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THE BANKRUPT LAW.

An Act to establish a uniform system of Bankruptcy throughout the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the several district courts of the United States be, and they hereby are, constituted courts of bankruptcy, and they shall have original jurisdiction in their respective districts in all matters and proceedings in bankruptcy, and they are hereby authorized to hear and adjudicate upon the same according to the provisions of this act. The said courts shall be always open for the transaction of business under this act, and the powers and jurisdiction hereby granted and conferred shall be exercised as well in vacation as in term time, and a judge sitting in chambers shall have the same powers and jurisdiction, including the power of keeping order and of punishing any contempt of his authority, as when sitting in court. And the jurisdiction hereby conferred shall extend to all cases and controversies arising between the bankrupt and any creditor or creditors who shall claim any debt or demand under the bankruptcy; to the collection of all the assets of the bankrupt; to the ascertainment and liquidation of the liens and other specific claims thereon; the adjustment of the various priorities and conflicting claims of all parties; and the marshaling and disposition of the different funds and assets so as to secure the rights of all parties and due distribution of the assets among all the creditors; and to all acts, matters, and things to be done under and in virtue of the bankruptcy, until the final distribution and settlement of the estate of the bankrupt, and the close of the proceedings in bankruptcy. The said courts shall have full authority to compel obedience to all orders and decrees passed by them in bankruptcy, by process of contempt and other remedial process, to the same extent that the circuit courts now have in any suit pending therein in equity. Said courts may sit for the transaction of business in bankruptcy at any place in the district, of which place, and the time of holding court, they shall have given notice, as well as at the places designated by law for holding such courts.

SECTION 2. *And be it further enacted,* That the several Circuit Courts of the United States within and for the districts where the proceedings in bankruptcy shall be pending shall have a general superintendence and jurisdiction of all cases and questions arising under this act; and except when special provision is otherwise made may, upon bill, petition, or other proper process, of any party aggrieved, hear and determine the case as a court of equity. The powers and jurisdiction hereby granted may be exercised either by said court, or by any justice thereof, in term time or vacation. Said Circuit Courts shall also have concurrent jurisdiction with the District Courts of the same district of all suits at law or in equity which may or shall be brought by the assignee in bankruptcy against any person claiming an adverse interest, or by such person against such assignee, concerning any property or rights of property of said bankrupt transferable to or vested in such assignee; but no suit at law or in equity shall in any case be maintainable by or against such assignee, or by or against any person claiming an adverse interest, touching the property and rights of property aforesaid, in any court whatsoever, unless the same shall be brought within two years from the time the cause of action accrued for or against such assignee: *Provided,* That nothing herein contained shall revive a right of action barred at the time such assignee is appointed.

OF ADMINISTRATION OF THE LAW IN COURTS OF BANKRUPTCY.

SECTION 3. *And be it further enacted,* That it shall be the duty of the Judges of the District Courts of the United States within and for the several districts to appoint in each congressional district in said districts, and upon the nomination and recommendation of the Chief Justice of the Supreme Court of the United States, one or more registers in bankruptcy, to assist the Judge of the District Court in the performance of his duties under this act. No person shall be eligible to such appointment unless he be a counsellor of said court or of some one of the courts of record of the State in which he resides. Before entering upon the duties of his office every person so appointed a register in bankruptcy shall give a bond to the United States, with condition that he will faithfully discharge the duties of his office, in a sum not less than $1,000, to be fixed by said court, with sureties satisfactory to said court, or to either of the said justices thereof; and he shall, in open court, take and subscribe the oath prescribed in the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, and also that he will not, during his continuance in office be, directly or indirectly interested in or benefited by the fees or emoluments arising from any suit or matter pending in bankruptcy in either the District or Circuit Court in his district.

SECTION 4. *And be it further enacted,* That every register in bankruptcy, so appointed and qualified, shall have power, and it shall be his duty to make adjudication of bankruptcy, to receive the surrender of any bankrupt, to administer oaths in all proceedings before him, to hold and preside at meetings of creditors, to take proof of debts, to make all computations of dividends, and all orders of distribution, and to furnish the assignees with a certified copy of such orders and of the schedules of creditors and assets filed in each case, to audit and adjust the accounts of assignees, to grant protection, to pass the last examination of any bankrupt in cases where never the assignee or a creditor do not oppose, and to sit in chambers and dispatch there such part of the administrative business of the court and such uncontested matters as shall be defined in general rules and orders, or as the district judge shall in any particular matter direct; and he shall also make short memoranda of his proceeding in each case in which he shall act, in a docket to be kept by him for that purpose, and he shall forthwith, as the proceedings are taken, forward to the Clerk of the District Court a certified copy of said memoranda, which shall be entered by said clerk in the proper minute book to be kept in his office, and any register of the court may act for any other register thereof: *Provided, however,* That nothing in this section contained shall empower a register to commit for contempt, or to hear a disputed adjudication, or any question of the allowance or suspension of an order of discharge; but in all matters where an issue of facts or of law is raised and contested by any party to the proceedings before him, it shall be his duty to cause the question or issue to be stated by the opposing parties in writing, and he shall adjourn the same into court for decision by the judge. No register shall be of counsel or attorney, either in or out of court, in any suit or matter pending in bankruptcy in either the Circuit or District Court of his district, or in an appeal therefrom; nor shall he be executor, administrator, guardian, commissioner, appraiser, divider, or assignee of or upon any estate within the jurisdiction of either of said courts of bankruptcy, nor be interested in the fees or emoluments arising from either of said trusts. The fees of said registers, as established by this act, and by the general rules and orders required to be framed under it, shall be paid to them by the parties for whom the services may be rendered in the course of proceedings authorized by this act.

SECTION 5. *And be it further enacted,* That the Judge of the District Court may direct a register to attend at any place within the district for the purpose of hearing such voluntary applications under this act as may not be opposed, of attending any meeting of creditors or receiving any proofs of debts, and, generally, for the prosecution of any bankruptcy or other proceedings under this act; and the travelling and incidental expenses of such register, and of any clerk or other officer attending him, incurred in so acting, shall be settled by said court in accordance with the rules prescribed under the tenth section of this act, and paid out of the assets of the estate in respect of which such register has so acted; or if there be no such assets, or if the assets shall be insufficient, then such expenses shall form a part of the costs in the case or cases in which the register shall have acted in such journey, to be apportioned by the Judge; and such register, so acting, shall have and exercise all powers, except the power of commitment, vested in the District Court for the summoning and examination of persons or witnesses, and for requiring the production of books, papers, and documents: *Provided, always,* That all depositions of persons and witnesses taken before said register, and all acts done by him, shall be reduced to writing and be signed by him, and shall be filed in the Clerk's office as a part of the proceedings. Such register shall be subject to removal by the Judge of the District Court, and all vacancies occurring by such removal, or by resignation, change of residence, death, or disability, shall be promptly filled by other fit persons, unless said court shall deem the continuance of the particular office unnecessary.

SECTION 6. *And be it further enacted,* That any party shall, during the proceedings before a register, be at liberty to take the opinion of the District Judge upon any point or matter arising in the course of such proceedings, or upon the result of such proceedings, which shall be stated by the register in the shape of a short certificate to the Judge, who shall sign the same if he approve thereof; and such certificate, so signed, shall be binding on all the parties to the proceeding; but every such certificate may be discharged or varied by the Judge at chambers, or in open court. In any bankruptcy, or in any other proceedings within the jurisdiction of the court under this act, the parties concerned, or submitting to such jurisdiction, may at any stage of the proceedings, by consent, state any question or questions in a special case for the opinion of the court; and the judgment of the court shall be final, unless it be agreed and stated in such special case that either party may appeal, if, in such case, an appeal is allowed by this act. The parties may also, if they think fit, agree that, upon the question or questions raised by such special case being finally decided, a sum of money, fixed by the parties, or to be ascertained by the court, or in such manner as the court may direct, or any property, or the amount of any disputed debt or claim, shall be paid, delivered, or transferred by one of such parties to the other of them either with or without costs.

SECTION 7. *And be it further enacted,* That parties and witnesses summoned before a register shall be bound to attend in pursuance of such summons at the place and time designated therein, and shall be entitled to protection, and be liable to process of contempt in like manner as parties and witnesses are now liable thereto in case of default in attendance under any writ of subpœna; and all persons wilfully and corruptly swearing or affirming falsely before a register shall be liable to all the penalties, punishments, and consequences of perjury. If any person examined before a register shall refuse or decline to answer, or to swear to or sign his examination when taken, the register shall refer the matter to the Judge, who shall have power to order the person so acting, to pay the costs thereby occasioned, if such person be compellable by law to answer such question or to sign such examination, and such person shall also be liable to be punished for contempt.

OF APPEALS AND PRACTICE.

SECTION 8. *And be it further enacted,* That appeals may be taken from the District to the Circuit Courts in all cases in equity, and writs of error may be allowed to said Circuit Courts from said District Courts in cases at law under the jurisdiction created by this act, when the debt or damages claimed amount to more than $500; and any supposed creditor whose claim is wholly or in part rejected, or an assignee who is dissatisfied with the allowance of a claim, may appeal from the decision of the District Court to the Circuit Court for the same district; but no appeal shall be allowed in any case from the District to the Circuit Court unless it is claimed, and notice given thereof to the clerk of the District Court, to be entered with the record of the proceedings and also to the assignee or creditor, as the case may be, or to the defeated party in equity, within ten days after the entry of the decree or decision appealed from.—The appeal shall be entered at the term of the Circuit Court which shall be first held within and for the district next after the expiration of ten days from the time of claiming the same. But if the appellant, in writing, waives his appeal before any decision thereon, proceedings may be had in the District Court as if no appeal had been taken, and no appeal shall be allowed unless the appellant at the time of claiming the same shall give bond in manner now required by law in cases of such appeals. No writ of error shall be allowed unless the party claiming it shall comply with the statutes regulating the granting of such writs.

SECTION 9. *And be it further enacted,* That in cases arising under this act no appeal or writ of error shall be allowed in any case from the Circuit Courts to the Supreme Court of the United States, unless the matter in dispute in such case shall exceed $2,000.

SECTION 10. *And be it further enacted,* That the Justices of the Supreme Court of the United States, subject to the provisions of this act, shall frame general orders for the following purposes:

For regulating the practice and procedure of the District Courts in bankruptcy, and the several forms of petitions, orders, and other proceedings to be used in said courts in all matters under this act;

For regulating the duties of the various officers of said courts;

For regulating the fees payable, and the charges and costs to be allowed, except such as are established by this act or by law with respect to all proceedings in bankruptcy before said courts not exceeding the rate of fees now allowed by law for similar services in other proceedings;

For regulating the practice and procedure upon appeals;

For regulating the filing, custody, and inspection of records;

And generally for carrying the provisions of this act into effect.

After such general orders have been so framed, they, or any of them, may be rescinded or varied, and other general orders may be framed in manner aforesaid, and all such general orders so framed shall, from time to time, be reported to Congress, with such suggestions as said justices may think proper.

VOLUNTARY BANKRUPTCY—COMMENCEMENT OF PROCEEDINGS.

SECTION 11. *And be it further enacted,* That if any person residing within the jurisdiction of the United States owing debts provable under this act exceeding the amount of $300 shall apply by petition, addressed to the Judge of the Judicial District in which such debtor has resided or carried on business for the six months next immediately preceding the time of filing such petition, or for the longest period during such six months, setting forth his place of residence, his inability to pay all his debts in full, his willingness to surrender all his estate and effects for the benefit of his creditors, and his desire to obtain the benefit of this act, and shall annex to his petition a schedule, verified by oath before the court or before a register in bankruptcy, or before one of the Commissioners of the Circuit Court of the United States, containing a full and true statement of all his debts, and, as far as possible, to whom due, with the place of residence of each creditor, if known to the debtor, and if not known, the fact to be so stated, and the sum due to such creditor; also the nature of each debt or demand, whether founded on written security, obligation, contract, or otherwise, and also the true cause and consideration of such indebtedness in each case, and the place where such indebtedness accrued, and a statement of any existing mortgage, pledge, lien, judgment, or collateral or other security given for the payment of the same; and shall also annex to his petition an accurate inventory, verified in like manner, or all his estate, both real and personal, assignable under this act, describing the same, and stating where it is situated, and whether there are any, and if so what, incumbrances thereon, the filing of such petition shall be an act of bankruptcy, and such petitioner shall be adjudged a bankrupt. *Provided,* That all citizens of the United States petitioning to be declared bankrupt shall, on filing such petition, and before any proceedings thereon, take and subscribe an oath of allegiance and fidelity to the United States, which oath shall be filed and recorded with the proceedings in bankruptcy. And the Judge of the District Court, or if there be no opposing party, any register of said court, to be designated by the Judge, shall forthwith, if he be satisfied that the debts due from the petitioner exceed $300, issue a warrant, to be signed by such Judge or register, directed to the marshal of said district, authorizing him forthwith, as messenger, to publish notices in such newspapers as the warrant specifies; to serve written or printed notice, by mail or personally, on all creditors upon the schedule filed with the debtor's petition, or whose names may be given to him, in addition, by the debtor, and to give such personal or other notice to any persons concerned as the warrant specifies, which notice shall state:

First.—That a warrant in bankruptcy has been issued against the estate of the debtor.

Second.—That the payment of any debts and the delivery of any property belonging to such debtor to him or for his use, and the transfer of any property by him, are forbidden by law.

Third.—That a meeting of the creditors of the debtor, giving the names, residences, and amounts so far as known, to prove their debts and choose one or more assignees of his estate, will be held at a Court of Bankruptcy, to be holden at a time and place designated in the warrant, not less than ten nor more than ninety days after the issuing of the same.

OF ASSIGNMENTS AND ASSIGNEES.

SECTION 12. *And be it further enacted,* That at the meeting held in pursuance of the notice one of the registers of the court shall preside, and the messenger shall make return of the warrant and of his doings thereon; and if it appears that the notice to the creditors has not been given as required in the warrant, the meeting shall forthwith be adjourned and a new notice given as required. If the debtor dies after the issuing of the warrant, the proceedings may be continued and concluded in like manner as if he had lived.

SECTION 13. *And be it further enated,* That the creditors shall, at the first meeting held after due notice from the messenger, in presence of a register designated by the court, choose one or more assignees of the estate of the debtor; the choice to be made by the greater part in value and in number of the creditors who have proved their debts. If no choice is made by the creditors at said meeting, the judge, or, if there be no opposing interest, the register shall appoint one or more assignees. If an assignee so chosen or appointed, fails within five days to express in writing his acceptance of the trust, the judge or register may fill the vacancy. All elections or appointments of assignees shall be subject to the approval of the judge; and when in his judgment it is for any cause needful or expedient, he may appoint additional assignees, or order a new election. The judge at any time may, and upon the request in writing of any creditor who has proved his claim, shall require the assignee to give good and sufficient bond to the United States, with a condition for the faithful performance and discharge of his duties; the bond shall be approved by the judge or register by his endorsement thereon, shall be filed with the record of the case, and inure to the benefit of all creditors proving their claims, and may be prosecuted in the name and for the benefit of the injured party. If the assignee fails to give the bond within such time as the judge orders, not exceeding ten days after notice to him of such order, the judge shall remove him an appoint another in his place.

SECTION 14. *And be it further enacted,* That as soon as said assignee is appointed and qualified, the judge, or, where there is no opposing interest, the register, shall, by an instrument under his hand, assign and convey to the assignee all the estate, real and personal, of the bankrupt with all his deeds, books and papers relating thereto, and such assignment shall relate back to the commencement of said proceedings in bankruptcy, and thereupon, by operation of law, the title to all such property and estate, both real and personal, shall vest in said assignee, although the same is then attached on mesne process as the property of the debtor, and shall dissolve any such attachment made within four months next preceding the commencement of said proceedings: *Provided, however,* That there shall be excepted from the operation of the provisions of this section the necessary household and kitchen furniture and such other articles and necessaries of such bankrupt as the said assignee shall designate and set apart, having reference in the amount to the family condition, and circumstances of the bankrupt, but altogether not to exceed in value, in any case, the sum of $500; and also the wearing apparel of such bankrupt, and that of his wife and children, and the uniform, arms, and equipments of any person who is or has been a soldier in the militia or in the service of the United States; and such other property as now is, or hereafter shall be, exempted from attachment, or seizure, or levy on execution by the laws of the United States, and such other property not included in the foregoing exceptions as is exempted from levy and sale upon execution or other process or order of court, by the law of the State in which the bankrupt has his domicil at the time of the commencement of the proceedings in bankruptcy to an amount not exceeding that allowed by such State exemption laws in force in the year 1864: *Provided,* That the foregoing exception shall operate as a limitation upon the conveyance of the property of the bankrupt to his assignees, and in no case shall the property hereby excepted pass to the assignees, or the title of the bankrupt thereto be impaired or affected by any of the provisions of this act; and the determination of the assignee in the matter shall, on exception taken, be subject to the final decision of the said court: *And provided further,* That no mortgage of any vessel or of any other goods or chattels, made as security for any debt or debts, in good faith and for present considerations and otherwise valid, and duly recorded, pursuant to any statute of the United States, or any State, shall be invalidated or affected hereby; and all the property conveyed by the bankrupt in fraud of his creditors; all rights in equity, choses in action, patents, and patent rights, and copyrights; all debts due him, or any person for his use, and all liens and securities therefor; and all his rights of action for injuries to or estate, real or personal, and for any cause of action which the bankrupt had against any person arising from contract or from the unlawful taking or detention, or of injury to the property of the bankrupt; and all his rights of redeeming such property or estate, with the like right, title, power, and authority to sell, manage, dispose of, sue for, and recover or defend the same as the bankrupt might or could have had if no assignment had been made, shall, in virtue of the adjudication of bankruptcy and the appointment of his assignee, be as effectually vested in such assignee; and he may sue for and recover the said estate, debts, and effects, and may prosecute and defend all suits at law or in equity pending at the time of the adjudication of bankruptcy in which such bankrupt is a party in his own name, in the same manner and with the like effect as they might have been presented or defended by such bankrupt; and a copy duly certified by the clerk of the court under the seal thereof, of the assignment made by the judge or register, as the case may be, to him as assignee, shall be conclusive evidence of his title as such assignee to take, hold, sue for, and recover the property of the bankrupt, as hereinbefore mentioned; but no property held by the bankrupt in trust shall pass by such assignment. No person shall be entitled to maintain an action against an assignee in bankruptcy for anything done by him as such assignee, without previously giving twenty days' notice of such action, specifying the cause thereof, to the end that such assignee may have an opportunity of tendering amends, should he see fit to do so. No person shall be entitled, as against the assignee, to withhold from his possession of any books of account of the bankrupt, or claim any lien thereof; and no suit in which the assignee is a party shall be abated by his death or removal from office, but the same may be prosecuted and defended by his successor, or by the surviving or remaining assignee, as the case may be. The assignee shall have authority, under the order and direction of the court, to redeem or discharge any mortgage or conditional contract, or pledge, or deposit, or lien upon any property, real or personal, whenever payable, and to tender due performance of the condition thereof, or to sell the same subject to such mortgage, lien, or other incumbrances. The debtor shal also, at the request of the assignee, and at the expense of the estate, make and execute any instruments, deeds, and writings which may be proper to enable the assignee to possess himself fully of all the assets of the bankrupt. The assignee shall immediately give notice of his appointment, by publication at least once a week for three successive weeks, in such newspapers as shall, for that purpose, be designated by the court, due regard being had to their general circulation in the district, or in that portion of the district in which the bankrupt and his creditors shall reside, and shall, within six months, cause the assignment to him to be recorded in every registry of deeds or other office within the United States where a conveyance of any lands owned by the bankrupt ought by law to be recorded; and the record of such assignment, or a duly certified copy thereof, shall be evidence thereof in all courts.

SECTION 15. *And be it further enacted,* That the assignee shall demand and receive from any and all persons holding the same all the estate assigned, or intended to be assigned, under the provisions of this act; and he shall sell all such unincumbered estate, real and personal, which comes to his hands, on such terms as he thinks most for the interest of the creditors; but upon petition of any person interested, and for cause shown, the court may make such order concerning the time, place, and manner of sale as will, in its opinion, prove to the interest of the creditors; and the assignee shall keep a regular account of all money received by him as assignee, to which every creditor shall, at reasonable times, have a free resort.

SECTION 16. *And be it further enacted,* That the assignee shall have the like remedy to recover all said estate, debts, and effects in his own name, as the debtor might have had if the decree in bankruptcy had not been rendered and no assignment had been made. If at the time of the commencement of proceedings in bankruptcy an action is pending in the name of the debtor for the recovery of a debt or other thing which might or ought to pass to the assignee by the assignment, the assignee shall, if he requires it, be admitted to prosecute the action in his own name, in like manner and with like effect as if it had been originally commenced by him. No suit pending in the name of the assignee shall be abated by his death or removal; but upon the motion of the surviving, or remaining, or new assignee, as the case may be, he shall be admitted to prosecute the suit in like manner and with like effect as if it had been originally commenced by him. In suits prosecuted by the assignee, a certified copy of the assignment made to him by the judge or register shall be conclusive evidence of his authority to sue.

SECTION 17. *And be it further enacted,* That the assignee shall, as soon as may be after receiving any money belonging to the estate, deposit the same in some bank in his name as assignee, or otherwise keep it distinct and apart from all other money in his possession; and shall, as far as practicable, keep all goods and effects belonging to the estate separate and apart from all other goods in his possession, or designated by appropriate marks, so that they may be easily and clearly distinguished, and may not be exposed or liable to be taken as his property or for the payment of his debts. When it appears that the distribution of the estate may be delayed by litigation or other cause, the court may direct the temporary investment of the money belonging to such estate in securities to be approved by the Judge or a register of said court, or may authorize the same to be deposited in any convenient bank, upon such interest, not exceeding the legal rate, as the bank may contract with the assignee to pay thereon. He shall give written notice to all known creditors, by mail or otherwise, of all dividends, and such notice of meetings, after the first, as may be ordered by the court. He shall be allowed, and may retain, out of money in his hands, all the necessary disbursements made by him in the discharge of his duty, and a reasonable compensation for his services, in the discretion of the court. He may, under the direction of the court, submit any controversy arising in the settlement of demands against the estate, or of debts due to it, to the determination of arbitrators, to be chosen by him and the other party to the controversy, and may, under such direction, compound and settle any such controversy, by agreement with the other party, as he thinks proper and most for the interest of the creditors.

SECTION 18. *And be it further enacted,* That the courts, after due notice and hearing, may remove an assignee for any cause which, in the judgment of the court, renders such removal necessary or expedient. At a meeting called by order of the court, in its discretion, for the purpose, or which shall be called upon the application of a majority of the creditors in number and value, the creditors may, with consent of the court, remove any assignee by such a vote as is herein before provided for the choice of assignee. An assignee may, with the consent of the judge, resign his trust and be discharged therefrom. Vacancies caused by death or otherwise in the office of assignee may be filled by appointment of the court, or, at its discretion, by an election by the creditors, in the manner herein before provided, at a regular meeting, or at a meeting called for the purpose, with such notice thereof in writing to all known creditors, and by such person, as the court shall direct. The resignation or removal of an assignee shall in no way release him from performing all things requisite on his part for the proper closing up of his trust and the transmission thereof to his successors, nor shall it affect the liability of the principal or surety on the bond given by the assignee. When, by death or otherwise, the number of assignees is reduced, the estate of the debtor not lawfully disposed of, shall vest in the remaining assignee or assignees, and the persons selected to fill vacancies, if any, with the same powers and duties relative thereto as if they were originally chosen. Any former assignee, his executors or administrators, upon request, and at the expense of the estate, shall make and execute to the new assignee all deeds, conveyances, and assurances, and do all other lawful acts requisite to enable him to recover and receive all the estate. And the court may make all orders which it may deem expedient to secure the proper fulfilment of the duties of any former assignee, and the rights and interests of all persons interested in the estate. No person who has received any preference contrary to the provisions of this act shall vote for or be eligible as assignee; but no title to property, real or personal, sold, transferred, or conveyed by an assignee, shall be affected or impaired by reason of his ineligibility. An assignee refusing or unreasonably neglecting to execute an instrument when lawfully required by the court, or disobeying a lawful order or decree of the court in the premises, may be punished as for a contempt of court.

OF DEBTS AND PROOF OF CLAIMS.

SECTION 19. *And be it further enacted,* That all debts due and payable from the bankrupt at the time of the adjudication of bankruptcy, and all debts then existing but not payable until a future day, a rebate of interest being made when no interest is payable by the terms of contract, may be proved against the estate of the bankrupt. All demands against the bankrupt for or on account of any goods or chattles wrongfully taken, converted, or withheld by him may be proved and allowed as debts to the amount of the value of the property so taken or withheld, with interest. If the bankrupt shall be bound as drawer, endorser, surety, bail, or guarantor upon any bill, bond, note, or any other specialty or contract, or for any debt of another person, and his liability shall not have become absolute until after the adjudication of bankruptcy, the creditor may prove the same after such liability shall have become fixed, and before the final dividend shall have been declared. In all cases of contingent debts and contingent liabilities contracted by the bankrupt, and not herein otherwise provided for, the creditor may make claim therefor, and have his claim allowed, with the right to share in the dividends, if the contingency shall happen before the order for the final dividend; or he may at any time apply to the court to have the present value of the debt or liability ascertained and liquidated, which shall then be done in such manner as the court shall order, and he shall be allowed to prove for the amount so ascertained.—Any person liable as bail, surety, guarantor, or otherwise for the bankrupt, who shall have paid the debt, or any part thereof in discharge of the whole, shall be entitled to prove such debt, or to stand in the place of the creditor if he shall have proved the same, although such payments shall have been made after the proceedings in bankruptcy were commenced. And any person so liable for the bankrupt, and who has not paid the whole of said debt, but is still liable for the same or any part thereof, may, if the creditor shall fail or omit to prove such debt, prove the same either in the name of the creditor or otherwise, as may be provided by the rules, and subject to such regulations and limitations as may be established by such rules. Where the bankrupt is liable to pay rent, or other debt falling due at fixed and stated periods, the creditor may prove for a proportionate part thereof up to the time of the bankruptcy, as if the same grew due from day to day, and not at such fixed and stated periods. If any bankrupt shall be liable for unliquidated damages arising out of any contract or promise, or on account of any goods or chattels wrongfully taken, converted, or withhold, the court may cause such damages to be assessed in such mode as it may deem best, and the sum so assessed may be proved against the estate. No debts other than those above specified shall be proved or allowed against the estate.

SECTION 20. *And be it further enacted,* That in all cases of mutual debts or mutual credits between the parties, the account between them shall be stated, and one debt set off against the other, and the balance only shall be allowed or paid; but no set-off shall be allowed of a claim in its nature not provable against the estate; *Provided,* That no set-off shall be allowed in favor of any debtor to the bankrupt of a claim purchased by or transferred to him after the filing of the petition. When a creditor has a mortgage or pledge of real or personal property of the bankrupt, or a lien thereon for securing the payment of a debt owing to him from the bankrupt, he shall be admitted as a creditor only for the balance of the debt after deducting the value of such property, to be ascertained by agreement between him and the assignee, or by a sale thereof, to be made in such manner as the court shall direct; or the creditor may release or convey his claim to the assignee upon such property and be admitted to prove his whole debt. If the value of the property exceeds the sum for which it is so held as security, the assignee may release to the creditor the bankrupt's right of redemption therein on receiving such excess; or he may sell the property, subject to the claim of the creditor thereon; and in either case the assignee and creditor, respectively, shall execute all deeds and writings necessary or proper to consummate the transaction. If the property is not so sold or released and delivered up, the creditor shall not be allowed to prove any part of his debt.

SECTION 21. *And be it further enacted,* That no creditor proving his debt or claim shall be allowed to maintain any suit at law or in equity therefor against the bankrupt, but shall be deemed to have waived all right of action and suit against the bankrupt, and all proceedings already commenced, or unsatisfied judgments already obtained thereon, shall be deemed to be discharged and surrendered thereby; and no creditor whose debt is provable under this act shall be allowed to prosecute to final judgment any suit at law or in equity therefor against the bankrupt, until the question of the debtor's discharge shall have been determined; and any such suit or proceedings shall, upon the application of the bankrupt, be stayed to await the determination of the Court in bankruptcy on the question of the discharge, provided there be no unreasonable delay on the part of the bankrupt in endeavoring to obtain his discharge, and provided, also, that if the amount due the creditor is in dispute, the suit, by leave of the Court in bankruptcy, may proceed to judgment for the purpose of ascertaining the amount due, which amount may be proved in bankruptcy, but execution shall be stayed as aforesaid. If any bankrupt shall, at the time of adjudication, be liable upon any bill of exchange, promissory note, or other obligation in respect of distinct contracts, as a 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 a 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.

SECTION 22. *And be it further enacted,* That all proof of debts against the estate of the bankrupt, by or in behalf of creditors residing within the judicial district where the proceedings in bankruptcy are pending, shall be made before one of the Registers of the Court in said district, and by or in behalf of non-resident debtors before any Register in bankruptcy in the judicial district where such creditors, or either of them, reside, or before any Commissioner of the Circuit Court authorized to administer oaths in any district. To entitle a claimant against the estate of a bankrupt to have his demand allowed, it must be verified by a deposition in writing on oath or solemn affirmation before the proper Register or Commissioner, setting forth the demand, the consideration thereof, whether any and what securities are held therefor, and whether any and what payments have been made thereon; that the sum claimed is justly due from the bankrupt to the claimant; that the claimant has not, nor has any other person for his use, received any security or satisfaction whatever other than that by him set forth; that the claim was not procured for the purpose of influencing the proceedings under this act, and that no bargain or agreement, express or implied, has been made or entered into, by or on behalf of such creditor, to sell, transfer, or dispose of the said claim, or any part thereof, against such bankrupt, or take or receive, directly or indirectly, any money, property, or consideration whatever, whereby the vote of such creditor for assignee, or any action on the part of such creditor or any other person in the proceedings under this act, is or shall be in any way affected, influenced, or controlled, and no claim shall be allowed unless all the statements set forth in such deposition shall appear to be true. Such oath or solemn affirmation shall be made by the claimant testifying of his own knowledge, unless he is absent from the United States or prevented by some other good cause from testifying, in which cases the demand may be verified in like manner by the attorney or authorized agent of the complainant testifying to the best of his knowledge, information, and belief, and setting forth his means of knowledge, or if in a foreign country, the oath of the creditor may be taken before any minister, consul, or vice-consul of the United States; and the court may, if it shall see fit, require or receive further pertinent evidence, either for or against the admission of the claim. Corporations may verify their claims by the oath or solemn affirmation of their president, cashier, or treasurer. If the proof is satisfactory to the Register or Commissioner, it shall be signed by the deponent, and delivered or sent by mail to the assignee, who shall examine the same and compare it with the books and accounts of the bankrupt, and shall register in a book to be kept by him for that purpose, the names of creditors who have proved their claims, in the order in which such proof is received, stating the time of receipt of such proof and the amount and nature of the debts, which books shall be open to the inspection of all the creditors. The court may, on the application of the assignee, or of any creditor, or of the bankrupt, or without any application, examine upon oath the bankrupt, or any person tendering or who has made proof of claims, and may summon any person capable of giving evidence concerning such proof, or concerning the debt sought to be proved, and shall reject all claims not duly proved, or where the proof shows the claim to be founded in fraud, illegality, or mistake.

SECTION 23. *And be it further enacted,* That when a claim is presented for proof before the election of the assignee, and the Judge entertains doubts of its validity, or of the right of the creditor to prove it, and is of opinion that such validity or right ought to be investigated by the assignee, he may postpone the proof of the claim until the assignee is chosen. Any person who, after the approval of this act, shall have accepted any preference, having reasonable cause to believe that the same was made or given by the debtor contrary to any provision of this act, shall not prove the debt or claim on account of which the preference was made or given, nor shall he receive any dividend therefrom until he shall first have surrendered to the assignee all property, money, benefit, or advantage, received by him under such preference. The court shall allow all debts duly proved, and shall cause a list thereof to be made and certified by one of the Registers; and any creditor may act at all meetings by his duly constituted attorney the same as though personally present.

SECTION 24. *And be it further enacted,* That a supposed creditor who takes an appeal to the Circuit Court from the decision of the District Court rejecting his claim, in whole or in part, shall, upon entering his appeal in the Circuit Court, file in the Clerk's office thereof a statement in writing of his claim, setting forth the same, substantially, as in a declaration for the same cause of action at law, and the assignee shall plead or answer thereto in like manner, and like proceedings shall thereupon be had in the pleadings, trial, and termination of the cause, as in an action at law commenced and prosecuted in the usual manner in the courts of the United States, except that no execution shall be awarded against the assignee for the amount of a debt found due to the creditor. The final judgment of the Court shall be conclusive, and the list of debts shall, if necessary, be altered to conform thereto. The party prevailing in the suit shall be entitled to costs against the adverse party, to be taxed and recovered as in suits at law; if recovered against the assignee they shall be allowed out of the estate. A bill of exchange, promissory note, or other instrument used in evidence upon the proof of a claim, and left in Court, and deposited in the Clerk's office, may be delivered by the Register or Clerk having the custody thereof to the person who used it, upon his filing a copy thereof, attested by the Clerk of the Court, who shall endorse upon it the names of the party against whose estate it has been proved, and the date and amount of any dividend declared thereon.

OF PROPERTY PERISHABLE AND IN DISPUTE.

SECTION 25. *And be it further enacted,* That when it appears to the satisfaction of the court that the estate of the debtor, or any part thereof, is of a perishable nature, or liable to deteriorate in value, the court may order the same to be sold, in such manner as may be deemed most expedient, under the direction of the messenger or assignee, as the case may be, who shall hold the funds received in place of the estate disposed of; and whenever it appears to the satisfaction of the Court that the title to any portion of an estate, real or personal which has come into possession of the assignee, or which is claimed by him, is in dispute, the Court may, upon the petition of the assignee, and after such notice to the claimant, his agent, or attorney, as the Court shall deem reasonable, order it to be sold, under the direction of the assignee, who shall hold the funds received in place of the estate disposed of; and the proceeds of the sale shall be considered the measure of the value or the property in any suit or controversy between the parties in any courts. But this provision shall not prevent the recovery of the property from the possession of the assignee by any proper action commenced at any time before the Court orders the sale.

EXAMINATION OF BANKRUPTS.

SECTION 26. *And be it further enacted,* That the Court may, on the application of the assignee in bankruptcy, or of any creditor, or without any application, at all times require the bankrupt, upon reasonable notice, to attend and submit to an examination, on oath upon all matters relating to the disposal or condition of his property, to his trade and dealings with others, and his accounts concerning the same, to all debts due to or claimed from him, and to all other matters concerning his property and estate and the due settlement thereof according to law, which examination shall be in writing, and shall be signed by the bankrupt, and filed with the other proceedings; and the Court may, in like manner, require the attendance of any other person as a witness, and if such person shall fail to attend on being summoned thereto, the Court may compel his attendance by warrant directed to the Marshal, commanding him to arrest such person and bring him forthwith before the Court, or before a register in bankruptcy, for examination as such witness. If the bankrupt is imprisoned, absent, or disabled from attendance, the Court may order him to be produced by the jailor, or any officer in whose custody he may be, or may direct the examination to be had, taken and certified, at such time and place and in such manner as the Court may deem proper, and with like effect as if such examination had been had in Court. The bankrupt shall at all times, until his discharge, be subject to the order of the Court and shall, at the expense of the estate, execute all proper writings and instruments, and do and perform all acts required by the Court, touching the assigned property or estate, and to enable the assignee to demand, recover, and receive all the property and estate assigned wherever situated; and for neglect or refusal to obey any order of the Court, such bankrupt may be committed and punished as for a contempt of court.—If the bankrupt is without the district, and unable to return and personally attend at any of the times or do any of the acts which may be specified or required pursuant to this section, and if it appears that such absence was not caused by wilful default, and if, as soon as may be after the removal of such impediment, he offers to attend and submit to the order of the Court in all respects, he shall be permitted to do so with like effect as if he had not been in default. He shall also be at liberty from time to time, upon oath, to amend and correct his schedule of creditors and property, so that the same shall conform to the facts. For good cause shown, the wife of any bankrupt may be required to attend before the court to the end that she may be examined as a witness; and if such wife do not attend at the time and place specified in the order, the bankrupt shall not be entitled to a discharge unless he shall prove to the satisfaction of the Court that he was unable to procure the attendance of his wife. No bankrupt shall be liable to arrest during the pendency of the proceedings in bankruptcy in any civil action, unless the same is founded on some debt or claim from which his discharge in bankruptcy would not release him.

OF THE DISTRIBUTION OF THE BANKRUPT'S ESTATE.

SECTION 27. *And be it further enacted,* That all creditors whose debts are duly proved and allowed shall be entitled to share in the bankrupt's property and estate *pro rata,* without any priority or preference whatever, except that wages due from him to any operative, or clerk, or house servant to an amount not exceeding fifty dollars, for labor performed within six months next preceding the adjudication of bankruptcy, shall be entitled to priority, and shall be first paid in full:—*Provided,* That any debt proved by any person liable as bail, sur