

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1921?

A BILL

To amend the Bankruptcy Act, 1898, the Bills of Sale Act of 1898, and the Districts Courts Act, 1912, in certain respects.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Bankruptcy ^{Short title.} (Amendment) Act, 1921," and shall be construed with the Bankruptcy Act, 1898 (hereinafter called the Principal Act).

2. Section three of the Principal Act is amended by inserting after the definition of "Debt provable in bankruptcy" or "provable debt" the following new definition :—

Amendment of s. 3 of Principal Act.
English Act, 1914, s. 1 (2).

"Debtor" includes any person, whether a British subject or not, who at the time when any act of bankruptcy was done or suffered by him

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

3. Section four of the Principal Act is amended by inserting after subsection six the following new paragraphs :—

Amendment of s. 4 of Principal Act.
English Act, 1914, s. 2.

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

4. Subsection two of section five of the Principal Act is repealed and the following is substituted therefor:— Amendment of s. 5 of Principal Act.

(2) When a sequestration order has been made the debtor thereby becomes a bankrupt, and continues a bankrupt until he is discharged, or the order for sequestration is annulled in manner hereinafter provided.

5. Section six of the Principal Act is amended by omitting the words "six months" in paragraph (c) and inserting in their place the words "three months," and by inserting at the end of paragraph (d) the words following: "or has carried on business in New South Wales, personally or by means of an agent or manager, or is or within the said period has been a member of a firm or partnership of persons which has carried on business in New South Wales by means of a partner or partners or an agent or manager." Amendment of s. 6 of Principal Act. English Act, 1914, s. 4 (1) (d).

6. Section ten of the Principal Act is amended by the omission of subsection two. Amendment of s. 10 of Principal Act.

7. The Principal Act is further amended by inserting after section thirty-five the following new section:— New section 35A added.

35A. No order for the release of a bankrupt's estate shall be made unless the court is satisfied— Full disclosure to be made by bankrupt.

- (a) that no secret bargain has been made whereby one creditor has received or is to receive an advantage over another; and
- (b) that the bankrupt has fairly disclosed to his creditors his financial position and property when asking them to give him an acquittance of the debts due to them.

8. Section thirty-seven of the Principal Act is amended as follows:— Amendment of s. 37 of Principal Act.

In subsection one, omit "discharge such order" and substitute "annul the sequestration."

In subsection two, omit "discharged" and substitute "annulled."

In subsection three, omit "discharging a sequestration order" and substitute "annulling a sequestration."

9.

9. The heading of Division 8 of the Principal Act is amended by omitting "bankrupt's certificate" and substituting "discharge of bankrupt." Amendment of heading of Division 8 of Principal Act.

10. Section thirty-nine of the Principal Act is amended by omitting "a certificate of discharge" wherever occurring and substituting therefor "an order of discharge." Amendment of s. 39 of Principal Act.

11. Section forty of the Principal Act is amended as follows:— Amendment of s. 40 of Principal Act.

In paragraph (e) after the words "brought on" insert the words "or contributed to."

Paragraph (n) is repealed.

Paragraph (r) is repealed and the following is substituted therefor:—

"(r) That the bankrupt's assets are not of a value equal to ten shillings in the pound on the amount of his unsecured liabilities, unless he satisfies the court that the fact that the assets are not of a value equal to ten shillings in the pound on the amount of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible.

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

12. Section forty-one of the Principal Act is amended by omitting "the certificate of discharge" and substituting therefor "the order of discharge." Amendment of s. 41 of Principal Act.

13.

13. Section forty-two of the Principal Act is amended as follows:— Amendment of s. 42 of Principal Act.

In subsection two, omit "a certificate of discharge" and substitute therefor "an order of discharge."

Subsections four, five, and six are repealed and the following is substituted therefor:—

(4) If in consequence of the estate not being sufficiently administered, or for want of sufficient evidence, or for any other reason, the court is unable to decide whether an order of discharge should or should not be granted, suspended, or refused, the court may adjourn the application for such order from time to time:

Provided that the court shall give its decision as soon as may be after the final dividend has been declared.

14. Section forty-three of the Principal Act is amended as follows:— Amendment of s. 43 of Principal Act.

In subsection one, omit "for a certificate" and substitute therefor "for an order of discharge."

In subsection two, omit "a certificate of discharge" and substitute therefor "an order of discharge," and omit "his certificate," "such certificate," and "the certificate," and substitute therefor "his discharge," "such discharge," and "the discharge," respectively.

15. Section forty-four of the Principal Act is amended as follows:— Amendment of s. 44 of Principal Act.

Omit "a certificate of discharge" wherever occurring, and substitute therefor "an order of discharge."

In subsection five, omit "the certificate" and substitute therefor "the order of discharge."

In subsection seven, omit "his certificate" and substitute therefor "his discharge."

16.

16. Section forty-eight of the Principal Act is repealed and the following substituted therefor:—

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

- (a) all rates (whether imposed by a local authority or by the government) due from the bankrupt at the date of the sequestration order, and having become due and payable within twelve months next before that time, and all taxes assessed on the bankrupt up to the thirtieth day of June next before the date of the sequestration order, and not exceeding in the whole one year's assessment;
- (b) all wages or salary of any clerk or servant in respect of services rendered to the bankrupt during six months before the date of the sequestration order not exceeding fifty pounds;
- (c) all wages of any labourer or workman not exceeding fifty pounds, whether payable for time or piece work in respect of services rendered to the bankrupt during six months before the date of the sequestration order:

Provided that where any labourer in husbandry has entered into a contract for the payment of a portion of his wages at a lump sum at the end of the period of hiring the priority under this section shall extend to the whole of such sum or a part thereof as the court may decide to be due under the contract proportionate to the time of service up to the date of the sequestration order;

- (d) all amounts, not exceeding in any individual case two hundred pounds, due in respect of compensation under the Workmen's Compensation Act, 1916, the liability whereof accrued before the date of the sequestration order subject nevertheless to the provisions of section nine of that Act.

(2)

Amendment of s. 48 of Principal Act.

Priority of debts.

English Act, 1914, s. 33.

Workmen's Compensation Act, 1916, s. 9.

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

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

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

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

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

(7) Nothing in this section shall alter the effect of the Partnership Act, 1892, or shall prejudice the provisions of the Married Women's Property Act, 1901, or the Friendly Societies Act, 1912, or of the Life, Fire and Marine Insurance Act, 1902, or the Acts amending or consolidating the same or any of them.

(8) Where a married woman has been declared bankrupt, her husband shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by him to his wife for the purposes of her trade or business until all claims

English Act,
1914, s. 36 (1).

claims of the other creditors of his wife for valuable consideration in money or money's worth have been satisfied.

17. Section fifty-one of the Principal Act is amended by omitting the words "six months" wherever occurring, and substituting therefor the words "three months."

Amendment of s. 51 of Principal Act.

18. The Principal Act is further amended by inserting after section fifty-two the following new section :—

New section 52A added.

52A. (1) In the event of a second or subsequent sequestration order being made against a bankrupt or insolvent any property acquired by him since he was last declared bankrupt or insolvent which at the date when the subsequent petition was presented had not been distributed amongst the creditors in such last preceding insolvency or bankruptcy shall (subject to any disposition thereof made by the official assignee in that insolvency or bankruptcy, without knowledge of the presentation of the subsequent petition and subject to the provisions of section fifty-seven) vest in the official assignee in the subsequent bankruptcy, and be divisible in the first instance among the creditors in the subsequent bankruptcy.

Provisions as to second bankruptcy. English Act, 1914, s. 39.

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

19.

19. The Principal Act is further amended by inserting after section fifty-four the following new sections :—

54A. An execution levied by seizure and sale on the property of a debtor is not invalid by reason only of its being an act of bankruptcy, and a person who purchases the property in good faith under a sale by the sheriff shall in all cases acquire a good title to it against the official assignee.

New sections added after s. 54.

Execution not invalid by reason only of being an act of bankruptcy.

English Act, 1914, s. 40 (3).

54B. (1) Where any goods of a debtor have been taken in execution the limit on the amount of rent which the party at whose suit the execution is sued out is liable to pay to the landlord under section one of the Landlord and Tenant Act, 1709, shall, unless notice of claim for rent due has been served on the sheriff or bailiff or other officer levying the execution by or on behalf of the landlord before the commencement of the debtor's bankruptcy, be six months' rent instead of one year's rent, and the rights of the landlord under the said provision shall not extend to any claim for rent payable in respect of any period subsequent to the date of such notice unless such notice was served as aforesaid before the commencement of the debtor's bankruptcy.

Liability of execution creditor for rent.

English Act, 1914, s. 35 (2) (3).

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

20. Section fifty-five of the Principal Act is amended by omitting subsection two and substituting therefor the following :—

Amendment of s. 55 of Principal Act.

(2) Any covenant or contract made by any person (hereinafter called the settlor) in consideration of his or her marriage, either for the future payment

English Act, 1914, s. 42 (2).

payment of money for the benefit of the settlor's wife or husband, or children, or for the future settlement on or for the settlor's wife or husband or children, of property, wherein the settlor had not at the date of the marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property in right of the settlor's wife or husband, shall, if the settlor is declared bankrupt and the covenant or contract has not been executed at the date of the commencement of his bankruptcy, be void against the official assignee, except so far as it enables the persons entitled under the covenant or contract to claim for dividend in the settlor's bankruptcy under or in respect of the covenant or contract, but any such claim to dividend shall be postponed until all claims of the other creditors for valuable consideration in money or money's worth have been satisfied.

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

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

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

21. The Principal Act is further amended by inserting after section fifty-five the following new section :—

55A. (1) Where a person engaged in any trade or business makes an assignment to any other person of his existing or future book debts, or any class thereof, and is subsequently declared bankrupt, the assignment shall be void against the official assignee as regards any book debts which have not been paid at the commencement of the bankruptcy, unless the assignment has been registered as if the assignment were a bill of sale, and the provisions of the Bills of Sale Act of 1898, with respect to the registration of bills of sale shall apply thereto accordingly :

New section added after s. 55.

Avoidance of general assignments of book debts unless registered.

English Act, 1914, s. 43.

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

(2) For the purpose of this section “assignment” includes assignment by way of security and other charges on book debts.

22. Section fifty-seven of the Principal Act is amended by inserting at the end of paragraph (c) the words following :—“or any conveyance or assignment for valuable consideration by any person to whom or to whose predecessor in title any such conveyance or assignment has been made by the bankrupt.”

Amendment of s. 57 of the Principal Act.

In re Gunsbourg, [1920] 2 K.B., 426.

23.

23. The Principal Act is further amended by inserting after section fifty-seven the following new sections :—

57A. A payment of money or delivery of property to a person against whom a sequestration order is subsequently made, on appeal from the dismissal of a bankruptcy petition, or to a person claiming by assignment from him, shall, notwithstanding anything in this Act, be a good discharge to the person paying the money or delivering the property, if the payment or delivery is made before the actual date on which the sequestration order is made and without notice of the presentation of a bankruptcy petition, and is either pursuant to the ordinary course of business or otherwise bona fide.

New sections added after s. 57.

Validity of certain payments to bankrupt and assignee. English Act, 1914, s. 46.

57B. (1) All transactions by a bankrupt or insolvent with any person dealing with him bona fide and for value in respect of property, whether real or personal, acquired by the bankrupt or insolvent after the sequestration shall, if completed before any intervention by the official assignee, be valid against the official assignee, and any estate or interest in such property which by virtue of this Act is vested in the official assignee shall determine and pass in such manner and to such extent as may be required for giving effect to any such transaction.

Dealings with undischarged bankrupt. English Act, 1914, s. 47.

This subsection shall apply to transactions with respect to real property completed before the first day of July, one thousand nine hundred and twenty, in any case where there has not been any intervention by the official assignee before that date.

Date of commencement of the Conveyancing Act, No. 6 of 1919.

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

(2)

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

24. The Principal Act is further amended by the insertion after section sixty-six of the following new sections :—

66A. Where the property of a bankrupt comprises the copyright in any work or any interest in such copyright and he is liable to pay to the author of the work royalties or a share of the profits in respect thereof, the official assignee in the bankruptcy shall not be entitled to sell, or authorise the sale of, any copies of the work, or to perform or authorise the performance of the work, except on the terms of paying to the author such sums by way of royalty or share of the profits as would have been payable by the bankrupt, nor shall he, without the consent of the author or of the court, be entitled to assign the right or transfer the interest or to grant any interest in the right by licence except upon terms which will secure to the author payments by way of royalty or share of profits at a rate not less than that which the bankrupt was liable to pay.

New sections added after s. 66.

Limitation of powers of official assignee in relation to copyright. English Act, 1914, s. 60.

66B. Where the official assignee has seized and disposed of any property in the possession or on the premises of a bankrupt without notice of any claim by any person in respect of the same and it is thereafter made to appear that the said property was not at the date of the sequestration order the property of the bankrupt the official assignee shall not

Protection of official assignee from personal liability in certain cases. English Act, 1914, s. 61.

not be personally liable for any loss or damage arising from such seizure or disposal sustained by any person claiming such property nor for the costs of any proceedings taken to establish a claim thereto unless the court is of opinion that the official assignee has been guilty of negligence in respect of the same.

66c. Where any goods of a bankrupt are held by any person by way of pledge, pawn, or other security, it shall be lawful for the official assignee, after giving notice in writing of his intention to do so, to inspect the goods, and where such notice has been given, such person as aforesaid shall not be entitled to realize his security until he has given the official assignee a reasonable opportunity of inspecting the goods and of exercising his right of redemption if he thinks fit to do so.

Goods pawned by bankrupt may be inspected by official assignee on notice to pawnbroker. English Act, 1914, s. 59.

25. The Principal Act is further amended by inserting after section one hundred and twenty-three the following new section :—

New section added after s. 123.

123A. (1) Where a married woman who has been declared bankrupt has separate property the income of which is subject to a restraint on anticipation, the court shall have power, on the application of the official assignee, to order that, during such time as the court may order, the whole or some part of such income be paid to the official assignee for distribution among the creditors, and in the exercise of such power the court shall have regard to the means of subsistence available for such woman and her children.

Income of married woman subject to restraint on anticipation may be paid to official assignee. English Act, 1914, s. 52.

26. Section one hundred and twenty-four of the Principal Act is repealed and the following is substituted therefor :—

Repeal of s. 124 of Principal Act, and substitution of new section.

124. (1) The judges or any three of them may make general rules for carrying into effect the objects of this Act and for regulating the practice, procedure, and forms in respect of all matters under this Act, and for fixing the amount of fees to be paid in the court.

General rules.

(2) A copy of every such rule shall be laid before both Houses of Parliament within fourteen days after the publication thereof if Parliament is then in session and if Parliament is not then in session then within fourteen days after the commencement of the next session.

27. The heading of Part VI of the Principal Act is amended by omitting the word "indictable." Amendment of heading of Part VI of Principal Act

28. Sections one hundred and twenty-six and one hundred and twenty-seven of the Principal Act are amended by omitting the words "and be liable to imprisonment with or without hard labour for any time not exceeding three years." Amendment of ss. 126 and 127 of Principal Act.

29. Section one hundred and twenty-eight of the Principal Act is amended by omitting the words "two years" and substituting therefor the words "one year." Amendment of s. 128 of Principal Act.

30. The Principal Act is further amended by inserting after section one hundred and twenty-eight the following new sections:— New sections added after s. 128.

128A. Where an undischarged bankrupt—

(a) either alone or jointly with any other person obtains credit to the extent of twenty pounds or upwards from any person without informing such person that he is an undischarged bankrupt; or

(b) engages in any trade or business under a name other than that under which he was declared bankrupt without disclosing to all persons with whom he enters into any business transaction the name under which he was declared bankrupt;

he shall be guilty of an offence and liable to imprisonment for any time not exceeding two years.

128B. (1) If a sequestration order is made against the estate of any person who has on any previous occasion been declared bankrupt or insolvent, or made a composition or arrangement with his creditors, he shall be guilty of an offence, and may be dealt with and punished as if he had been guilty of

Obtaining credit by undischarged bankrupts. English Act, 1914, s. 155.

Bankrupt failing to keep proper accounts. English Act, 1914, s. 158.

of an offence under section one hundred and twenty-eight, if, having during the whole or any part of the two years immediately preceding the date of the presentation of the bankruptcy petition been engaged in any trade or business, he has not kept proper books of account throughout those two years, or such part thereof as aforesaid, and, if so engaged at the date of the presentation of the petition, thereafter, whilst so engaged, up to the date of the sequestration order, or has not preserved all books of account so kept :

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

(2) A prosecution shall not be instituted under this section except by order of the court, nor where the sequestration order in the bankruptcy is made within two years from the thirtieth day of September, one thousand nine hundred and twenty-one.

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

128c. (1) Any person in respect of whose estate a sequestration order has been made shall be guilty of an offence and may be dealt with and punished as if he had been guilty of an offence under section one hundred and twenty-eight, if, having been

Punishment
of bankrupt
for gambling,
&c.

English Act,
1914, s. 157.

been engaged in any trade or business, and having outstanding at the date of the sequestration order any debts contracted in the course and for the purpose of such trade or business :—

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

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

(2) A prosecution shall not be instituted against any person under this section except by order of the court, nor where the sequestration order in the bankruptcy is made within two years from the thirtieth day of September, one thousand nine hundred and twenty-one.

128D. (1) A person guilty of an offence declared to be a misdemeanour under this Act in respect of which no special penalty is imposed shall be liable on conviction on indictment to imprisonment with or without hard labour for a term not exceeding *two* years, or, on summary conviction, to imprisonment with or without hard labour for a term not exceeding *six* months.

Punishment of offences. English Act, 1914, s. 164.

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

31. The Principal Act is further amended by inserting after section one hundred and thirty-eight the following new section:—

New section added after s. 138.

138A. An appeal to the judge against any order, decision, or ruling of the registrar, whether exercising delegated powers or otherwise, shall be by way of rehearing.

Appeal from registrar to be rehearing.

32. Section one hundred and thirty-nine of the Principal Act is repealed, and the following is substituted therefor:—

Repeal of s. 139 of Principal Act, and substitution of new section.

139. (1) The Governor may appoint a barrister of at least five years' standing to be registrar in bankruptcy at such salary as may be deemed reasonable. The registrar so appointed shall not be subject to the provisions of the Public Service Acts.

Appointment of registrar. cf. 1901, No. 24, s. 71.

(2) The Governor, upon the recommendation of the Public Service Board, may appoint persons resident in the country parts of New South Wales as district registrars and clerks and officers of the Bankruptcy Court. The district registrars and clerks and officers appointed upon such recommendation as aforesaid shall be officers of the Supreme Court, and subject to the provisions of the Public Service Acts.

Governor may appoint district registrar.

(3) Whenever it is made to appear to the judge that a district registrar is prevented by illness or any other cause from holding any meeting or examination

Person appointed to act as deputy registrar.

examination

examination required to be held before such district registrar, the judge may appoint a person to hold such meeting or examination, and such person shall have for the purpose aforesaid the powers and duties of a district registrar.

(4) The salary of the registrar and of the clerks and officers shall be paid out of the Consolidated Revenue, and the court fees to the amount provided by general rules shall be collected and paid into the Colonial Treasury.

Payment of salaries and court fees.

33. Section one hundred and forty-three of the Principal Act is amended by omitting the words "certificates of discharge" in paragraph (h), and substituting therefor the words "orders of discharge."

Amendment of s. 143 of Principal Act.

34. Section one hundred and fifty-six of the Principal Act is amended by omitting the words "the Fourth Schedule to."

Amendment of s. 156 of Principal Act.

35. The Fourth Schedule to the Principal Act is repealed.

Repeal of Fourth Schedule to Principal Act.

36. The following new sections are added after section one hundred and fifty-six of the Principal Act:—

New sections added after s. 156 of Principal Act.

157. (1) When a judgment has been obtained in a district court and the debtor is unable to pay the amount forthwith and alleges that his whole indebtedness amounts to a sum not exceeding one hundred pounds, inclusive of the debt for which the judgment is obtained, the district court may make an order providing for the administration of his estate and for the payment of his debts by instalments or otherwise, and either in full or to such extent as to the district court under the circumstances of the case appears practicable, and subject to any conditions as to his future earnings or income which the district court may think just.

Power of district court to make administration order.

English Act, 1883, s. 122.

(2) The order shall not be invalid by reason only that the total amount of the debts is found at any time to exceed one hundred pounds, but in such case the district court may, if it thinks fit, set aside the order.

(3)

(3) Where in the opinion of the district court in which the judgment is obtained, it would be inconvenient that that court should administer the estate, it shall cause a certificate of the judgment to be forwarded to the registrar of the district court of the district in which the debtor or the majority of the creditors resides or reside, and thereupon the latter district court shall have all the powers which it would have had under this section had the judgment been obtained in it.

(4) Where it appears to the registrar of the district court that property of the debtor exceeds in value ten pounds, he shall, at the request of any creditor, and without fee, issue execution against the debtor's goods, but the household goods, wearing apparel, and bedding of the debtor or his family, and the tools and implements of his trade to the value in the aggregate of thirty pounds, shall to that extent be protected from seizure.

(5) When the order is made no creditors shall have any remedy against the person or property of the debtor in respect of any debt which the debtor has notified to a district court except with the leave of that district court, and on such terms as that court may impose; and any district court or inferior court in which proceedings are pending against the debtor in respect of any such debt shall, on receiving notice of the order, stay the proceedings, but may allow costs already incurred by the creditor, and such costs may on application be added to the debt notified.

(6) If the debtor makes default in payment of any instalment payable in pursuance of any order under this section, he shall, unless the contrary is proved, be deemed to have had since the date of the order the means to pay the sum in respect of which he has made default and to have refused or neglected to pay the same.

(7) The order may be carried into effect in such manner as may be prescribed by general rules.

(8)

(8) Money paid into court under the order shall be appropriated first in satisfaction of the costs of the plaintiff in the action, next in satisfaction of the costs of administration (which shall not exceed two shillings in the pound on the total amount of the debts), and then in liquidation of debts in accordance with the order.

(9) Notice of the order shall be sent to the registrar of the metropolitan district court, and be posted in the office of the district court in which the debtor resides, and sent to every creditor notified by the debtor or who has proved.

(10) Any creditor of the debtor, on proof of his debt before the district court registrar, shall be entitled to be scheduled as a creditor of the debtor for the amount of his proof.

(11) Any creditor may in the manner prescribed by the general rules object to any debt scheduled, or to the manner in which payment is directed to be made by instalments.

(12) Any person who after the date of the order becomes a creditor of the debtor shall, on proof of his debt before the district court registrar, be scheduled as a creditor of the debtor for the amount of his proof, but shall not be entitled to any dividend under the order until those creditors who are scheduled as having been creditors before the date of the order have been paid to the extent provided by the order.

(13) When the amount received under the order is sufficient to pay each creditor scheduled to the extent thereby provided and the costs of the plaintiff and of the administration, the order shall be superseded, and the debtor shall be discharged from his debts to the scheduled creditors.

37. The Principal Act is further amended by inserting after section one hundred and fifty-seven (as added thereto by the last preceding section), the following new section :—

New section added after s. 157.

158. Save as provided in this Act the provisions of this Act relating to the remedies against the property of a bankrupt, the priorities of debts, and the effect of a discharge shall bind the Crown.

Certain provisions to bind the Crown. English Act, 1914, s. 151.

38. The definition of "bill of sale" in section three of the Bills of Sale Act of 1898 is amended by inserting after the words "as security for any debt" the words "and also any agreement, whether intended or not to be followed by the execution of any other instrument, by which a right in equity to any personal chattels, or to any charge or security thereon, shall be conferred."

Amendment of s. 3 of the Bills of Sale Act of 1898. *Malick v. Lloyd*, 16 C.L.R., 483.

39. Subsection two of section four of the Bills of Sale Act of 1898 is repealed, and the following subsections are substituted therefor:—

Amendment of s. 4 of Bills of Sale Act of 1898.

(2) In default thereof such bill of sale shall be null and void to all intents and purposes whatsoever.

(3) The registration of every such bill of sale shall be renewed by the grantee or his assignee once at least in every twelve months, and in default of such renewal of registration such bill of sale shall be null and void to all intents and purposes whatsoever.

40. Section five of the Bills of Sale Act of 1898 is repealed.

Repeal of s. 5 of Bills of Sale Act of 1898.

41. Section six of the Bills of Sale Act of 1898 is amended by omitting the words "as against the official assignee or trustee of a bankrupt estate."

Amendment of s. 6 of Bills of Sale Act of 1898.

42. Section eight of the Bills of Sale Act of 1898 is amended by omitting the word "five" and also by omitting the words and figures "subsection three of the Bankruptcy Act, 1887," and substituting for such lastmentioned words and figures the words and figures following—"subsection (e) of the Bankruptcy Act, 1898."

Amendment of s. 8 of the Bills of Sale Act of 1898.