



Anno Vicesimo-Quinto

VICTORIÆ REGINÆ.

CAP. VII.

An ACT to and Amend Consolidate the Law of Insolvency,
and for other purposes.

[Passed 27th March, 1862]

WHEREAS it is expedient to Amend and Consolidate the Law of In-
solvency : Preamble.

Be it therefore enacted, by the Governor, Legislative Council, and
Assembly, in Session convened :

I.—It shall be lawful for every Superior Court of Record in this Colony,
in Term, or any Judge thereof in Chambers, to declare any Person Insol-
vent who may be made to appear, to the satisfaction of such Court or
Judge, (in manner hereinafter provided) Insolvent or unable to pay his
Creditors Twenty Shillings in the Pound ; and in case such Person shall
have been arrested and in Prison, or on bail under mesne or final process,
or by virtue of any other proceeding either at Law or in Equity, except
for contempt for any other matter than the non-payment of Money, to
discharge such Person from Prison, unless he shall have rendered himself
liable to punishment in manner hereinafter provided, and to exonerate his
Bail ; and in case a Writ of Attachment shall have issued against such
Person, the Property attached under which shall have been relieved from
attachment by Security, to discharge such Security from further responsi-
bility, upon the Property so attached being delivered up, or the value of

Court or Judge may
declare persons In-
solvent if under ar-
rest or on bail, either
at Law or in Equity.

Except for contempt,
unless liable to pun-
ishment-

To exonerate bail.

To discharge Securi-
ties for Attachments.

Party declared Insolvent not liable to arrest, &c.

it paid into Court to the credit of the Insolvent Estate, in cases where, or to the extent to which, the Security would be liable to answer by his Bond; and no Person declared Insolvent under this Act shall be liable thereafter to arrest or imprisonment for any Debts or Liabilities for which a Certificate of Insolvency and Discharge under this Act would be a Discharge.

Proceeding by Petition;

and Schedule if Insolvent Petition.

Statement of facts if Creditor p. tition.

Affidavit.

II.—Any Debtor desiring to be declared Insolvent, or any Person desiring to have his Debtor declared Insolvent, shall proceed by Petition, directed to the Court or Judge, as the case may be, setting forth that such Debtor is Insolvent or unable to pay his Creditors Twenty Shillings in the Pound; and in case of the Debtor himself being the Petitioner, having attached to the Petition a Schedule containing a true Account of his Debts and Liabilities and of his Assets; and where the Petition is by a Creditor, the said Petition shall have attached to it a like Schedule, or a Statement of such facts as may satisfy the Court or Judge that the Order hereinafter mentioned should be made upon the Petition, or that the Case is one for inquiry. The Petition shall have attached to it an Affidavit of the truth of its contents, and, where a Schedule accompanies, of the contents of such Schedule.

Time to be appointed.

Examiner.

Notice in Gazette and one other Paper.

Petition &c., to be filed.

III.—The Court or Judge shall appoint a specified Time and Place for the hearing, upon any Day not more distant than Twelve Days, except in the cases hereinafter provided, where it shall be deemed necessary to appoint a Commissioner or Examiner; the Rule or Order for which shall, where the application is made in St. John's, be published in the Royal Gazette and one other Newspaper of the Colony, at least One Week before such hearing—the Petition, Schedule, and Affidavit having, prior to the publication of the Rule or Order, been filed in the Clerk's Office of the Supreme or Central Circuit Courts.

Insolvency in Outports, notice on Court House, &c.

IV.—Where the application is made to declare a Debtor Insolvent in an Outport, the Rule or Order for hearing shall be posted up in a conspicuous Place at the Court House, and such other Place or Places, for such length of time, or, where no Court House, at such Place or Places and for such a length of time, as the Court or Judge may direct.

Examinations may be taken at any place by order of Court or Judge.

V.—Any Court or Judge proceeding under this Act may, if necessary, direct the Examination, before an Examiner, at any Place, of any Petitioner, Debtor, or Witness, and for such purpose may postpone or adjourn, from time to time, the hearing or adjudication of any application to declare a Debtor Insolvent.

Hearing of Case may be adjourned.

VI.—The Court or Judge may, upon motion, or with the consent of the Petitioner, adjourn the hearing, from time to time, if, in the opinion of the Court or Judge, it may be necessary or advisable so to do, in order to satisfy such Court or Judge of the Insolvency of the Party sought to be declared Insolvent, or the Court or Judge may dismiss the Petition for want of sufficient evidence of Insolvency.

Petition may be dismissed.

VII.—The Person sought to be declared Insolvent, if so declared, shall be liable to punishment by imprisonment in the following cases, for any period not exceeding Two Years from the time of adjudication: If when Insolvent, and with a view of fraudulently giving an undue preference to any Creditor, or of fraudulently diminishing his Assets, he have conveyed, charged, mortgaged, or otherwise granted or assigned his Property or Effects, or any part or parts thereof, or made any Gift, Delivery, or Transfer, of any of his Goods or Chattels, or made any payment in Money or otherwise, or discharged any Debt due from any Debtor or Debtors, or if he have concealed any part of his Property, Debts or Effects, with the intent of diminishing the Sum to be divided amongst his Creditors; if he have, with intent to conceal the state of his affairs, kept false Books, or made false Entries, or withheld Entries from, or wilfully altered or falsified, any Books, Papers or Writings, or have destroyed or otherwise wilfully prevented, or purposely withheld, the production of any Books, Papers, Writings, or Evidence, relating to such of his affairs as are subject to investigation under this Act; or if he have contracted any of his Debts by means of a breach of trust, or by means of false pretences, or without having reasonable or probable expectation at the time when contracted of paying the same; or if he shall have put any Creditor to unnecessary expense by the vexatious defence of any Action or Suit, or shall be indebted for Damages recovered in any Action for a malicious prosecution, or for Libel or Slander, or for Criminal Conversation, or Seduction, or Assault and Battery, or for Damages recovered in any Action for Malicious Injury, or in Action of Tort, where it shall appear that the Injury complained of was malicious; or if he shall have done any other act fraudulent towards his Creditors: Provided always, that in the cases aforesaid where the Insolvent shall be indebted for Damages, he shall be liable to be relieved from punishment in the first place, and from his imprisonment at any time within the period of such imprisonment, by the consent of the Plaintiff or all the Plaintiffs in any Action or Actions for such Damages; provided he may not be otherwise liable to punishment or imprisonment under this Section.

Parties sought to be declared Insolvent liable to Punishment in certain cases.

VIII.—For the purpose of carrying into execution the Provisions of the foregoing Section and of this Act, be it enacted that after it shall be made to appear to the Court or Judge that the Party sought to be declared Insolvent is Insolvent, that no Petition praying that a Debtor be declared Insolvent under the Provisions of this Act shall be withdrawn or proceedings thereon stayed or prevented if any Creditor shall object thereto; and for the purpose of securing the Person of any Debtor not in Prison who may be declared Insolvent, it shall be lawful for the Court or Judge, at any time before he may have obtained his Certificate and final Discharge, to make a Rule or Order directed to the Sheriff of the District, or any other Person, to apprehend the Person of such Debtor and bring him before such Court or Judge to be examined, or to receive punishment; provided that in case such Debtor require further time to bring proof, or

Petition not to be withdrawn without consent of Creditors.

Petitioner or Debtor may, by order of the Court or Judge, be arrested and held to bail in certain cases.

require other reasonable delay, the Court or Judge may grant such further time or delay, and commit him to Prison provisionally, or, upon the Debtor providing sufficient Bail or Security for his appearance, discharge him from custody until the expiry of such further time.

Power of summoning Witnesses.

IX.—That for the purposes of this Act, it shall be lawful for the Court or Judge, or any two or more Judges, either in Term or Vacation, to exercise the like powers for the summoning and compelling the attendance of Witnesses, the taking of Evidence, the ordering of Examinations, the issuing of Commissions to take Evidence, and for the punishment of Persons guilty of contempt, as any Superior Court of Record now exercises in any Action or Proceeding at Law: Provided always, that in the case of proceedings by or before a Judge or Judges, under this Act, there shall be no necessity for the use of a Seal, but the Name of the Judge or Judges, in his or their proper handwriting, shall be sufficient.

No Seal requisite.

Assignments, Cognovits, &c., void if made within 2 months prior to Insolvency.

X.—Every Charge, Mortgage, Conveyance, Grant, or Assignment, of the Property or Effects of an Insolvent, or of any part thereof, and every Gift, Delivery or Transfer of any of his Goods, or Chattels, and every Payment made by him in Money, or otherwise, and every Cognovit, Warrant of Attorney, Judgment, or other Security whatsoever, paid, made, or given, by any Insolvent, within Two Calendar Months prior to his declared Insolvency, and with a view to give an undue preference to any Creditor, shall be and are hereby declared to be null and void and of no effect, in case the Person taking or receiving the same, or for whose Benefit the same was taken or received, had notice or was aware of the Insolvency: Provided that nothing in this Act contained shall invalidate any such Charge, Grant or Assignment, or the Gift, Delivery or Transfer of any Goods or Chattels, if the same shall, subsequently to the execution or making thereof, have been assigned to or be in the hands or possession of any bona fide holder for valuable consideration, not having had notice of the character of such appropriation prior to the transfer to him; but the Person or Persons first entitled, their Executors, Administrators and Estates, shall be liable to account for the value to the Trustees of the Estate of the Insolvent in such case, and in case they have realized any of the said Securities in an Action for Money had and received or otherwise; and provided that nothing herein contained shall be construed to confirm or make valid any acts otherwise void.

Appointment of Trustees, &c.

XI.—At or any time after the making of the Rule or Order provided in the Third Section of this Act, the Court or Judge may make an Order, which shall be published in the Royal Gazette and one other Newspaper, vesting the Estate of the Person sought to be declared in a Trustee or Trustees, whose duty it shall be to discover, collect and receive the Estates and Effects of such Person, and to hold the same, subject to the Orders and Directions of the Court or Judge; and in the event of the Person being declared Insolvent, to invest, realize, and distribute the same, under the

Duty of Trustees.

direction of the Court or Judge and the Provisions of this Act ; and such Trustee or Trustees shall have power to sue both at Law and in Equity, in his or their own Name, for and upon all causes of action for the benefit of the Insolvent Estate, in the same way as the Insolvent himself might have done ; and in any proceeding it shall be sufficient for them to declare or plead as Trustees of such Insolvent, and proceed at once to the statement of the cause of action, without setting out the particulars of their appointment, and, as nearly as applicable, according to the forms used by Executors or Administrators : Provided, that in the use of Leasehold Interests and Tenancies, the Trustee or Trustees shall not be bound to accept the same, but may, within One Month after appointment, notify the Landlord, in writing, of his or their intention not to hold as Tenant, whereupon his or their interest or liability shall cease : Provided, that the Estate of the Insolvent shall be liable for Rent from the time of the appointment of Trustees until such Notice shall have been given.

Trustees not bound to accept Leasehold Interests.

XII.—The Trustee or Trustees shall be changed or removed by the Court or Judge, at the instance of a Majority in Number and Value of the Creditors, and such Person or Persons appointed in his or their place as the said Majority may recommend, and may also be removed for any sufficient cause appearing to the Court or Judge, and the Court or Judge may require Trustees to find Sureties for the faithful execution of their Office.

Trustees may be changed at instance of Creditors.

XIII.—The Trustee or Trustees shall be entitled to such Compensation, not exceeding Five per Cent. on the realized value of Assets, over and above the actual and reasonable Expenses and Disbursements, as the Court or Judge may allow.

Compensation of Trustees.

XIV.—Where, in case a Person sought to be declared Insolvent is in Prison, it shall be deemed expedient by the Court or Judge that certain Matters or Things ought to be performed by such Person before he be actually discharged from custody, the Court or Judge may remand such Person to Prison until the performance of such Matters or Things, or until such further time or times as the hearing may be adjourned to, or such Court or Judge may take Bail for the performance of such Matters or Things within a certain time.

Court or Judge may order performance of certain matters before discharge of Debtor, &c.

XV.—The Costs of all Writs commenced by Capias or Attachment, or any Process by which the body or any portion of the Estate and Effects of the Insolvent may have been taken or secured before the Declaration of Insolvency, shall be payable out of the Estate ; the Costs of the petitioning Creditors, and other Costs not herein provided for, shall be in the discretion of the Court or Judge ; the Costs of Creditors proving their Debts shall be borne by themselves, provided that if any Creditor give frivolous or vexatious opposition to the Claim of another Creditor, and cause such other Creditor extraordinary Expense in the proof of his debt, the dividend of such opposing Creditor shall be liable, in the distribution of the Estate,

Costs of Attachment &c., to be allowed.

Other costs to be in discretion of the Court or Judge.

Costs to be taxed.

for such extraordinary Expense. Costs shall be taxed as nearly as applicable, except the Costs of a suit at Law, according to the practice on the Equity side of the Court.

Insolvent refusing to deliver up property may be remanded or committed.

XVI.—In case any Person declared Insolvent, or sought to be declared Insolvent, shall wilfully refuse to deliver up to the Court or Judge, or to the Trustee or Trustees, any Property, Money, or Effects, Deeds, Accounts, Books, or other Documents, pursuant to any Order of such Court or Judge, or shall disobey any other Order made in the premises by such Court or Judge, it shall be lawful for such Court or Judge to remand or commit him from time to time until he shall conform to the Order of the said Court or Judge.

Certificate may be granted by the consent of majority of Creditors in number and value.

XVII.—It shall be lawful for any Superior Court of Record, or any Judge thereof, by and with the Consent of the Majority in Number and Value of the Creditors, to grant to any Person declared Insolvent a Certificate of Insolvency and Discharge, Five Days' previous Notice of the Application having been given in the Royal Gazette and one other Newspaper, and to the Trustee or Trustees; and in any case where such Consent shall be refused, it shall be lawful for the Insolvent to apply to the Supreme Court, which may, upon hearing the Parties, grant such Certificate: Provided always, that such Insolvent, whether his Application be made to a Court or Judge, shall not have been guilty of any such acts as may, or if discovered at the time of the Declaration of Insolvency would, render him liable to imprisonment or punishment under this Act; and provided he shall have made a full and true discovery, disclosure and delivery of his Property and Effects under his Insolvency, and shall have conformed to the Orders and Directions of the Court or Judge touching the same, and shall have, if and when required, rendered such Information and Aid to the Trustees, by way of proof or otherwise, in the discovering, collecting, and receiving the Estate and Effects of the Insolvent Estate, at the Expense of the Estate, as shall have been reasonably required by them. And such Certificate shall be a Bar to any Action or Suit that may at any time thereafter be brought for any Debt or Liability due or owing at the time of his being declared Insolvent, or to become due under any Contract previously entered into: Provided always, that if the Insolvent shall have undergone punishment for any fraudulent or other acts for which he would be punishable under this Act, it shall be lawful for the Court or Judge, in their or his discretion, to grant him his Certificate and final Discharge in like manner as in other cases; provided also, that nothing herein contained shall discharge an Insolvent from Rent coming due after such Declaration of Insolvency under any Tenancy originating previously and continued by the Insolvent subsequently to such Declaration of Insolvency.

If consent refused, Supreme Court may on hearing grant certificate.

Estate to be distributed rateably, &c.

XVIII.—The Estates of Persons declared Insolvent shall, after the payment of Costs and Expenses, be distributed rateably amongst the Creditors, except in the cases hereinafter provided.

XIX.—When it shall be made to appear that the Hirer or Employer of any Seaman, Fisherman, or other Servant, is Insolvent or unable to pay his Creditors Twenty Shillings in the Pound, such Seaman, Fisherman, or other Servant, actually employed in the catching, curing, or making of Fish or Oil, and such Person as shall have supplied Bait to the Hirer or Employer aforesaid, and who shall be Creditors for Wages, Shares, or Bait, for the current Season, shall, upon all such Fish and Oil taken, cured, or made, by the Hirer or Employer aforesaid, or out of the produce or value thereof, if the same be in the possession of the Hirer or Employer, or of any other Person aware of or privy to the hiring or employing of any such Seaman, Fisherman, or other Servant, or having Notice of the Claim of such Seaman, Fisherman, or other Servant, whether the same be accruing or due at or before the time of such other Person receiving such Fish or Oil, or the produce or value thereof, or before paying the Hirer or Employer for the same, be considered privileged Creditors, and shall first be paid Twenty Shillings in the Pound, so far as such Fish or Oil, or the produce or value thereof, shall go: Provided further, that where such Fish and Oil shall be insufficient for the full payment of the Wages or Shares of all such Seamen, Fishermen, or other Servants, or of the Persons who shall supply Bait, as aforesaid, they shall be paid their Claims rateably in proportion to their respective Wages, Shares, or Bait Money. And provided further, in the case of the Supplying Merchant, that no Seamen, Fishermen, or other Servants than those engaged with the knowledge and consent of such Supplying Merchant, being a Receiver, shall be privileged Creditors in manner aforesaid, in regard to any Supplying Merchant, being such Receiver, nor in regard to the Fish or Oil, or the produce or value thereof, in the hands of such Receiver: Provided further, that any Seaman, Fisherman, or Servant, who may be bona fide engaged or shipped in the place of any other such Person who may during the Voyage have been discharged, or have left, or deserted, or have died, or have been incapacitated by illness or other cause from continuing his service, shall be a privileged Creditor in manner aforesaid, and shall be entitled to Claim upon the Supplying Merchant, being such Receiver, for the period he may have served in such stead.

Seamen, Fishermen
and other Servants,
privileged Creditors.

If Estate insufficient,
to be paid rateably,

Proviso—Servants
engaged without the
knowledge of mer-
chant, not privileged
Creditors.

XX.—Any Defence which the Hirer or Employer could have made if the Action had been taken against him by such Seaman, Fisherman, or other Servant, or Supplier of Bait, for such Wages, Share or Bait Money, shall be equally available for such Receiver to make on the Trial of any such Action that may be brought against him by such Seaman, Fisherman, or other Servant or Supplier of Bait, for such Wages, Share or Bait Money, or the value of such Fish and Oil, or any part thereof, as aforesaid. Provided always, that the Receiver of the Voyage, or any part of the produce or value thereof, shall not be liable for the payment of such Wages or Share of such Seaman, Fisherman or other Servant, or Supplier of Bait, or any part thereof, unless it be proven on the Trial that the Receiver is liable under the foregoing Section and the Provisions of this

Receiver entitled to
the same defence as
Hirer.

Provisos.

Act. Provided always, that any Shareman selling or lawfully disposing of his Share of Fish or Oil, or any part thereof, may sue and recover payment therefor from the Purchaser thereof, according to the terms of his Contract, before any Stipendiary Justice or Court aforesaid; or any Shareman, Fisherman, or other Servant, may in like manner sue for and recover his Wages or Share from his Hirer or Employer, irrespective of and notwithstanding any of the Provisions contained in the foregoing Sections.

In Actions by Seamen and other to recover Wages sufficient if Insolvency be made to appear.

XXI.—To enable such Seaman, Fisherman or Servant, or such Person supplying Bait as aforesaid, to recover the amount of his Wages, Shares or Bait Money, from the Receiver of such Fish and Oil, or the produce or value thereof, it shall not be necessary that the Hirer or Employer should have been formally declared Insolvent, but it will be sufficient, if it be made to appear on the trial of any Action which such Seaman, Fisherman, or other Servant or Supplier of Bait may bring for Money had and received, or for Wages, against the said Receiver, before any Stipendiary Justice of the Peace, Court of Sessions, or any Superior Court in this Island, that the Share, Wages, or Bait Money was due at the time of bringing such Action, and that the said Hirer or Employer was then Insolvent or unable to pay his Creditors Twenty Shillings in the Pound. Provided always, that if such Seaman, Fisherman, or other Servant, or Supplier of Bait, has knowingly or wilfully colluded with or assisted the Hirer or Employer in disposing of his Voyage otherwise than to his Supplying Merchant, such Supplying Merchant not being paid to the extent of his Supplies over and above the unpaid Wages or Bait Money at the time of the Action being brought, such Seaman, Fisherman, or other Servant or Supplier of Bait, shall not be entitled to recover in any Action brought against any Receiver being a Supplying Merchant: Provided that nothing herein contained shall prevent such Seaman, Fisherman, or other Servant, from recovering from any Person other than the Supplying Merchant who may have received such Voyage or any part thereof, and who would be otherwise liable under this Act.

Proviso as to collusion, &c.

Recovery against Receiver other than Supplier.

XXII.—In the distribution of the Estate of any Person declared Insolvent, all Clerks' and Servants' Wages for the current Year, up to the period of the declaration of Insolvency, and also, in the event of any Receiver or Supplying Merchant being declared Insolvent, any Seaman, Fisherman, or other Servant, or Supplier of Bait, as aforesaid, who may be a privileged Creditor under the 21st Section of this Act, to the extent of his rateable proportion, as aforesaid, of the Fish or Oil, or the produce or value thereof, shall be privileged Creditors, and shall be co-equally entitled to recover and receive Twenty Shillings in the Pound out of the Estate and Effects of the Person declared Insolvent.

Mode of distribution.

XXIII.—Next after the preferable payments provided for in the two preceding Sections of this Act, all Debts and Claims due to the Crown or

Mode of distribution.

to the Government or Revenues of this Colony, shall form a prior Claim upon the Estate and Effects of any Person declared Insolvent, and shall be first paid so far as such Estate and Effects will go; and all Monies deposited by or on account of the Newfoundland Savings' Bank in any Bank or Banking Company, or received or collected by such Bank or Banking Company, for or on account of the said Savings' Bank, shall constitute a Crown Debt, and form a prior claim on such Bank or Banking Company, and upon its Property, Estate and Effects, in the case of the Insolvency of such Bank or Banking Company, and may be sued for and recovered in the name of Her Majesty, or the Receiver General or Attorney General of this Island. Provided that nothing herein contained shall affect the provisions of the 20th Section of the Act 21 Victoria, Cap. 5.

XXIV.—After the payment of Preferable Claimants under the foregoing Sections of this Act, every Creditor for Supplies necessarily and bona fide furnished for the prosecution of the Fishery during the current season, that is to say, at any time after the close of the last preceding season of the Fishery, shall be a privileged Creditor, and shall be paid Twenty Shillings in the Pound, so far as the Insolvent Estate will go. Mode of distribution.

XXV.—When any Person shall die in this Island or elsewhere, leaving Estates and Effects in this Island or in any Place within the Government thereof, and such Estates and Effects shall not be sufficient to pay and satisfy all his just Debts, it shall be lawful for any of the said Superior Courts of Record, or any Judge thereof, either in Term Time or Vacation, on the Petition of the Executor, Administrator, or a Creditor, of such deceased Person, to be made in writing by and upon the Oath of the said Executor, or Administrator, or Creditor, and laid before any of the Courts, or any Judge thereof, by which it shall appear to the Court or the said Judge before whom such Statement shall be laid, that the Estate or Effects of such deceased Person are not sufficient to pay all his just Debts, to authorize and empower the Executor or Administrator of such deceased Person, or, if they shall see cause, any Trustee or Trustees whom they may appoint, to collect and to distribute the Estate and Effects amongst his Creditors, according to the manner of distribution by law directed, to be made in respect to the Estates of Persons declared Insolvent, subject in all cases to the provisions of this Act: Provided always, that nothing herein contained shall be construed to affect the right of any Creditor of such deceased Person to recover the full amount of such Debts as may have been bona fide secured in the lifetime of such deceased Person by Mortgage or other Legal Conveyance of any portion of the Estate or Effects of such deceased Person, and not void under the foregoing provisions of this Act: Provided also, that the like course shall be pursued with the Estate and Effects of any Persons dying Insolvent, where no Executor or Administrator thereof has been appointed or resides in this Island, on the application of any Creditor to any of the said Courts or any Judge thereof, who may appoint Trustees or Receivers of such Estates and Effects, Insolvency of Estates of deceased Persons.

Proviso.

to realize and distribute the same as aforesaid, subject to the Orders and control of any such Court or Judge thereof.

Liabilities of Trustees and Assignees.

XXVI.—The Trustees or Assignees of the Estate and Effects, or any part thereof, of any Debtor, under any Conveyance or Assignment for the Benefit of Creditors, shall be liable and compellable to pay out of the first Proceeds all Creditors who, in case of a Declaration of Insolvency under this Act, would have Preferential Claims; and such Trustees or Assignees shall also be liable and compellable, unless a Majority in Number and Value of the Creditors shall otherwise agree, to distribute such Estate and Effects according to the provisions of this Act, as in the case of Insolvency, anything in any such Conveyance or Assignment contained to the contrary notwithstanding; and all such Trustees and Assignees shall, in the distribution of such Estate and Effects, in such cases, be subject to the Order and Direction of any Superior Court of Record, or a Judge thereof, as fully, and in like manner, as the Trustees of the Estate of any Person declared Insolvent.

Reference may be ordered.

XXVII.—The Court or Judge acting under the provisions of this Act may make any Order of Reference to the Master or other Person, to investigate and report upon Claims, Accounts, and other Matters, whether on behalf of or against the Insolvent Estate, and the decision to be come to thereon shall be as binding between the Parties as an Action at Law or Suit in Equity, and may be pleaded in bar of any other proceeding.

Appeal.

XXVIII.—Any Person feeling himself aggrieved by the decision of a Judge proceeding under the provisions of this Act, either in Vacation or in a Court in which one Judge only presides, may, on motion to such Judge, appeal from such decision to the Supreme Court, or to the other Judges, in Vacation or in Chambers, upon such terms, by way of Security or otherwise, as the said Judge may deem reasonable, when the matter may be re-heard in such way as the other Judges or the Supreme Court may direct; and it shall be competent, on such appeal, for such decision to be reversed, altered, amended, or confirmed, as the case may be; and such Supreme Court or Judges may proceed to the determination of the Case in the same manner as provided in the case of one Judge proceeding under the provisions of this Act.

Judges may make further Orders, &c.

XXIX.—In any Case or Matter within the provisions of this Act in which the Court or one or more Judges may deem it necessary to make any Rule or Order, whether hereinbefore provided for or not, for the effectual carrying out of the provisions of this Act, it shall be lawful for such Court, or one or more Judges, to make such Rule or Order; and any Person disobeying the same shall be deemed guilty of Contempt, and may be proceeded against and punished therefor by the Court or one or more Judges, either in Term, in Vacation, or in Chambers.

Party giving false evidence guilty of Perjury.

XXX.—Any Person who, in his examination upon Oath or Affirmation, or who in any Affidavit in any proceeding under this Act, shall wilfully

and corruptly give false evidence, or swear or affirm anything which shall be false, shall be deemed guilty of wilful and corrupt perjury, and be liable to be indicted therefor, and upon conviction shall be liable to the penalties of wilful and corrupt perjury.

XXXI.—For the purpose of trying any question of fact arising under the Tenth Section of this Act, it shall be competent for the Court or Judge, or one or more Judges, to empanel a Jury according to the provisions of the Laws now or hereafter to be in force for regulating Trial by Jury: Provided, that nothing herein contained shall prevent the Court or Judge, or one or more Judges, from determining any questions of fact.

Jury may be empannelled to try questions arising under 10th Section.

Proviso.

XXXII.—From and after the passing of this Act, the Twenty-third, Twenty-fourth, Twenty-fifth, and Twenty-sixth Sections of an Act of the Imperial Parliament, passed in the Fifth Year of the Reign of His late Majesty George the IV., Cap. 67, entitled “An Act for the better Administration of Justice in Newfoundland and for other purposes;” an Act passed in the Fourth Year of the Reign of His Majesty King William the IV., Cap. 11, entitled “An Act for the relief of Insolvent Debtors taken in Execution;” an Act passed in the Seventh Year of the Reign of Her present Majesty, Cap. 2, entitled “An Act to amend an Act passed in the Fourth Year of His late Majesty’s Reign, entitled ‘An Act for the relief of Insolvent Debtors taken in Execution;’” also an Act passed in the Nineteenth Year of the Reign of Her present Majesty, Cap. 14, entitled “An Act to Amend the Law of Insolvency;” and all other existing Laws and Practice relating to Insolvency, shall be and the same are hereby Repealed, without affecting the validity of proceedings had under them heretofore Provided, that all Persons declared Insolvent before the passing of this Act shall be entitled to the benefit of the provisions of the said Acts as regards a Certificate and Final Discharge; and provided further, that the Tenth Section of this Act shall not affect any Deeds, Assignments, Gifts, Transfer, Delivery or Security, made or given prior to the passing of this Act.

Former Acts of Insolvency repealed.

Proviso.