the Court shall at or after the sitting for such choice make order for the payment thereof out of the estate of the Bankrupt in course of priority to be settled by any General Order to be made in pursuance of this Ordinance.

Petitioning creditor to proceed at his own cost until choice of Creditors Assignee.

LXX. Upon the appointment of the Creditors' Assignee all the estate both real and personal of the Bankrupt shall be divested out of the Official Assignee and vested in the Creditors' Assignee.

Estate to vest in Creditors' Assignee.

LXXI. The Official Assignee shall forthwith render to the Creditors' Assignee a full and particular account or balance sheet of the Bankrupt's estate, and of all receipts, payments and other transactions of such Official Assignee and also a list of all the Creditors of the Bankrupt who shall have proved their debts against the estate.

Official Assignee to render account.

LXXII. The Creditors' Assignee shall audit such account and may call for such information from the Official Assignee as he possesses concerning the estate.

Creditors' Assignee may call for information.

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

No person to withhold possession of books.

LXXIV. At the meeting for choice of a Creditors' Assignee or at any other meeting called for the purpose, the majority in value of the creditors present may also determine whether a manager shall be appointed to collect and wind up the estate, under the inspection of the Creditors' Assignee or of a Committee of creditors, and may appoint such person with such remuneration out of the estate and generally upon such terms and for such period and with such directions as the majority shall think fit and the remuneration of such manager shall be subject to the control and review of the Court.

Creditors may appoint manager.

LXXV. A majority in number and value of the creditors may at any meeting duly called for the purpose, remove the Creditors' Assignee or manager or accept his resignation; and one-fourth in value of the creditors who have proved may at any time apply to the Court, by petition for the removal of the Creditors' Assignee or manager, and if on the hearing of such petition, the Court shall be of opinion that sufficient reason has been shown, it may remove such Creditors' Assignee or manager, and appoint a meeting of the creditors to be held for electing a new Creditors' Assignee: and if the Assignee shall die, resign, or be removed or remain away from the Colony for three months at any one time, any creditor may apply to the Court to appoint a meeting for electing a new Creditors' Assignee, and the Court may accordingly appoint a meeting, whereof at least seven days' previous notice shall be given in the *Hongkong Government Gazette* and such other Newspapers as the Court may direct, and such meeting may elect a new Creditors' Assignee accordingly.

Removal of Assignee.

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

Mode of electing new Creditors' Assignee.

As to valuation of Bankrupt's property.

LXXVII. No valuation of a Bankrupt's property shall be made unless the Court shall so direct: and any valuation required by the creditors shall be made in such manner and upon such terms as general orders shall from time to time direct.

Duties of Creditors' Assignee.

LXXVIII. The Creditors' Assignee shall manage, and except as herein provided, realize and recover the estate belonging to the Bankrupt, and shall convert the same into money, and shall dispose of all monies not necessarily retained for current expenses, and all bills, notes, and negotiable instruments belonging to the estate, at such time and in such manner as a General Order shall on that behalf direct.

Creditors' Assignee to render accounts to Official Assignee.

LXXIX. The Creditors' Assignee shall from time to time and so often as any General Order shall direct, render to the Official Assignee a debtor and creditor account of all monies received and paid by him on account of the Bankrupt or his estate verified on oath as a full, true and faithful account of his receipts and payments as such Creditors' Assignee, and the Court may examine any account which may be made by or may come into the hands of the Official Assignee.

Assignees may appoint Bankrupt to manage estate.

LXXX. The Assignees may with the approbation of the Court appoint the Bankrupt to superintend the management of the estate, or to carry on trade for behoof of the creditors, and in all or any other respects they may think fit to aid them in administering the Bankrupt's estate and effects in such manner and on such terms as they may think best for the benefit of the persons interested in the estate.

Power for Assignees to sell Bankrupt's book debts.

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

Disposal of Bankrupts books, after his affairs are wound up.

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

On removal of Creditors' Assignee, Official Assignee may be appointed.

LXXXIII. If the Creditors' Assignee shall wilfully fail to observe any of the directions herein contained or shall be guilty of any neglect in the performance of his duty, or it shall be made to appear to the Court on the application of any two or more creditors that it would be for the benefit of the estate that such Creditors' Assignee should not continue to have the management and administration of the Bankrupt's estate, the Court may either appoint the Official Assignee to act jointly with such Creditors' Assignee, or remove such Creditors' Assignee, and direct a choice of another Creditors' Assignee or appoint the Official Assignee alone to wind up and administer the estate under the Bankruptcy, and, if a change of Assignees shall thereupon take place, the estate of the Bankrupt shall, by order of the Court, be divested out of the Assignee removed by the Court, and vested in the Assignee chosen or appointed under this Section.

Assignees to have all powers Bankrupt might have had.

LXXXIV. All powers vested in any Bankrupt which he might legally execute for his own benefit, may be executed by the Assignees for the benefit of the creditors, in such manner as the Bankrupt might have executed the same.

Certificate of appointment of Assignees to be registered where any conveyance of Bankrupt's property would require to be registered.

LXXXV. Where according to law any conveyance or assignment of any real or personal property of a Bankrupt would be required to be registered, enrolled, or recorded in any Registry Office in Hongkong, then and in every such case the certificate of appointment of Assignees of the estate and effects of the Bankrupt shall be registered in the Registry Office, Court or place wherein such conveyance or assignment would require to be registered, enrolled or recorded, and such registry shall have the like effect to all intents and purposes, as the registry, enrolment or recording of such conveyance or assignment would have had: and the title of any purchaser of any such property for valuable consideration without notice of the Bankruptcy, who shall have duly registered, enrolled or recorded his purchase deed previous to the registry hereby directed, shall not be invalidated by reason of such appointment of Assignees, or of the vesting of such property in them consequent thereupon, unless the certificate of such

appointment shall be registered as aforesaid within two months from the date of such appointment.

LXXXVI. The Court may, upon the application of the Assignees, or of any purchaser from them of any part of the Bankrupt's estate, if it shall see fit, order the Bankrupt to join in any conveyance of such estate or any part thereof: and if he shall not execute such conveyance within the time directed by the order, such Bankrupt and all persons claiming under him shall be stopped from objecting to the validity of such conveyance: and all estate, right, or title which such Bankrupt had therein shall be as effectually barred by such order as if such conveyance had been executed by him.

Court may order Bankrupt to join in conveyance.

LXXXVII. If any Bankrupt shall have granted, conveyed, assured or pledged, any real or personal estate, or deposited any deed, such grant, conveyance, assurance, pledge or deposit being upon condition or power of redemption, at a future day, by payment of money or otherwise, the Assignees may, before the time of the performance of such condition, make tender, or payment of money, or other performance, according to such condition, as fully as the Bankrupt might have done: and after such tender, payment or performance, such real or personal estate may be sold and disposed of for the benefit of the creditors.

Conditional estate granted by Bankrupt may be redeemed by Assignees.

LXXXVIII. The Assignees shall be subject to the orders of the Court in their conduct as Assignees: and the Court may at all times summon the Assignees, and require them to produce all books, papers, deeds, writings, or other documents relating to the Bankruptcy in their possession, and direct them to pay and deliver over to the Official Assignee, all monies, books, papers, deeds, writings and other documents which may have come to their possession as Assignees.

Assignees to be subject to the order of the Court.

LXXXIX. If any person adjudged Bankrupt shall at the time of the adjudication, be a member of a firm the Court may authorize the Assignees upon their application to commence or prosecute any action at law or suit in equity, in the name of such Assignees and of the remaining partner, against any debtor of the partnership, and such Judgment, Decree, or Order may be obtained therein as if such action or suit had been instituted with the consent of such partner, and if such partner shall execute any release of the debt or demand for which such action or suit is instituted, such release shall be void: Provided that every such partner shall have notice given him of such application, and be at liberty to show cause against it, and if no benefit be claimed by him by virtue of the said proceedings, shall be indemnified against the payment of any costs in respect of such action or suit, in such manner as the Court may direct: and such Court may, upon the application of such partner, direct that he may receive so much of the proceeds of such action or suit as the Court shall direct.

If a member of a firm becomes Bankrupt Court may authorise action or suit in name of Assignees and of remaining partner.

XC. The Assignees with the leave of the Court first obtained upon application to such Court but not otherwise, may commence, prosecute or defend, any action at law or suit in equity which the Bankrupt might have commenced and prosecuted or defended, and in such case, the costs to which they may be put in respect of such suit or action shall be allowed out of the proceeds of the estate and effects of the Bankrupt: and with like leave of the Court, after notice to such creditors and subject to such conditions (if any) as to obtaining the consent of creditors, or any proportion of them, as the Court shall think fit to direct, the Assignees may take such reasonable part of any debts due to Bankrupt's estate as may by composition be gotten, or may give time or take security for the payment of such debts: and may submit to arbitration any difference or dispute between the Assignees and any other person, for or on account, or by reason of anything relating to the estate and effects of the Bankrupt.

Assignees may institute or defend actions and compound for debts due to the estate, and submit disputes to arbitration.

XCI. All persons from whom the Assignees shall have recovered any real or personal estate, either by Judgment or decree, are hereby discharged in case the adjudication or petition for adjudication, be afterwards annulled or dismissed from all demands which may thereafter be made in respect of the same by the person against whom such adjudication was made, and all persons claiming under him; and all persons who shall without action or suit, *bonâ fide* deliver up possession of any real or personal estate to the Assignees, or pay any debt claimed by them, are hereby discharged from all claim of any such person as aforesaid, in respect of the same or any person claiming under him: Provided the persons so delivering up any real or personal estate or paying any debt, shall not have had notice of an action, suit, or other proceeding to dispute or annul the adjudication or petition for adjudication, and such action, suit, or other proceeding shall not have been commenced and prosecuted within the time and in manner allowed by this Ordinance.

If petition or adjudication be annulled &c., persons from whom the Assignees have recovered or who have *bonâ fide* paid the Assignees, &c., discharged from claims by the Bankrupt.

If Assignee indebted to Bankrupt's estate becomes Bankrupt his discharge shall not release his future effects in respect of such debt.

XCII. If any Assignee indebted to the estate of which he is such Assignee in respect of money being part of the estate of the Bankrupt retained or employed by him, become Bankrupt and obtain his discharge, it shall have the effect only of freeing his person from arrest and imprisonment; but his future effects (his tools of trade, necessary household goods and the necessary wearing apparel of himself, his wife and children excepted) shall remain liable for so much of his debt to the estate of which he was Assignee, as shall not be paid by dividends under his Bankruptcy, and for interest at the rate of Twelve per cent per annum on the whole debt.

Suits not to abate by death or removal of Assignees.

XCIII. Whenever an Assignee shall die or be removed, or a new Assignee shall be chosen, no action at Law or suit in Equity shall be thereby abated, but the Court in which any action or suit is depending may, upon the suggestion of such death, or removal and new choice, allow the name of the surviving or new Assignee to be substituted in the place of the former: and such action or suit shall be prosecuted in the name or names of the said surviving or new Assignee or Assignees, in the same manner as if he had originally commenced the same.

If Assignees commence action before time allowed to dispute the Bankruptcy has elapsed, debtor to estate may pay money into Court.

XCIV. If the Assignee commence any action or suit for any money due to the Bankrupt's estate, before the time allowed for the Bankrupt to dispute the Bankruptcy shall have elapsed, any defendant in any such action or suit, shall be entitled, after notice given to the Assignees, to pay the same or any part thereof, into the Court in which such action or suit is brought; and all proceedings with respect to the money so paid into Court shall thereupon be stayed until such time shall have elapsed; and if within that time the Bankrupt shall not have commenced such action, suit or other proceeding, and prosecuted the same with due diligence, the money shall be paid out of Court to the Official Assignee, but otherwise shall abide the event of such action, suit or other proceeding: and upon such event shall be paid out of Court, either to the Official Assignee or the person adjudged Bankrupt as the Court shall direct; and after such payment of money so made into Court, it shall not be lawful for the person adjudged Bankrupt to proceed against the defendant for the recovery of the same money.

Limitation of action.

XCIV. Every action brought against any person for any thing done in pursuance of this Ordinance shall be commenced within three months next after the fact committed: and the defendant in any such action may plead the general issue and give this Ordinance and the special matter in evidence at the trial, and that the same was done by authority of this Ordinance; and if it shall appear so to have been done, or that such action was commenced after the time limited as aforesaid for bringing the same, the jury shall find for the defendant; and if there be a verdict for the defendant, or if the plaintiff be nonsuited, or discontinue his action or suit after appearance thereto, or if upon demurrer, Judgment shall be given against the plaintiff, the defendant shall receive such full and reasonable indemnity as to all costs, charges and expenses incurred in and about any such action as shall be taxed by the proper officer in that behalf, subject to be reviewed in like manner by the same authority as any other taxation of costs by such officer.

General issue.

Court may determine on all differences between Assignees and creditors, or between parties claiming under trust deeds.

XCVI. In case of any claim, dispute or difference between the Official Assignee, the Creditors' Assignee, and the creditors of any Bankrupt or any of such persons, or between any persons claiming under a trust deed, deed of arrangement, relating to any Bankrupts or Debtor's estate, or to any money or property claimed as part of the estate of any Bankrupt or debtor, either party may apply to the Court, and the Court may determine the same, and may summon and examine upon oath, the official or Creditors' Assignee, trustee or any other person whomsoever as to any matters and things concerning the Bankruptcy or trust estate, and may direct such enquiries, and give such directions, and make such orders relative thereto, as it shall see fit: and may award costs personally or in any other manner against the Official or Creditors' Assignee, trustee or any other person: Provided that in all cases in which a resolution has been come to by a majority in number and value of the creditors assembled in a meeting, regard shall be had by the Court to such resolution, and the same shall not be set aside by the Court unless such resolution shall in the opinion of the Court be unjust or inequitable and not fit to be binding and conclusive under this Ordinance.

Power of the Court over certain descriptions of property.

Goods in the possession, order, or disposition of the Bankrupt to be deemed his property.

XCVII. If any Bankrupt at the time he becomes Bankrupt shall, by the consent and permission of the true owner thereof, have in his possession order or disposition, any goods or chattels whereof he was reputed owner, or whereof he had taken upon him the sale, alteration or disposition as owner, the Court may order the same to be sold

and disposed of for the benefit of the creditors under the Bankruptcy: Provided that nothing herein contained shall invalidate or affect any transfer or assignment of any ship or vessels, or any share thereof, made as a security for any debt or debts either by way of mortgage or assignment, duly registered according to the provisions of any Act of the Imperial Parliament now or hereafter in force relating to the registering of British Vessels. Proviso for assignments of vessels.

XCVIII. If any Bankrupt being at the time insolvent, shall (except upon the marriage of any of his children or for some valuable consideration) have conveyed, assigned, or transferred to any person any hereditaments, offices fees, annuities, leases, goods, or chattels, or have delivered or made over to any person any bills, bonds, notes, or other securities or have transferred his debts to any other person or into any other person's name, the Court may order the same to be sold and disposed of for the benefit of the creditors under the Bankruptcy, and every such sale shall be valid against the Bankrupt and such persons and all persons claiming under him. Power of Court over certain conveyances, &c., made by Bankrupt.

XCIX. If any Bankrupt shall have any Government funds or stock of any public Company standing in his name or in his own right, the Court may by writing order all persons whose act or consent is thereto necessary to transfer the same into the name of the Assignees, and to pay all dividends upon the same to the Official Assignee; and all such persons whose act or consent is so necessary are hereby indemnified from all things done or permitted pursuant to such order. Where Bankrupt beneficially entitled to stock, Court may make order for transfer.

C. No distress for rent made and levied after an act of Bankruptcy upon the goods and effects of any Bankrupt whether before or after the filing of the petition for adjudication, shall be available for more than one year's rent, accrued prior to the day of the filing of such petition: but the landlord or persons to whom the rent shall be due shall be allowed to come in as a creditor for the overplus of the rent due, and for which the distress shall not be available. Distress not to be available for more than one year's rent due. The Landlord to prove for the residue.

CI. In any case where any person, against whom an adjudication may have been made under this Ordinance, may be entitled to any annuity for his own life, or other uncertain interest, or to any reversionary or contingent interest, or to property under such circumstances that the immediate sale thereof for payment of his debts may be very prejudicial to him and deprive him of the means of subsistence which he might otherwise have after payment of his debts, and it may be proper to authorize the raising of money by way of mortgage for payment of the debts, or part of the debts of such person, instead of selling the property of such person for that purpose, the Court may take into consideration all circumstances affecting the property of any such person; and if it shall appear to the Court that it would be reasonable to make any special order touching the same, the Court may do so, and direct that such property as it may be expedient not to sell, or not to sell immediately, according to the provisions of this Ordinance, shall not be sold, and may from time to time direct in what manner such property shall be managed for the benefit of the creditors of such person, until the same can be properly sold, or until payment of all such creditors, according to the provisions of this Ordinance, shall have been made, and may make all such orders touching the sale or disposition of such property as the Court shall see fit, considering the rights of the creditors and the future benefit of such person after payment of his debts, and upon such terms and conditions with respect to the allowance of interest on debts not bearing interest or other circumstances, as the Court shall see fit; and if it shall appear to the Court that the debts of such person can be discharged by means of money raised by way of mortgage on any property of such person, instead of raising the same by sale, the Court may so order, and may give all necessary directions for such purpose, and generally direct all things which may be proper for the discharge of the debts of such person, in such manner as may be most consistent with the interests of such person in any surplus of his effects after payment of such debts; and in every such case the discharge of such Bankrupt shall not be held to discharge him or his estate from any debt secured by him by way of mortgage or otherwise under this Section. Discretion in Court as to the disposal of property in certain cases.

CII. If any Bankrupt shall as trustee be seized, possessed of or entitled to either alone or jointly, any real or personal estate, or any interest secured upon or arising out of the same, or shall have standing in his name as trustee, either alone or jointly, any Government stock, funds, or annuities, or any of the stock of any public Company, the Court on petition of the person entitled in possession to the receipt of the rents, issues, and profits, dividends, interest, or produce thereof, on due notice given to all other persons, (if any) interested therein, may order the Assignees, and all persons whose act and consent thereto is necessary, to convey assign or transfer the said estate, interest, Where Bankrupt is a trustee the Court may order conveyance or assignment to another trustee.

stock, funds, or annuities to such person as the Court shall think fit, upon the same trusts as the said estate, interest, stock, funds, or annuities were subject to before the Bankruptcy, or such of them as shall be then subsisting and capable of taking effect, and also to receive and pay over the rents, issues and profits, dividends, interest or produce thereof as the Court shall direct.

Titles to property sold not to be impeached unless proceedings taken to annul and duly prosecuted.

CIII. No title to any real or personal estate sold under any Bankruptcy shall be impeached by the Bankrupt, or any person claiming under him, in respect of any defect in the petition for adjudication, or in any of the proceedings under the same, unless the Bankrupt shall within the time allowed by this Ordinance have commenced proceedings to dispute or dismiss the petition or adjudication and duly prosecuted the same.

The Court after adjudication may order any Treasurer, &c., or agent of the Bankrupt, to deliver all moneys, &c.

CIV. After any adjudication shall have been advertised in the *Hongkong Government Gazette*, the Court may order any Treasurer or other officer or any banker, attorney, or solicitor, or other agent of the Bankrupt, to pay and deliver over to the Official Assignee all moneys, or securities for money, in his custody, possession, or power as such Treasurer, officer, banker, or agent, and which he is not by law entitled to retain as against the Bankrupt or his Assignee.

As to transactions not affected by Bankruptcy.

Payments, conveyances, contracts, &c., executions against lands (if executed by seizure) to be valid, if no notice of prior act of Bankruptcy.

CV. Every payment really and *bonâ fide* made by any Bankrupt, or by any person on his behalf, before the filing of a Petition for adjudication to any Creditor of such Bankrupt, and every payment really and *bonâ fide* made to any Bankrupt before the filing of such Petition, and every conveyance by any Bankrupt *bonâ fide* made and executed before the filing of such Petition, and every contract, dealing, and transaction, by and with any Bankrupt really and *bonâ fide* made and entered into before the filing of such Petition, and every execution and attachment against the lands and tenements of any Bankrupt *bonâ fide* executed by seizure, and every execution and attachment against the goods and chattels of any Bankrupt *bonâ fide* executed and levied by seizure and sale before the filing of such Petition, shall be deemed to be valid, notwithstanding any prior act of Bankruptcy by such Bankrupt committed, provided that the person so dealing with, or paying to, or being paid by such Bankrupt, or at whose suit, or on whose account, such execution or attachment shall have issued, had not at the time of such payment, conveyance, contract dealing or transaction, or at the time of so executing or levying such execution or attachment, or, at the time of making any sale thereunder, notice of any prior act of Bankruptcy by him committed; Provided also, that nothing herein contained shall be deemed or taken to give validity to any payment, or to any delivery or transfer of any goods or chattels made by any Bankrupt being a fraudulent preference of any Creditor, of such Bankrupt, or to any conveyance, or equitable mortgage made or given by any Bankrupt, by way of fraudulent preference of any Creditor of such Bankrupt, or to any execution founded on a judgment on a warrant of Attorney or *Cognovit Actionem*, or Judge's order obtained by consent given by any Bankrupt by way of fraudulent preference.

But nothing herein to give validity to payments &c., by way of fraudulent preference.

Bonâ fide purchases not to be impeached by notice of act of Bankruptcy, unless petition filed within twelve months after the act of Bankruptcy.

Certain warrants of attorney *Cognovits*, & consents to Judge's order given within two months of filing petition to be null and void.

CVI. No purchase from any Bankrupt *bonâ fide* and for valuable consideration where the purchaser had notice at the time of such purchase of an act of Bankruptcy by such Bankrupt committed, shall be impeached by reason thereof unless a Petition for adjudication shall have been filed within Twelve months after such act of Bankruptcy.

CVII. Every warrant of Attorney to confess judgment in any personal action given by any Bankrupt after the commencement of this Ordinance, and within Two months next before the filing of a Petition for adjudication by or against such Bankrupt, and being wholly or in part for or in respect of an antecedent debt or money demand; and every *Cognovit Actionem* or consent to a Judge's order for Judgment given by any Bankrupt at any time after the commencement of this Ordinance and within Two months next before the filing of any such Petition, in any action commenced by collusion with the Bankrupt and not adversely, or purporting to have been given in an action, but having been in fact given before the commencement of such action against the Bankrupt, such Bankrupt being unable to meet his engagements at the time of giving such warrant of Attorney, *Cognovit Actionem*, or consent (as the case may be) shall be null and void, as against the Assignees and Creditors under the Bankruptcy of such Debtor whether the same shall have been given by such Debtor in contemplation of Bankruptcy or not.

Provisions of 3 Geo. 4 c. 39 extended to Assignees.

CVIII. And whereas an Act passed the Imperial Parliament in the third Year of the Reign of His late Majesty King George the Fourth intituled An Act for preventing

frauds upon Creditors by secret warrants of Attorney to confess Judgment: and whereas it is expedient to extend the provisions of that Act; be it enacted and ordained that the last mentioned Act shall extend to the provisional or other Assignee or Assignees of every Prisoner whose Estate shall after the expiration of Twenty one days next after his execution of such warrant of Attorney or giving of such *Cognovit Actionem* as therein mentioned, be vested in the Provisional Assignee of the Court, by virtue of this Ordinance, as if the last mentioned Act had been expressly herein enacted and ordained; and every such warrant of Attorney, and Judgment and execution thereon, and every such *Cognovit Actionem* and Judgment entered up thereon as are declared by the last mentioned Act to be fraudulent and void against the Assignees mentioned therein shall be deemed equally fraudulent and void against the Official or other Assignee or Assignees of such Debtor appointed under this Ordinance; and such Official or other Assignee or Assignees shall be entitled to recover back, and receive for the use of the Creditors of such Debtor, all and every monies levied and effects seized under or by virtue of any such Judgment or execution.

CIX. Every Creditor of the Bankrupt may after adjudication prove his debt by deposition in Court or in Chambers or before any Officer appointed for that purpose at any meeting of Creditors elsewhere than in Court, or by affidavit upon his own oath, or upon that of any other person in his employment: Provided that where such Deposition or Affidavit shall be made by any other Person than the Creditor, the deponent shall in his Deposition or Affidavit, set forth that he is duly authorized by his principal to make the Deposition or Affidavit, and that it is within his own knowledge, that the debt was incurred, and for the consideration stated, and that to the best of his knowledge and belief the debt still remains unpaid and unsatisfied.

Proof in Court or in Chambers or before Officer appointed or by Affidavit.

CX. Every Creditor of the Bankrupt may also after adjudication, prove his debt, by delivering or sending through the General Post, before the appointment of a Creditors' Assignee to the Official Assignee and after such appointment to the Creditor's Assignee a statement of such debt and of the Account if any between the Creditor and the Bankrupt, together with a declaration signed by the Creditor, appended thereto, that such statement is a full, true, and complete statement of account between the Creditor and the Bankrupt, and that the debt thereby appearing to be due from the estate of the Bankrupt to the Creditor is justly due: and all bodies politic and public companies incorporated, or authorized to sue or bring actions, may prove by an Agent, provided such Agent shall in this declaration declare that he is such Agent, and that he is authorized to make such proof: and such declaration signed by such Creditor and Agent respectively as aforesaid, shall be in such form as general orders shall direct.

Proof by post.

CXI. Any person who shall wilfully and corruptly make any declaration for proof of debt as aforesaid, knowing the same, or the statement of account to which the same shall be appended, to be untrue in any material particulars, shall be deemed guilty of a misdemeanor, and shall be liable to undergo the pains and penalties imposed upon persons guilty of wilful and corrupt perjury.

False declaration a misdemeanor.

CXII. The Official or Creditors' Assignee, as the case may be, shall examine all the statements of account as aforesaid and compare the same with the books, accounts and other documents of the bankrupt, and shall from time to time make out a list of the Creditors who have proved their debts, stating the amount and nature of such debts, which list shall be open to the inspection of any creditor who has proved under the estate.

Official Assignee to examine all statements of account, and make out list of Creditors who have proved.

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

Power to examine upon oath alleged Creditors, &c.

CXIV. Every person with whom any Bankrupt shall have really and *boná fide* contracted any debt or demand before the filing of the petition for adjudication shall notwithstanding any prior act of bankruptcy committed by such Bankrupt, be admitted to prove the same, as if no such act of bankruptcy had been committed, provided such person had not, at the time the same was contracted, notice of any act of bankruptcy, by such Bankrupt committed.

Boná fide Creditors in respect of debts contracted after an act of Bankruptcy may prove.

Proof for money, costs, &c., of which payment may be enforced by process of contempt.

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

Proof for proportionate part of rent and other payments falling due at fixed periods.

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

Proof in respect of distinct contracts.

CXVII. If any Debtor shall at the time of adjudication be liable upon any bill of exchange or promissory note in respect of distinct contracts, as member of two or more firms carrying on separate and distinct trades, and having distinct estates to be wound up in Bankruptcy or as a sole trader and also as the member of a Firm, the circumstance that such Firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof and receipt of dividend in respect of such distinct contracts against the estates respectively liable upon such contracts.

Proof in respect of unliquidated damages.

CXVIII. If any bankrupt shall at the time of adjudication be liable, by reason of any contract or promise, to a demand in the nature of damages which have not been and cannot be otherwise liquidated or ascertained, the Court may direct such damages to be assessed either by a Jury before itself, or in the Court of Summary Jurisdiction without a Jury, and to give all necessary directions for such purpose; and the amount of damages, when assessed, shall be provable, as if a debt due, at the time of the Bankruptcy; Provided, that in case all necessary parties agree, the Court shall have power to assess such damages without the intervention of a Jury, or a reference to the Court of Summary Jurisdiction.

Proof for premiums upon policies of Insurance.

CXIX. If any Bankrupt shall at the time of adjudication be liable by reason of any contract or promise to pay premiums upon any policy of insurance, or any other sums of money, whether yearly or otherwise, or to repay to or indemnify any person against any such payments, the person entitled to the benefit of such contract or promise may, if he think fit, apply to the Court to set a value upon his interest under such contract or promise, and the Court is hereby required to ascertain the value thereof, and to admit such person to prove the amount so ascertained, and to receive dividends thereon.

Payments of assessed Taxes.

CXX. The Court, out of the estate and effects of the Bankrupt, shall order payment of all Duties, Rates, Taxes and Crown Rents due from the Bankrupt at the time of his Bankruptcy.

One year's local rates may be paid in full.

CXXI. The Court, out of the estate and effects of the Bankrupt, shall order payment of all such rates as may be due from him at the time of his being adjudicated a Bankrupt, provided such rates have become due during the Twelve months immediately preceding the Bankruptcy.

Three months wages or salary to be paid to Clerks or Servants.

CXXII. When any Bankrupt shall have been indebted, at the time of filing the Petition for Adjudication, to any Servant or Clerk of such Bankrupt, in respect of the wages or salary of such Servant or Clerk, so much as shall be so due, not exceeding Three months wages or salary, and not exceeding Five Hundred Dollars, may be paid to such Servant or Clerk out of the estate of such Bankrupt: and such Servant or Clerk may prove for any sum exceeding such amount.

Fifty Dollars wages to be paid to labourer or workman.

CXXIII. When any Bankrupt shall have been indebted, at the time of filing the Petition for Adjudication, to any labourer or workman of such Bankrupt, in respect of the wages or labour of such labourer or workman, so much as shall be so due, not exceeding Fifty Dollars may be paid to such labourer or workman out of the estate of such Bankrupt; and such labourer or workman may prove for any sum exceeding such amount.

Apprentices to Bankrupts discharged from their indentures.

CXXIV. Where any person shall have been an apprentice to a Bankrupt at the time of the filing of the Petition for Adjudication, the filing of such Petition shall, unless all necessary parties shall consent in writing that the indenture shall remain in force, be and enure as a complete discharge of the indenture whereby such apprentice was bound;

and if any sum shall have been really and *bonâ fide* paid, by, or on behalf of such apprentice to the Bankrupt, as an apprentice fee, the Court may upon proof thereof, order any sum to be paid out of the Estate of the said Bankrupt to, or for the use of such Apprentice, which the Court shall think reasonable, regard being had, in estimating such sum, to the amount of the sum so paid by or on behalf of such Apprentice, and to the time during which such Apprentice shall have resided with the Bankrupt previous to the filing of such Petition.

Court may order any sum to be paid in respect of apprentice fees.

CXXV. Where there has been mutual credit given by the Bankrupt and any other person, or where there are mutual debts between the Bankrupt and any other person, the Court shall state the account between them, and one debt or demand may be set against another, notwithstanding any prior act of Bankruptcy committed by such Bankrupt, before the credit given to or the debt contracted by him; and what shall appear due on either side on the balance of such account, and no more shall be claimed or paid on either side respectively; and every debt or demand hereby made provable against the estate of the Bankrupt, may also be set off in manner aforesaid against such estate, provided the person claiming the benefit of such set-off, had not when such credit was given, notice of an act of Bankruptcy by such Bankrupt committed.

Mutual debts and credits may be set off notwithstanding prior act of Bankruptcy.

CXXVI. Any person who shall have given credit to the Bankrupt upon valuable consideration for any money or other matter or thing whatsoever which shall not have become payable when such Bankrupt committed an act of Bankruptcy, and whether such credit shall have been given upon any Bill, Bond, Note, or other negotiable security, or not, shall be entitled to prove such Debt, Bill, Bond, Note, or other security as if the same was payable presently, and receive dividends equally with the other creditors, deducting only thereout a rebate of interest for what he shall so receive at the rate of Twelve per centum per annum, to be computed from the declaration of a dividend to the time such debt would have become payable according to the terms upon which it was contracted.

Debts not payable at the time of the Bankruptcy may be proved, deducting rebate of interest.

CXXVII. Any person who at the time of filing a Petition for Adjudication, shall be surety or liable for any debt or demand of the Bankrupt, provable under this Ordinance, or bail for the Bankrupt, either to the Sheriff or to the Action, if he shall have paid the debt or demand or any part thereof in discharge of the whole debt or demand, (although he may have paid the same after the filing of the Petition for Adjudication) if the Creditor shall have proved his debt or demand under the Bankruptcy, shall be entitled to stand in the place of such creditor as to the dividends and all other rights under the bankruptcy which such creditor possessed or would be entitled to in respect of such proof: or if the Creditor shall not have proved, such surety or person liable, or bail, shall be entitled to prove his demand in respect of such payment as a debt under the bankruptcy, not disturbing the former dividends, and may receive dividends with the other Creditors, although he may have become surety, liable, or bail as aforesaid, after an act of bankruptcy committed by the Bankrupt: provided that such person had not when he became such surety or bail, or so liable as aforesaid, notice of any act of bankruptcy by such Bankrupt committed.

Sureties and persons liable for the debts of a Bankrupt may prove after having paid such debt.

CXXVIII. The Obligees in any Bottomry or Respondentia Bond, and the assured in any Policy of Insurance made upon good and valuable consideration, shall be admitted to claim, and, after the loss or contingency shall have happened, to prove, his debt or demand in respect thereof and receive dividends with the other Creditors, as if the loss or contingency had happened before the filing of the petition for adjudication against the Obligor or Insurer: and the person effecting any Policy of Insurance upon any ship or goods with any person, (as a Subscriber or Underwriter) having become or becoming Bankrupt shall be entitled to prove any loss to which such Bankrupt shall be liable in respect of such subscription, although the person so effecting such Policy was not beneficially interested in such ship or goods, in case the person so interested is not within the Colony.

Obligees in Bottomry or Respondentia Bonds, and assured in policy of insurance admitted to claim and, after loss to prove.

Persons effecting Insurance admitted to prove loss.

CXXIX. Any Annuity Creditor of any Bankrupt by whatever Assurance his Annuity be secured, and whether there be or be not any Arrears of such Annuity due at the time of the bankruptcy, shall be entitled to prove for the value of such Annuity, which value the Court shall ascertain regard being had to the original price given for such Annuity, deducting therefrom such diminution in the value thereof as shall have been caused by the lapse of time since the grant thereof to the time of the filing of the petition for adjudication.

Annuity Creditors admitted to prove.

CXXX. No person entitled to any Annuity granted by any Bankrupt, shall sue any person who may be collateral surety for the payment of such Annuity, until such

Sureties for payment of annuities granted by Bankrupt, in what

manner to come under the Bankruptcy.

annuitant shall have proved against such Bankrupt's estate for the value of such Annuity and for the Arrears thereof; and if such surety, after such proof, pay the amount proved, he shall thereby be discharged from all claims in respect of such Annuity; and if such surety shall not (before any payment of the Annuity shall have become due after the bankruptcy) pay the sum so proved, he may be sued for the accruing payments of such Annuity until the annuitant shall have been paid or satisfied, the amount so proved, with interest thereon at the rate of Twelve per centum per annum from the time of notice of such proof, and of the amount thereof, being given to such surety; and after such payment or satisfaction, such surety shall stand in the place of such annuitant, in respect of such proof, to the amount so paid or satisfied by such surety, and the discharge of such Bankrupt, shall be a release to him, from all claims of such annuitant, or of such surety in respect of such Annuity; provided that such surety shall be entitled to credit, in account with such annuitant, for any dividends received by such annuitant under the bankruptcy, before the surety shall have fully paid or satisfied the amount so proved.

Debt contingent at the time of the filing of the petition to be proveable for the value thereof ascertained by the Court, or if value not ascertained before the contingency has happened, then, after the contingency has happened, the amount of debt may be proved.

CXXXI. If any Bankrupt shall, before the filing of a petition for adjudication, have contracted any debt payable upon a contingency which shall not have happened before the filing of such petition, the person with whom such debt has been contracted may, if he think fit, apply to the Court to set a value upon such debt, and the Court is hereby required to ascertain the value thereof, and to admit such person to prove the amount so ascertained, and to receive dividends thereon or if such value shall not be so ascertained before the contingency shall have happened, then such person may, after such contingency shall have happened, prove in respect of such debt, and receive dividends with the other Creditors not disturbing any former dividends: provided such person had not, when such debt was contracted, notice of any act of bankruptcy by such Bankrupt committed.

Liability contingent at the filing of the petition may be admitted to claim, and after contingency has happened and the demand been ascertained, demand may be proved.

CXXXII. If any Bankrupt shall have incurred or become liable to, or bound by any contract, covenant, or obligation, or subject to any duty, either absolute or upon a contingency respectively, and either present or future, or whereby, or by reason or on breach whereof respectively he shall or may become liable, either absolutely or contingently, to pay any money or damages, either liquidated or unliquidated, and either then or at some future time or times, and the demand in respect thereof shall not have been ascertained before the filing of the petition for adjudication in every such case, if such demand be not proveable under any other provision of this Ordinance, the person with or to whom such liability to pay has been contracted or incurred may, if he think fit, apply to the Court to set a value thereon; and the Court is hereby required to ascertain the value thereof, and to admit such person to prove the amount so ascertained and to receive dividends thereon: or such person may if he think fit apply to be admitted and shall be admitted to claim for such sum as the Court shall think fit; and after the contingency, if any, shall have happened, and the demand in respect of such liability to pay, shall have been ascertained, he shall be admitted to prove such demand, and receive dividends with the other Creditors, and so far as practicable, as if the contingency if any, had happened and the demand had been ascertained before the filing of such petition, but not disturbing former dividends; provided that where any such claim shall not have, either in whole or in part, been converted into a proof within six months after the filing of the petition for adjudication, it may, upon the application of the Assignees at any time after the expiration of such time if the Court shall think fit, be expunged either in whole or in part from the proceedings.

On Bankruptcy of agent intrusted with goods, but which have been pledged by him, Owner may prove for amount paid to redeem, or for value, if the goods be unredeemed.

CXXXIII. If any Agent intrusted with the possession of goods within the meaning of an Act of the Imperial Parliament passed in the Session holden in the Fifth and Sixth years of the Reign of Her present Majesty intituled "An Act to amend the Law relating to advances *bonâ fide* made to Agents intrusted with goods," shall have become bankrupt, the owner of any goods so intrusted to such Agent, and which shall have been redeemed by such owner in manner provided by the said Act after having been pledged by such Agent, shall, in respect of the sum paid by him on account of such Agent for such redemption, be held to have paid such sum for the use of such Agent before his bankruptcy, or in case such goods shall not be so redeemed, the owner shall be deemed a Creditor of such Agent for the value of the goods so pledged at the time of the pledge, and shall, if he think fit, be entitled in either of such cases to prove for or set off the sum so paid, or the value of such goods, as the case may be.

Interest upon debts, when proveable, though not reserved or agreed for.

CXXXIV. Upon every debt or sum certain payable at a certain time or otherwise, whereupon interest is not reserved or agreed for, and which shall be overdue at the time of the filing of the petition for adjudication, and proveable thereunder the Creditor

shall be entitled to prove for interest, to be calculated at a rate not exceeding Twelve per centum per annum, up to the date of the filing of such petition, from the time when such debt or sum certain was payable, if such debt or sum be payable by virtue of some written instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the time of payment.

CXXXV. No Creditor who has brought any action or instituted any suit against any Bankrupt in respect of a demand prior to the adjudication, or which might have been proved as a debt under the bankruptcy, shall prove a debt under such bankruptcy or have any claim entered upon the proceedings without relinquishing such action or suit, and the proving or claiming a debt under a petition for adjudication by any Creditor shall be deemed an election by such Creditor to take the benefit of such petition with respect to the debt so proved or claimed; provided that such Creditor shall not be liable to the payment to such Bankrupt or his Assignees, of the costs of such action or suit, so relinquished by him, and that where any such Creditor shall have brought an action or suit against such Bankrupt jointly with any other person, his relinquishing such action or suit against the Bankrupt, shall not affect such action or suit against such other person: provided also that any Creditor who shall have so proved or claimed, if the petition for adjudication be afterwards dismissed may proceed in the action as if he had not so proved or claimed.

Proving debt to be an election not to proceed against the Bankrupt by action.

CXXXVI. No Creditor having security for his debt, shall receive upon any such security more than a rateable part of such debt, except in respect of any execution or extent served and levied by seizure and sale upon, or any mortgage of or lien upon any part of the property of such Bankrupt before the filing of the petition for adjudication.

Creditors having security not to receive more than other Creditors.

CXXXVII. The Court may at any time expunge or reduce a proof of debt on such application and such evidence as it shall think fit, and for the purpose may summon and examine upon oath or otherwise any person who shall have proved together with any person whose evidence may appear to the Court to be material either in support of, or in opposition to, such debt, and may make such order as to the costs of any application in that behalf as it shall see fit.

How proof may be expunged.

CXXXVIII. Fourteen days after any Bankrupt shall have passed his last examination, the Court may make an order to be called an Order of discharge, and such Order shall thereupon take effect from the date thereof except the same be suspended as hereinafter provided.

Order of discharge.

CXXXIX. When the Order of discharge shall take effect it shall, subject to any condition mentioned therein, discharge the Bankrupt from all debts, claims and demands provable under his bankruptcy, and from the effects of any process issuing out of any Court for contempt of any Court for non-payment of money, or of costs or expenses in any Court, and from all costs which he would be liable to pay in consequence of or on purging his contempt and any Bankrupt in custody under any such process as aforesaid shall on obtaining his discharge be entitled to be discharged from such custody forthwith.

To discharge Bankrupt from all claims provable under his Bankruptcy.

CXL. No Bankrupt after the order of discharge shall take effect shall be liable to pay or satisfy any debt, claim or demand proveable under the Bankruptcy, or any part of such debt, claim or demand upon any contract, promise or agreement made after the filing of the petition for adjudication.

Bankrupt not liable under contracts, &c., made after filing petition for adjudication.

CXLI. If the Assignee or any Creditor shall allege, and if the Court without such allegation shall be of opinion, that there is ground for charging the Bankrupt with Acts or Conduct amounting to a misdemeanor under this Ordinance, the Court may direct the Attorney General to prosecute such Bankrupt under this Ordinance; and in any such case the Order of discharge of such Bankrupt shall not be granted until after the trial of such Bankrupt, and may thereupon be granted or wholly refused or suspended from taking effect or be granted upon such conditions as the Court shall think fit.

If Bankrupt guilty of misdemeanor, Court may suspend or refuse order of discharge.

CXLII. If it shall appear to the Court that the Bankrupt has carried on trade by means of fictitious capital, or that he could not at the time when any of his debts were contracted have had any reasonable or probable ground of expectation of being able to pay the same, or that he has with intent to conceal the true state of his affairs wilfully omitted to keep proper books of account, or that his bankruptcy is attributable to rash

If Bankrupt carried on trade by fictitious capital, Court may refuse or suspend order.

and hazardous speculation or unjustifiable extravagance in living, or that he has put any of his Creditors to unnecessary expense by frivolous or vexatious defence to any Action or Suit to recover any debt or money due to him, the Court may either refuse an Order of discharge or may suspend the same from taking effect for such time as it shall think fit, or may grant an Order of discharge subject to any conditions touching any salary, pay, emoluments, profits, wages, earnings or income which may afterwards become due to the Bankrupt, and touching after-acquired property of the Bankrupt, as it shall think fit or may sentence the Bankrupt to be imprisoned for any period not exceeding one year.

Effect of order of discharge.

CXLIII. If after the Order of discharge of such Bankrupt shall have taken effect, he be arrested, or if any action be brought against him for any debt, claim or demand proveable under the Bankruptcy, he shall be discharged upon entering an appearance and may plead that the cause of action accrued before he became a Bankrupt.

Release of Bankrupt when arrested after discharge.

CXLIV. If a Bankrupt after the Order of discharge shall take effect shall be arrested or detained in custody for a debt claim or demand proveable under his bankruptcy where Judgment has been obtained before the Order of discharge shall take effect, the Court shall on proof of the Order of discharge and unless there appear good reason to the contrary direct the Officer who has the Bankrupt in custody to discharge him, which shall be done without fee.

Effect of order in case of partners.

CXLV. The order of discharge shall not release or discharge any person who was a partner with Bankrupt at the time of the bankruptcy, or was then jointly bound or had any joint contract with him.

Contract or security with intent to induce Creditor to forbear opposition void.

CXLVI. Any Contract, Covenant or Security made or given by a Bankrupt or other person with or to or in trust for any Creditor for securing the payment of any money as a consideration or with intent to persuade the Creditor to forbear opposing the Order of discharge, or to forbear to petition for a rehearing of or to appeal against the same, shall be void, and any money thereby secured or agreed to be paid, shall not be recoverable, and the party sued on any such contract or security may plead in general that the cause of action accrued pending proceedings in bankruptcy, and may give this Ordinance and the special matter in evidence: Provided that no such security if a negotiable security shall be void as against a *bonâ fide* holder thereof, for value without notice of the consideration for which it was given.

Penalty for obtaining money or goods as an inducement to forbear opposing order of discharge.

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

Rehearing of order of discharge.

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

If order suspended on rehearing subsequent Creditors to prove first against subsequent property.

CXLIX. If on such rehearing the Court shall annul or suspend the Order of discharge, all persons having *bonâ fide* become Creditors of the Bankrupt between the time the discharge took effect and the time of its being annulled or suspended on rehearing, shall as against any property acquired by the Bankrupt during the same period, and in priority to the original Creditors, be admitted to prove and have dividends under the bankruptcy.

Form of Order. Notice to be advertised.

CL. The Order of discharge shall be in such form as General Orders shall direct, and shall be under the hand of the Chief Justice and the seal of the Court; and notice of the granting thereof shall be advertised in the *Hongkong Government Gazette*.

As to Dividend.

Dividend.

CLI. As soon after the adjudication as the Court shall appoint there shall be submitted to a meeting of Creditors to be called for that purpose, and to be held before such Officer as the Court shall appoint, of which meeting ten days' notice shall be given

in the *Hongkong Government Gazette* and in such other Newspapers as the Court may direct, a statement of the whole estate of the Bankrupt, as then ascertained, of the property recovered, and of the property outstanding, specifying the cause of its being so outstanding, and of all the receipts, and of all payments thereout, made or to be made; and the Official Assignee shall, and any Creditor who has proved may, attend and examine such statement, and compare the receipts with the payments; and upon ascertaining what balance is then standing to the credit of the estate, the meeting shall by resolution, declare whether any and what part of the net produce of the estate, after making a reasonable deduction for future contingencies, shall be divided amongst the Creditors. At the same meeting the majority in value of the Creditors present shall determine whether any, and what, allowance shall be made to the Bankrupt out of his estate, if he has obtained or shall obtain his discharge.

CLII. If upon such examination it shall appear that any Creditors' Assignee has kept in his hands at any time during the space of one week more than the sum of Five hundred Dollars belonging to the estate, the Creditors may upon establishing such fact to the satisfaction of the Court, and if the Assignee shall not show cause to the contrary, debit such Assignee with interest for the amount so kept, at any rate not exceeding twenty-five per centum by the year, for the time such moneys were kept in his hands. Assignee not to keep money in his hands.

CLIII. In the calculation of a dividend it shall be imperative to make provision for debts which shall appear from the Bankrupt's balance sheet or schedule to be due to persons resident in places so distant from the Court, that in the ordinary course of communication, they have not had sufficient time to tender their proofs, or to establish them if disputed: and also for debts the subject of claims not yet determined by the Court. Provision to be made for Creditors residing at a distance, and for pending claims.

CLIV. In every case where joint and separate estates have to be administered and where the Court shall not otherwise direct, dividends of the joint and separate estates shall be declared at one and the same sitting, and notice of the time appointed for such dividends when advertised, shall be given in one and the same advertisement and the costs, charges, and expenses of and incident to the sitting shall be apportioned by the Assignee between the joint and separate estates as may appear to be fair and reasonable, having regard to the work done for, and the benefit received by each estate. Joint and separate dividend sittings.

CLV. Within ten days after such meeting or within such further time as the Court may allow, the Official Assignee shall prepare lists of Creditors entitled to dividend, and shall calculate and set opposite to the name of each Creditor who has proved under the estate (subject to the provision herein contained as to dividends reserved) the dividend to which he is entitled out of the net produce of the estate so set apart for a dividend, and shall forward by post to every such Creditor a statement of the dividend to which he is so entitled and such dividends shall be paid in such manner as General Orders shall direct. Dividend list to be prepared by Official Assignee.

CLVI. Proceedings for the making up and auditing of the accounts of the estate and the declaration and payment of a dividend shall continue to be had until the whole of the estate is divided amongst the Creditors and a dividend is declared to be final: provided that it shall be lawful for the majority in value of the Creditors present at any meeting as aforesaid to postpone the period of declaring a dividend, or at any time in declaring a second dividend to declare also that such second dividend shall be final unless any action at Law or suit in Equity be depending, or any part of the estate be standing out not sold or disposed of, or unless some other estate or effects of the Bankrupt shall afterwards come to the Assignee, in which case he shall, as soon as may be, convert such estate and effects into money, and within two months after the same shall be so converted, the same shall also be divided in manner aforesaid. Proceedings for paying dividends to be had until the whole of the estate is divided.

CLVII. When a final dividend shall have been paid the Creditors' Assignee may apply to the Court for a certificate and if the Court shall grant such certificate it shall operate to release the Creditors' Assignee from all claims and demands of the Creditors or of any person who might have proved under the bankruptcy, subject nevertheless to such conditions if any as shall be expressed in such certificate. Effect of Assignee Certificate.

CLVIII. Every Creditors' Assignee shall, before he shall have obtained his certificate, transmit to the Official Assignee a list of unclaimed dividends on the estate, and of all debts remaining due to the estate, under his hand, and shall pay all moneys and other estate of the Bankrupt then in his hands into the Colonial Treasury to the credit of the estate. Unclaimed dividends, &c., to be paid into the Treasury.

Official Assignee to act after discharge of Creditors' Assignee.

CLIX. Where the Creditors' Assignee has obtained his certificate, the Official Assignee shall, as to any estate and effects of the Bankrupt not realised at the date of such certificate, and as to all debts then remaining uncollected, and which shall not have been sold in manner herein provided, and as to any future acquired property of the Bankrupt, if made liable to the Creditors under the conditions of discharge, represent the estate in all respects as the sole Assignee thereof, and shall have and exercise all the rights, duties, powers and authorities, conferred by this Ordinance upon Official and Creditors' Assignees.

One partner may receive allowance although other not entitled.

CLX. In all joint petitions for adjudication under which any partner shall have obtained his discharge, if a sufficient dividend shall have been paid upon the joint estate and upon the separate estate of such partner, he shall be entitled to his allowance, although the other partner may not be entitled to any allowance.

If produce of estate pay in full and leave surplus, such surplus to be paid to Bankrupt after payment of interest on debts.

CLXI. If the produce of the estate of any Bankrupt shall be sufficient to pay in full, and interest as hereinafter mentioned, and to leave a surplus, the Court may order such surplus to be paid to such Bankrupt, his executors, administrators or assigns; and every such Bankrupt shall be entitled to recover the remainder if any of the Debts due to him; but such surplus shall not be paid until all the Creditors who have proved, shall have received interest upon their debts to be calculated and paid at the rate and in the order following; viz: all Creditors whose debts are by law entitled to carry interest in the event of a surplus, shall first receive interest on such debts at the rate of interest reserved or by law payable or provable thereon, to be calculated from the date of the filing of the petition for adjudication; and after such interest shall have been paid: all other Creditors who have proved shall receive interest on their debt from the date of such petition at the rate of Twelve per centum per annum.

As to trust deeds for the benefit of Creditors.

After three months conveyance of all Debtors property not an act of Bankruptcy, provided certain formalities are complied with.

CLXII. If any person shall execute any conveyance or assignment by deed of all his estate and effects to a trustee or trustees for the benefit of all the Creditors of such person, the execution of such deed shall not be deemed an act of bankruptcy unless a petition for adjudication be filed within three months from the execution thereof, provided that the conditions which are herein ordained to be observed with regard to every deed or instrument made or entered into between a Debtor and his Creditors or any of them as trustee for the rest or a trustee on their behalf, have been observed in any such conveyance or assignment by deed.

What deeds to be valid and upon what conditions.

CLXIII. Every deed or instrument made or entered into between a Debtor and his Creditors or any of them, as trustees for the rest, or a trustee on their behalf, relating to the debts or liabilities of the debtor, and his release therefrom, or the distribution, inspection, management, and winding up of his estate, or any of such matters, shall be as valid and effectual and binding on all the Creditors of such Debtor as if they were parties to, and had duly executed the same, provided the following conditions be observed; that is to say:—

1. If such deed provides for the conveyance of the estate of the debtor other than and except such portion thereof as shall not exceed in value the sum of One Hundred Dollars:

2. If a majority in number, representing three-fourths in value, of the Creditors of such Debtor whose debts shall respectively amount to Fifty Dollars and upwards shall, before or after the execution thereof by the Debtor in writing assent to or approve of such deed or instrument:

3. If the trustee or trustees shall execute the same:

4. If the execution of such deed or instrument by the Debtor shall be attested by a Barrister-at-law, an Attorney, or a Solicitor:

5. If within twenty-eight days from the day of the execution of such deed or instrument by the Debtor the same shall be produced and left at the Office of the Registrar for the purpose of being registered:

6. If together with such deed or instrument there shall be delivered into the said Office an affidavit by the Debtor or some person able to depose thereto, or a certificate by the trustee or trustees, that a majority in number, representing three-fourths in value of the Creditors of the Debtor, whose debts amount to Fifty Dollars or upwards

have in writing assented to or approved of such deed or instrument, and also stating the amount in value of the property and credits of the Debtor comprised in such deed.

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

CLXIV. The date, names and descriptions of the parties to every such deed or instrument, not including the Creditors, together with a short statement of the nature and effect thereof, shall be entered by the Registrar in a book to be kept exclusively for the purposes of such registration. Such entry shall be made within forty-eight hours after the deed shall have been left at the Office as aforesaid, and a copy of such entry shall be published in the *Hongkong Government Gazette* as soon as reasonably can be done after, but in no case later than ten days from, the time of making such entry.

Particulars of deed to be entered by.

Copy of entry to be published in the *Hongkong Government Gazette*.

CLXV. Every deed, instrument, or agreement whatsoever, made and executed by which a Debtor not being a Bankrupt conveys or covenants or agrees to convey his estate and effects except such portion thereof as aforesaid for the benefit of his Creditors, or makes any arrangement or agreement with his Creditors or any person on their behalf for the distribution, inspection, conduct, management, or winding up of his affairs or estate, or the release or discharge of such Debtor from his debts or liabilities, shall, within twenty-eight days from and after the execution thereof by such Debtor or within such further time as the Court shall allow, be registered in the Court: and in default thereof shall not be received in evidence.

Deed to be registered in the Court and in default not to be received in evidence.

CLXVI. Every such deed on being so registered as aforesaid, shall have a memorandum thereof written on the face of such deed, stating the day and the hour of the day at which the same was brought into the office of the Registrar for registration.

Memorandum of registration.

CLXVII. From and after the registration of every such deed or instrument in manner aforesaid, the Debtor and Creditors, and trustees parties to such deed, or who have assented thereto or are bound thereby, shall in all matters relating to the estate and effects of such Debtor be subject to the jurisdiction of the Court, and shall respectively have the benefit of and be liable to all the provisions of this Ordinance, in the same or like manner as if the Debtor had been adjudged Bankrupt, and the Creditors had proved and the trustees had been appointed Creditors' Assignees under such bankruptcy: and the existing or future trustees of any such deed or instrument and the Creditors under the same, shall as between themselves respectively, and as between themselves and the Debtor and against third persons, have the same powers, right and remedies, with respect to the Debtor and his estate and effects, and the collection and recovery of the same, as are possessed or may be used or exercised by Assignees or Creditors with respect to the Bankrupt, or his acts, estate and effects in bankruptcy: and, except where the deed shall expressly provide otherwise, the Court shall determine all questions arising under the deed according to the law and practice in bankruptcy so far as they may be applicable, and shall have power to make and enforce all such orders as it would be authorized to do if the Debtor in such deed had been adjudged bankrupt and his estate were administered in bankruptcy.

Jurisdiction of the Court and rights and liabilities of the parties after registration of deed.

CLXVIII. After the copy of the entry made by the Registrar as aforesaid shall have been published in the *Hongkong Government Gazette* no execution, or other process against the Debtor's property in respect of any debt, and no process against his person in respect of any debt, other than such process by writ or warrant as may be had against a Debtor about to depart out of the Colony shall be available to any Creditor or claimant without leave of the Court: and a certificate of the filing and registration of such deed under the hand of the Registrar and the seal of the Court shall be available to the Debtor for all purposes as a protection in bankruptcy.

Protection of debtor after notice of registration, &c., of deed.

CLXIX. In case any petition shall be presented for an adjudication against a Debtor after his execution of such deed or instrument as is hereinbefore described and pending the time allowed for the registration of such deed or instrument, all proceedings under such petition may be stayed if the Court shall think fit: and in case such deed or instrument shall be duly registered as aforesaid the petition shall be dismissed.

Stay of proceedings in Bankruptcy after execution of deed pending time allowed for its registration.

CLXX. If a Debtor cannot obtain the assent of a majority in number representing three-fourths in value, of his Creditors, by reason of his being unable to ascertain by whom bills of exchange, promissory notes, or other negotiable securities accepted, drawn, made, or endorsed by him are holden, or by reason of the absence of Creditors in a foreign country or other similar circumstances, it shall be sufficient if he obtain the

Provision in case Debtor cannot obtain requisite assent of Creditors.

consent of a majority in number representing three-fourths in value of all his other Creditors to such deed or instrument as aforesaid: Provided that notice shall have been inserted by or on behalf of the Debtor in one or more Newspapers published in the Colony or place at which he shall have carried on business immediately prior to the date of such deed or instrument, requiring his Creditors to signify their assent to or dissent from such deed or instrument by notice in writing addressed to the trustee or trustees thereof within fourteen days from the insertion of such notice, and that the affidavit or certificate of the trustee or trustees shall state the circumstances of the case, and the same shall be allowed by the Court, and if the deed or instrument be in such form as is hereinbefore provided which shall vest all the estate and effects of the Debtor in the trustees of such deed, and provided that all such other conditions as are hereinbefore required be duly complied with.

As to misdemeanors under this Ordinance.

Penalty on persons
guilty of misdemeanors
herein named.

CLXXI. From and after the commencement of this Ordinance any Bankrupt who shall do any of the acts or things following with intent to defraud or defeat the rights of his Creditors, shall be guilty of a misdemeanor, and shall be liable at the discretion of the Court before which he shall be convicted to be imprisoned for any period not exceeding three years.

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

2. If he shall not upon his examination fully and truly discover, to the best of his knowledge and belief all his property, real and personal, inclusive of his rights and credits, and how and to whom, and for what consideration, and when he disposed of, assigned, or transferred any part thereof, except such part as has been really and *bonâ fide* before sold or disposed of in the way of his trade or business, if any, or laid out in the ordinary expense of his family, or shall not deliver up to the Court or dispose as the Court directs of all such part thereof as is in his possession, custody, or power, except the necessary wearing apparel of himself, his wife, and children; and deliver up to the Court all books, papers and writings in his possession, custody or power relating to his property or affairs:

3. If he shall after any act of bankruptcy upon which adjudication has been granted, with intent to defraud his Creditors, remove, conceal or embezzle any part of his property to the value of Fifty Dollars or upwards:

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

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

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

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

8. If within the like time he shall, knowing that he is at the time unable to meet his engagements, fraudulently and with intent to diminish the sum to be divided amongst his Creditors, have made away with, mortgaged, encumbered, or charged any

part of his property, of what kind soever, or if after adjudication he shall conceal from the Court or his Assignee any debt due to or from him:

9. If he shall, with intent to defraud his Creditors, within three months next before the filing of the petition for adjudication, pawn, pledge or dispose of, otherwise than by *boná fide* transactions in the ordinary way of his trade, or of his goods or chattels which have been obtained on credit and remain unpaid for:

10. If he shall, with intent to defraud his Creditors, after the filing of any petition for adjudication by or against him, pay money to any Creditor in satisfaction or security for his debt or for any part thereof, whereby such Creditor may receive more in the pound in respect of his debt than the other Creditors.

CLXXII. Any person who shall upon any examination upon oath or affirmation, or in any affidavit or deposition under this Ordinance, wilfully and corruptly give false evidence, or wilfully and corruptly swear or affirm anything which shall be false, being convicted thereof, shall be liable to the penalties of wilful and corrupt perjury.

False evidence.

CLXXIII. If any person shall refuse to be sworn, or shall refuse to answer any lawful question put by the Court, or shall not fully answer any such question to the satisfaction of the Court, or shall refuse to sign and subscribe his examination when reduced into writing (not having any lawful objection allowed by the Court) or shall not produce any books, papers, deeds and writings, or other documents in his custody or power, relating to any of the matters under inquiry, which such person is required by the Court to produce, and to the production of which he shall not state any objection, allowed by the Court, it shall be lawful for the Court by warrant to commit such person to prison, there to remain without bail until he shall submit himself to the Court to be sworn, and full answers make to the satisfaction of the Court, to all such lawful questions as shall be put by the Court, and sign and subscribe such examination, and produce such books, papers, deeds, writings and other documents in his custody or power, to the production of which no such objection as aforesaid has been allowed.

Any person refusing to be sworn or refusing to answer or not fully answering or refusing to sign examination or to produce books, &c., may be committed.

CLXXIV. If any Assignee shall retain in his hands for more than one week or employ for his own benefit, or knowingly permit any Co-assignee so to retain or employ any sum to the amount of more than Three Hundred Dollars, part of the estate of any Bankrupt, or shall neglect to invest any money when directed by the Court, every such Assignee shall be liable to be charged in his account with such sum as shall be equal to interest at the rate of twenty-five per centum per annum on all such moneys for the time during which he shall have so retained or employed the same or permitted the same to be so retained or employed, or during which he shall so have neglected to invest the same: and the Court is hereby required to charge every such Assignee in his account accordingly.

Assignee disobeying direction to pay or invest money, and retaining it, or permitting Co-assignee to retain or employ it to be charged with 25 per cent.

CLXXV. If any petitioning Creditor shall, after adjudication, receive any money, satisfaction or security for his debt or any part thereof, whereby such petitioning Creditor may receive more in the pound in respect of his debts than the other Creditors, such petitioning Creditor shall forfeit his whole debt, and shall also repay or deliver up such money, satisfaction or security, or the full value thereof to the Assignee or Assignees, of such Bankrupt for the benefit of the Creditors of the Bankrupt.

Petitioning Creditor compounding with Debtor after adjudication.

CLXXVI. Any person who shall wilfully conceal any real or personal estate of the Bankrupt and who shall not within forty-two days after the filing of the petition for adjudication, discover such estate to the Court or to the Assignees, shall forfeit the sum of Five Hundred Dollars, and double the value of the estate so concealed: and any person who shall after such time voluntarily discover to the Court or to the Assignees any part of such Bankrupt's estate not before come to the knowledge of the Assignees, shall be allowed five per centum thereupon, and such further reward as the Assignees with the consent of the Court shall think fit; to be paid out of the estate recovered on such discovery.

Concealing Bankrupts effects.

Allowance to persons making discovery.

CLXXVII. Any person who shall insert or cause to be inserted in the *Hongkong Government Gazette* or in any Newspaper any advertisement under this Ordinance, without authority or knowing the same to be false in any material particular, shall be guilty of a misdemeanor, and upon conviction shall be liable to be imprisoned for any term not exceeding two years.

Inserting advertisements without authority.

CLXXVIII. All sums of money forfeited under this Ordinance may be sued for by the Creditors' Assignee or such other person as the Court shall by order direct.

Money forfeited under this Ordinance, how to be sued for.

And how applied. And the money so recovered (the charges of suit being deducted) shall be paid over in such manner as the Court shall by General Order direct.

As to Notices and Advertisements.

What notices to be sent by post. CLXXXIX. All Notices by this Ordinance or by General Order required to be served on any person shall be sent by post addressed to the last known place of business or abode of such person, subject to such regulations as to registration and otherwise as such General Orders shall direct, provided that this present Section shall not apply to or affect Notices by this Ordinance or by any General Order required to be personally served.

Proviso.

As to Evidence.

Petitions and other proceedings in bankruptcy, and copies purporting to be sealed with the seal of the Court admissible in evidence. CLXXX. Any petition for adjudication, or arrangement, adjudication of Bankruptcy assignment appointment of official or creditors' assignee, certificate, deposition, or other proceeding or order in Bankruptcy, or under any of the provisions of this Ordinance, appearing to be sealed with the seal of the Court under this Ordinance, or any writing purporting to be a copy of any such document, and purporting to be so sealed, shall at all times, and on behalf of all persons, and whether for the purposes of this Ordinance or otherwise, be admitted in all Courts whatever as evidence of such documents respectively, and of such proceedings and orders having respectively taken place or been made, and be deemed respectively records of such Court, without any further proof thereof; and no such copy shall be receivable in evidence unless the same appear to be so sealed, except where otherwise in this Ordinance specially provided: Provided that any document, petition or proceedings in any adjudication of insolvency filed or taken and entered of record under Ordinance No. 3 of 1846 purporting to have been sealed before the commencement of this Ordinance or purporting to have been signed by the person duly authorized to sign the same, and copies of the same, shall be received in all Courts whatever as evidence of such petition, document, or proceedings, and of such proceedings having taken place and entered of record.

Officer of Court to produce proceedings and give evidence thereof. CLXXXI. The proper Officer of the Court shall, on the reasonable request of any Bankrupt or arranging Debtor, or of any Creditor of such Bankrupt having proved his debt, or of an arranging Debtor, when the debt of the arranging Creditor has been admitted in the petition or proved, or on the request of the Attorney of any such Bankrupt, Debtor or Creditor, produce and show to such Bankrupt, Debtors or Creditors at such time as the Court shall direct, every petition for adjudication of Bankruptcy, adjudication of Bankruptcy, and petition for arrangement, against, or by such, Bankrupt, and all orders and proceedings under any such petition or adjudication, and the Court shall order the Official Assignee or Officer of the Court, as the case may be, to permit such Bankrupt, Debtor or Creditor to have inspection, at all reasonable times, of all books, papers and writings relating to the matters of such petition or adjudication, and the estate of the Bankrupt or Debtor in the possession of the Assignees or filed in Court in such matter and permit him to inspect and examine the same; and such Official Assignee, or such Officer shall provide for any such Bankrupt, Debtor, Creditor or Attorney, requiring the same an office copy of such petition or other proceeding, books, papers and writings as aforesaid, or of such part thereof as shall be required, receiving such fee or sum or rate of charge as may be authorized in that behalf.

If Bankrupt do not dispute the petition the *Gazette* to be conclusive evidence of bankruptcy as against the Bankrupt and against persons whom the Bankrupt might have sued had he not been adjudged Bankrupt. CLXXXII. If the Bankrupt shall not if he were within the Colony at the date of the adjudication within two calendar months after the advertisement of the Bankruptcy in the *Hongkong Government Gazette*, or if he were elsewhere at the date of such adjudication within twelve months after such advertisement, have commenced an action, suit or other proceeding to dispute or annul the petition for adjudication, and shall not have prosecuted the same with due diligence and with effect, the *Gazette* containing such advertisement shall be conclusive evidence in all cases as against such Bankrupt, and in all actions at Law or suits in Equity brought by the Assignees for any debt or demand for which such Bankrupt might have sustained any action or suit had he not been adjudged Bankrupt, that such person so adjudged Bankrupt became a Bankrupt before the date and filing of the petition for adjudication, and that such petition was filed on the day on which the same is stated in the *Gazette* to bear date.

Advertisement when evidence. CLXXXIII. A copy of the *Hongkong Government Gazette* and of any Newspaper containing any such advertisement as is by this Ordinance directed or authorized to be made therein respectively, shall be evidence of any matter therein contained, and of which notice is by this Ordinance directed or authorized to be given by such advertisement.

CLXXXIV. In the event of the death of any witness deposing to the petitioning Creditors debt, or act of Bankruptcy, or under any petition for arrangement, the deposition of any such deceased witness, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall in all cases be received as evidence of the matters therein respectively contained.

On death of witness office deposition or copy thereof to be evidence.

CLXXXV. All persons competent and compellable to give evidence in any Court of Law in the Colony shall be competent and compellable to give evidence in any matter or proceeding arising under this Ordinance.

Persons competent to give evidence.

CLXXXVI. All Courts, Judges, Justices, and persons judicially acting, and other officers, shall take judicial notice of the signature of any Judge, Assignee or other Officer of the Court, and of the seal of the Court, subscribed or attached to any judicial or official proceeding or document to be made or signed under the provisions of this Ordinance.

Judicial notice to be taken of signature of Judge or other Officer and seal of Court.

CLXXXVII. If any person shall forge the signature of any Judge or of the Official Assignee, or other officer of the Court, or shall forge or counterfeit the seal of the Courts, or knowingly concur in using any such forged or counterfeit signature or seal, for the purpose of authenticating any proceeding or document, or shall tender in evidence any such proceeding or document with a false or counterfeit signature of any such Judge, Official Assignee, or other officer, or a false or counterfeit seal of the Court, subscribed or attached thereto, knowing such signature or seal to be false or counterfeit, every such person shall be guilty of felony, and shall be liable to be indicted and on conviction to be imprisoned and kept to hard labour for any time not exceeding two years.

Forging signature of Judge or other Officer or the seal of the Court, &c., felony.

CLXXXVIII. A copy of any petition filed in any Court having jurisdiction for the relief of Insolvent Debtors, or in Bankruptcy, in any of Her Majesty's Dominions, Colonies or dependencies, and of any vesting order, schedule, order of adjudication or other proceedings, purporting to be signed by the officer in whose custody the same shall be or his deputy, certifying the same to be a true copy of such petition, vesting order, schedule, order of adjudication, or other order or proceedings, and appearing to be sealed with the seal of such Court, shall at all times be admitted under this Ordinance as sufficient evidence of the same, and of such proceedings respectively having taken place, without any other proof whatever given of the same.

Evidence as to Insolvency.

As to Affidavits, Declarations, and Affirmations.

CLXXXIX. Any Affidavit, Declaration or Affirmation required to be sworn or made in relation to any matter under this Ordinance may be lawfully sworn—

Affidavits, declarations, &c., before whom to be sworn.

Before the Court or before any Officer appointed by the Court for that purpose, or before a Magistrate:

In any Colony, island, plantation, or place under the dominion of Her Majesty, before any Court, Judge, or person lawfully authorized to take and receive affidavits, declarations, or affirmations:

In any foreign parts out of Her Majesty's dominions, before a Judge or Magistrate, his signature being authenticated by the official seal of the Court to which he is attached, or by a public notary, or before a British Minister, Consul or Vice-Consul:

And every such Court, Judge, Officer, or other person is hereby authorized and required to administer the oath upon any such affidavit or to take such affirmation or declaration; and all Courts, Judges, Justices, Officers and persons acting judicially shall take judicial notice of the seal or signature (as the case may be) of any such Court, Judge, Officer or other person, attached, appended, or subscribed to any such affidavit or declaration, or to any other document to be used for the purposes of this Ordinance.

Judicial notice of seal or signature thereto.

CXC. Any affidavit of any prisoner in Hongkong, to be used in any matter under this Ordinance may be sworn before the Gaoler of such prison, and every such Gaoler is hereby required and authorized to administer the oath upon any such affidavit without fee or reward.

Affidavits by prisoners.

As to Costs.

CXCI. In all cases where it shall be made to appear to the satisfaction of the Court that there is reason to suspect and believe that any property of any Bankrupt is

Court may grant search warrant.

concealed in any house or other place not belonging to such Bankrupt, the Court may grant a search warrant to any person appointed by the Court, and it shall be lawful for such person and his assistants to execute such warrant according to the tenor thereof: and such person shall be entitled to the same protection as is allowed by Law in execution of a search warrant for property reputed to be stolen or concealed.

Authority to break open house, &c.

CXCII. Any person appointed by the Court and his Assistants, acting under warrant of the Court may break open any house, chamber, shop, warehouse, door, trunk or chest of the Bankrupt where such Bankrupt or any of his property is reputed to be and seize upon the body or property of such Bankrupt: and if the Bankrupt be in prison or in custody it shall be lawful for such person and his Assistants to seize any property of the Bankrupt (necessary wearing apparel only excepted) in the custody or possession of such Bankrupt or of any other person in any prison or place where such Bankrupt is in custody.

Court may summon and examine Bankrupt and Bankrupt's wife.

CXCIII. The Court may summon any Bankrupt or Bankrupt's wife before it: whether the Bankrupt shall have obtained his discharge or not, and in case he or she shall not come at the appointed time, the Court may, upon proof of the service of such summons, if it shall see fit, direct by warrant any person the Court shall see fit, to arrest such Bankrupt or Bankrupt's wife, and bring him or her before the Court; and the Court may examine such Bankrupt or Bankrupt's wife either by word of mouth or by interrogatories in writing, touching all matters relating to the dealings or estate of such Bankrupt, or which may tend to disclose any secret grant, conveyance, or concealment of his lands, tenements, goods, money or debts, and the Court may reduce such examination or examinations into writing and the Bankrupt or Bankrupt's wife or both as the case may be, shall sign and subscribe such examination or examinations respectively.

If Bankrupt be keeping out of the way or be about to quit the Colony, Court may issue warrant.

CXCIV. If in any case it shall be proved to the satisfaction of the Court, that any Bankrupt is keeping out of the way and cannot be personally served with a summons, and that due pains have been taken to effect such personal service, or that there is probable cause for believing that he is about to quit the Colony or to remove or conceal any of his goods or chattels unless he be forthwith apprehended, the Court may, by warrant, authorize and direct any person or persons it shall think fit, to apprehend and arrest such Bankrupt, and bring him before the Court to be examined in like manner as if he appeared upon a summons.

Court empowered to summon persons suspected of having Bankrupt's property.

CXCV. After adjudication the Court may summon before it any person known or suspected to have any of the estate of the Bankrupt in his possession or is supposed to be indebted to the Bankrupt or any person the Court may believe capable of giving information concerning the person, trade, dealings or estate of the Bankrupt or concerning any act of bankruptcy committed by him, or any information material to the full disclosure of his dealings: and the Court may require such person to produce any books, papers, deeds, writings or other documents in his custody or power which may appear to the Court necessary to the verification of the deposition of such person, or to the full disclosure of any of the matters which the Court is authorized to enquire into: and if such person so summoned as aforesaid shall not come before the Court at the time appointed, having no lawful impediment, (made known to the Court at the time of its sitting and allowed by it,) the Court may by warrant authorize and direct the person or persons therein named for that purpose to apprehend and arrest such person and bring him before the Court for examination.

Service of Summons where person keeps out of the way.

CXCVI. Where it shall be shown by affidavit to the satisfaction of the Court that any person to whom any such summons is directed as aforesaid is keeping out of the way and cannot be personally served therewith, and that due pains have been taken to effect such personal service, the Court may order by endorsement upon the summons, that the delivery of a copy of such summons to the wife or servant or some adult inmate of the house or family of the person, at his usual or last known place of abode or business, and explaining the purport thereof to such wife, servant or inmate, shall be equivalent to personal service, and in every such case the service of such summons in pursuance of such order shall be, and be deemed and taken to be of the same force and effect to all intents and purposes as if the party to whom such summons was directed had been personally served therewith.

Power to examine persons summoned or present at any sitting.

CXCVII. Upon the appearance of any person summoned or brought before the Court upon any warrant as aforesaid, or if any person be present at any sitting of the Court, the Court may examine every such person upon oath, either by word of mouth, or by interrogatories in writing, concerning the person, trade, dealings or estate of any

Bankrupt, or concerning any act or acts of bankruptcy by any Bankrupt committed: and to reduce into writing the answers of every such person, and such answers so reduced into writing, such person examined is hereby required to sign and subscribe.

CXCVIII. No petition for adjudication shall be dismissed nor any adjudication reversed or annulled by reason only, that the petition or adjudication, or act of bankruptcy has been concerted or agreed upon between the Bankrupt his Solicitor or Agent, or any of them and any creditor or other person. No adjudication, &c., to be dismissed by reason only of concert.

CXCIX. If any accredited Agent of any body corporate or public company shall have had notice of any act of bankruptcy, such body corporate or company shall be deemed to have had such notice. Agent receiving notice of act of bankruptcy.

CC. Whenever the goods and chattels of a Debtor are sold under an execution, upon any judgment, recovered in any action brought for the recovery of a debt, or money demand, or damages against any Debtor exceeding Three hundred Dollars, such goods and chattels shall in all cases, unless the Court shall otherwise direct, be sold by the Sheriff by public auction, and not by bill of sale, or private contract, and such sale shall be publicly advertised by the Sheriff on and during three days next preceding the sale: and no Sheriff shall incur any liability by reason of anything done by him under this Ordinance. Goods, &c., of a debtor to be sold by Sheriff.

CCI. If any Bankrupt shall die after adjudication, the Court may proceed in the bankruptcy as if any such Bankrupt were living. Court may proceed notwithstanding death of Bankrupt.

Passed the Legislative Council of Hongkong, this 16th Day of April, 1864.

L. D'ALMADA E CASTRO,
Clerk of Councils.

No. 79.

GOVERNMENT NOTIFICATION.

The following Gentlemen have been nominated by His Excellency the GOVERNOR, Cathedral Trustees on behalf of Government for the Year 1864-65, under the provisions of Ordinances No. 2 of 1847 and No. 3 of 1850.

The Honorable J. SMALE, Esquire,
W. H. ALEXANDER, Esquire,
HENRY KINGSMILL, Esquire, and
WILBERFORCE WILSON, Esquire.

And J. C. POWER, Esquire, is appointed on the same behalf, Auditor of Cathedral Accounts for the said year.

It has also been notified to this Government, that the Honorable C. W. MURRAY, Esquire, and EDWARD PARRY, Esquire, were elected Trustees for the Year 1864-65 by the Seatholders of the Cathedral, in accordance with the terms of the Ordinances above referred to.

And that T. G. LINSTED, Esquire, was nominated, on the same behalf, Auditor of Cathedral Accounts for the said Year.

By Order,

W. T. MERCER,
Colonial Secretary.

Colonial Secretary's Office, Hongkong, 29th April, 1864.

No. 80.

GOVERNMENT NOTIFICATION.

The Honorable CHARLES ST. GEORGE CLEVERLY, Esquire, Surveyor General, having obtained one year's leave of absence, His Excellency the GOVERNOR has been pleased to appoint WILBERFORCE WILSON, Esquire, to be Acting Surveyor General, and SHEARMAN G. BIRD, Esquire, to be Acting Assistant Surveyor General until further notice.

By Order,

W. T. MERCER,
Colonial Secretary.

Colonial Secretary's Office, Hongkong, 29th April, 1864.