



"Ours are the Plans of fair delightful Peace,
"Unwarp'd by Party Rage to live like Brothers."

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GENERAL BANKRUPT LAW.
Concluded from our last.

Sec. 22. **B**E it further enacted, That every bankrupt, having surrendered, shall at all reasonable times before the expiration of the said forty-two days, as aforesaid, or of such further time as shall be allowed to finish his or her examination, be at liberty to inspect his or her books and writings, in the presence of some person to be appointed by the Commissioner, and to bring with him or her for his or her assistance, such persons as he or she shall think fit, not exceeding two at one time, and to make extracts and copies to enable him or her to make a full discovery of his or her effects; and the said bankrupt shall be free from arrests in coming to surrender, and after having surrendered to the said Commissioners, for the said forty-two days, or such further time as shall be allowed for the finishing his or her examination, and in case such bankrupt shall be arrested for debt, or taken on any escape warrant or execution, coming to surrender, or after his surrender, within the time before-mentioned, then on producing such summons or notice under the hands of the commissioners, and giving the officer a copy thereof, he or she shall be discharged; and in case any officer shall afterwards detain such bankrupt, such officer shall forfeit to such bankrupt, for his or her own use, ten dollars for every day he shall detain the said bankrupt.

Sec. 23. That every person who shall knowingly or wilfully receive or keep concealed any bankrupt, so as aforesaid summoned to appear, or who shall assist such bankrupt in concealing him or herself, or in absconding, shall suffer such imprisonment, not exceeding twelve months; or pay such fine to the United States, not exceeding one thousand dollars, as upon conviction thereof shall be adjudged.

Sec. 24. That the said Commissioners shall have power to examine, upon oath or affirmation, the wife of any person lawfully declared a bankrupt, for the discovery of such part of his estate as may be concealed or disposed of by such wife, or by any other person, and the said wife shall incur such penalties for not appearing before the said commissioners, or refusing to be sworn or affirmed, or examined, and to subscribe her examination, or for not disclosing the truth, as by this act is provided against any other person in like cases.

Sec. 25. That in case any person shall be committed by the commissioners for refusing to answer, or for not fully answering any question, or for any cause, the commissioners shall, in their warrant, specify such question or other cause of commitment.

Sec. 26. That if after the bankrupt shall have finished his or her final examination, any other person or persons shall voluntarily make discovery of any part of such bankrupt's estate, before unknown to the Commissioners, such person or persons shall be entitled to five per cent. out of the effects so discovered, and such farther reward as the Commissioners shall think proper, and any trustee having notice of the bankruptcy, wilfully concealing the estate of any bankrupt, for the space of ten days after the bankrupt shall have finished his final examination, as aforesaid, shall forfeit double the value of the estate so concealed, for the benefit of the creditors.

Sec. 27. That if any person shall become bankrupt, at such time, by consent of the owner, have in his or her possession and disposition, any goods whereof he or she shall be reputed owner, and take upon him or herself, the sale, alteration, or disposition thereof, as owner, the commissioners shall have power to assign the same for the benefit of the creditors as fully as any other part of the estate of the bankrupt.

Sec. 28. That if any bankrupt, after the issuing any commission against him or her, pay to the person who sued out the same, or given or deliver to such person, goods or any other satisfaction or security for his or her debt, whereby such person

shall privately have and receive a greater proportion of his or her debt than the other creditors, such preference shall be a new act of bankruptcy, and on good proof thereof, such commission shall, and may be superceded, and it shall and may be lawful for either of the judges, having authority to grant the commission as aforesaid, to award any creditor petitioning another commission, and such person so taking such undue satisfaction as aforesaid, shall forfeit and lose, as well his or her whole debts, as the whole he or she shall have taken and received, and shall pay back, or deliver up the same, or the full value thereof, to the assignee or assignees, who shall be appointed or chosen under such commission in manner aforesaid, in trust for, and to be divided amongst the other creditors of the said bankrupt, in proportion to their respective debts.

Sec. 29. That every person who shall be chosen assignee of the estate and effects of a bankrupt, shall, at some time after the expiration of four months, and within twelve months from the time of issuing the commission, cause at least thirty days public notice to be given, of the time and place the commissioners and assignees intend to meet, to make a dividend or distribution of the bankrupt's estate and effects; at which time the creditors who have not before proved their debts, shall be at liberty to prove the same, and upon every such meeting, the assignee or assignees, shall produce to the commissioners and creditors then present, fair and just accounts of all his or their receipts and payments, touching the bankrupt's estate and effects, and of what shall remain outstanding, and the particulars thereof, and shall, if the creditors then present, or a major part of them, require the same, be examined upon oath or solemn affirmation, before the same commissioners, touching the truth of such accounts; and in such accounts, the said assignee or assignees shall be allowed and retain all sum and sums of money as they shall have paid or expended in suing out and prosecuting the commission, and all other just allowances on account of, or by reason or means of their being assignee or assignees, and the said Commissioners shall order such part of the net produce of the said bankrupt's estate, as by such accounts, or otherwise, shall appear to be in the hands of the said assignees, as they shall think fit, to be forthwith divided among such of the bankrupt's creditors as have duly proved their debts under such commission, in proportion to their several and respective debts, and the Commissioners shall make such their order for a dividend, in writing, under their hands, and shall cause one part of such order to be filed amongst the proceedings under the said commission, and shall deliver unto each of the assignees under such commission, a duplicate of such their order, which order of distribution shall contain an account of time and place of making such order, and the sum total or quantum of all the debts proved under the commission, and the sum total of the money remaining in the hands of the assignee or assignees to be divided, and how many per cent. in particular is there ordered to be paid to every creditor of his debt; and the said assignee or assignees, in pursuance of such order, and without any deed or deeds of distribution to be made for the purpose, shall forthwith make such dividend and distribution accordingly, and shall take receipts to be kept in a book for the purpose, from each creditor, for the part or share of such dividend or distribution, which he or they shall make, and pay to each creditor respectively; and such order and receipt shall be a full and effectual discharge to such assignee for so much as he shall fairly pay, pursuant to such order as aforesaid.

Sec. 30. That within eighteen months next after the issuing of the commission, the assignee or assignees shall make a second dividend of the bankrupt's estate and effects, in case the same were not wholly divided upon the first dividend, and shall cause due public notice to be given of the time and place the said com-

missioners intend to meet to make a second distribution of the bankrupt's estate and effects, and for the creditors who shall not before have proved their debts to come in and prove the same; and at such meeting the said assignees shall produce on oath or solemn affirmation as aforesaid, their accounts of the bankrupt's estate and effects, and what, upon the balance thereof, shall appear to be in their hands, shall, by like order of the commissioners, be forthwith divided amongst such of the bankrupt's creditors as shall have made due proof of their debts, in proportion to their several and respective claims, which second dividend shall be final, unless any suit at law, or equity, be depending, or any part of the estate standing out that could not have been disposed of, or that the major part of the creditors shall not have agreed to be sold or disposed of, or unless some other or future estate or effects of the bankrupt shall afterwards come to, or rest in the said assignees, in which cases the said assignees shall, as soon as may be, convert such future or other estate and effects into money, and shall within two months after the same be converted into money by like order of the commissioners, divide the same among such bankrupt's creditors as shall have made due proof of their debt under such commission.

Sec. 31. That in the distribution of the bankrupt's effects there shall be paid to every of the creditors a portion-rate according to the amount of their respective debts, so that every creditor having security for his debt, by judgment, statute, recognizance, or specialty, or having an attachment under any of the laws of the individual States, or of the United States, on the estate of such bankrupt (provided there be no execution executed upon any of the real or personal estate of such bankrupt before the time he or she became bankrupt) shall not be relieved upon any such judgment, statute, recognizance, specialty, or attachment for more than a rateable part of his debt, with the other creditors of the bankrupt.

Sec. 32. That the assignee shall keep one or more distinct book or books of account, where he or they shall duly enter all sums of money, or effects which he or they shall have received or got into his or their possession of the said bankrupt's estate, to which books of account every creditor, who shall have proved his or her debt, shall at all reasonable times have free resort, and inspect the same as often as he or she shall think fit.

Sec. 33. That every bankrupt not being in prison or custody, shall at all times after his surrender, be bound to attend the assignees, upon every reasonable notice, in writing, for that purpose, given or left at the usual place of his or her abode, in order to assist in making out the accounts of the said bankrupt's estate and effects, and to attend any court of record to be examined touching the same, or any other business as the said assignees shall judge necessary; for which he shall receive three dollars per day.

Sec. 34. That all and every person or persons who shall become bankrupt as aforesaid, and who shall, within the time limited by this act, surrender him or herself to the commissioners, and in all things conform as in and by this act is directed, shall be allowed five per cent. upon the net produce of all the estate that shall be recovered in and received, which shall be paid unto him or her by the assignee or assignees in case the net produce of such estate, after such allowance made, shall be sufficient to pay the creditors of said bankrupt, who shall have proved their debts under such commission, the amount of fifty per cent. on their said debts respectively, and so as the said five per cent. shall not exceed in the whole the sum of five hundred dollars; and in case the net produce of the said estate shall, over and above the allowance hereafter mentioned, be sufficient to pay the creditors seventy-five per cent. on the amount of their said debts respectively, that then the said bankrupt shall be allowed ten per cent. on the amount of such net produce, to be paid as

aforesaid, so as such ten per cent. shall not in the whole exceed the sum of eight hundred dollars, and every such bankrupt shall be discharged from all debts by him or her due or owing at the time he or she became bankrupt, and all which were or might have been proved under the said commission, and in case any such bankrupt shall afterwards be arrested, prosecuted or impleaded, for or on account of any of the said debts, such bankrupt may appear without bail, and may plead the general issue, and give this act and the special matter in evidence; and the certificate of such bankrupt's conforming, and the allowance thereof, according to the directions of this act, shall be allowed to be sufficient evidence prima facie of the party's being a bankrupt within the meaning of this act, and of the commission and other proceedings precedent to the obtaining such certificate, and a verdict shall thereupon pass for the defendant, unless the plaintiff in such action can prove said certificate was obtained unfairly and by fraud, or unless he can make appear any concealment of estate or effects, by such bankrupt, to the value of one hundred dollars: Provided, That no such discharge of a bankrupt, shall release or discharge any person who was a partner with such bankrupt, at the time he or she became bankrupt, or who was then jointly held or bound with such bankrupt for the same debt or debts from which such bankrupt was discharged as aforesaid.

Sec. 35. Provided always, that if the net proceeds of the bankrupt's estate so to be discovered, recovered and received, shall not amount to so much as will pay all and every of the creditors of the said bankrupt; who shall have proved their debts under the said commission, the amount of fifty per cent. on their debts respectively, after all charges first deducted, that then, and in such case, the bankrupt shall not be allowed five per centum on such estate as shall be recovered in, but shall have and be paid by the assignees, so much money as the commissioners shall think fit to allow, not more than three hundred dollars, nor exceeding three per cent. on the net proceeds of the said bankrupt's estate.

Sec. 36. Provided also, that no person becoming a bankrupt, according to the intent and provisions of this act, shall be entitled to a certificate of discharge, or to any of the benefits of this act, unless the commissioners shall certify under their hands, to the judge of the district within which such commission issues, that such bankrupt hath made a full discovery of his or her estate and effects, and in all things conformed him or herself to the directions of this act, and that there doth not appear to them any reason to doubt of the truth of such discovery, or that the same was not a full discovery of the said bankrupt's estate and effects; or unless the said judge shall be of opinion that the said certificate was unreasonably denied by the commissioners, and unless two-thirds in number and in value of the creditors of the bankrupt, who shall be creditors for no less than fifty dollars, respectively, and who shall have duly proved their debts under the said commission, shall sign such certificate to the judge, and testify their consent to the allowance of a certificate of discharge, in pursuance of this act; which signing and consent shall also be certified by the commissioners; but the said commissioners shall not certify the same till they have proof by affidavit or affirmation, in writing, of such creditors, or of the persons respectively authorized for that purpose, signing the said certificate; which affidavit or affirmation, together with the letter or power of attorney to sign, shall be laid before the judge of the district within which such commission issues, in order for the allowing the certificate of discharge; and the said certificate shall not be allowed, unless the bankrupt make oath or affirmation, in writing, that the certificate of the commissioners, and consent of the creditors thereunto, were obtained fairly and without fraud; and any of the creditors of the said bankrupt are allowed to be heard, if they shall think fit, before the re-

spective persons aforesaid, against the making or allowing of such certificates by the commissioners or judge.

Sec. 37. That if any creditor, or pretended creditor of any bankrupt, shall exhibit to the commissioners any fictitious or false debt or demand, with intent to defraud the real creditors of such bankrupt, and the bankrupt shall refuse to make discovery thereof, and suffer the fair creditors to be imposed upon, he shall lose all title to the allowance upon the amount of his effects, and to a certificate of discharge as aforesaid; nor shall he be entitled to the said allowance or certificate, if he has lost at any one time fifty dollars, or in the whole three hundred dollars, after the passing of this act, and within twelve months before he became a bankrupt, by any manner of gaming or wagering whatever.

Sec. 38. That if any bankrupt, who shall have obtained his certificate, shall be taken in execution, or detained in prison, on account of any debts owing before he became bankrupt, by reason that judgment was obtained before such certificate was allowed, it shall be lawful for any of the judges of the court wherein judgment was so obtained, for any court, judge or justice, within the district in which such bankrupt shall be detained, having powers to award or allow the writ of habeas corpus, on such bankrupt producing his certificate so as aforesaid allowed, to order any sheriff or jailor who shall have such bankrupt in his custody, to discharge such bankrupt without fee or charge, first giving reasonable notice to the plaintiff, or his attorney, of the motion for such discharge.

Sec. 39. That every person who shall have bona fide given credit to, or taken securities payable at future days, from persons who are or shall become bankrupts, not due at the time of such person's becoming bankrupt, shall be admitted to prove their debts and contracts, as if they were payable presently, and shall have a dividend in proportion to the other creditors discounting, where no interest is payable, at the rate of so much per cent. per annum, as is equal to the lawful interest of the State where the debt was payable; and the obligee of any bottomry or respondentia bond, and the assured in any policy of insurance, shall be admitted to claim, and after the contingency or loss, to prove the debt thereon, in like manner as if the same had happened before issuing the commission; and the bankrupt shall be discharged from such securities, as if such money had been due and payable before the time of his or her becoming bankrupt; and such creditors may petition for a commission, or join in petitioning.

Sec. 40. That in case any person committed by the commissioners warrant, shall obtain a habeas corpus, in order to be discharged, and there shall appear any insufficiency in the form of warrant, it shall be lawful for the court or judge before whom such party shall be brought by habeas corpus, by rule or warrant, to commit such person to the same prison, there to remain until he shall conform as aforesaid, unless it shall be made to appear that he had fully answered all lawful questions put to him by the commissioners; or in case such person was committed for not signing his examination, unless it shall appear that the party had good reason for refusing to sign the same, or that the commissioners had exceeded their authority in making such commitment; and in case the jailor to whom such person shall be committed shall wilfully or negligently suffer such person to escape, or go without the doors or walls of the prison, such jailor shall, for such offence, being convicted thereof, forfeit a sum not exceeding three thousand dollars, for the use of the creditors.

Sec. 41. That the jailor shall, upon the request of any creditor, having proved his debt, and showing a certificate thereof, under the hands of the commissioners (which the commissioners shall give without fee or reward) produce the person so committed; and in case such jailor shall refuse to shew such person to such creditor, requesting the same, such person shall be considered as having escaped, and the jailor or sheriff so