

CHAPTER MCLXXXIII.

AN ACT FOR THE REGULATION OF BANKRUPTCY.

(Section I. P. L.) Whereas it is necessary and proper as well as conformable to the usage of commercial nations that persons using merchandise who by reason of misfortune or otherwise are unable to pay their debts should be compelled speedily and without delay to surrender up their effects for the use of their creditors and be prevented from wasting or secreting the same and also that such honest debtors as in the course of trade and dealing have without any fault or crime become bankrupt should upon such surrender be liberated from the future demands of their creditors and enabled by their future diligence to support themselves and their families:

[Section I.] (Section II. P. L.) Be it therefore enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met and by the authority of the same, That if any merchant or other person using the trade of merchandise by way of bargaining, exchange, rechange, bartry or otherwise, in gross or by retail, or seeking his or her trade of living by buying and selling, or that shall use the trade or profession of a scrivener, receiving other men's moneys or estates into his or her trust or custody, or that shall deal as a banker, broker or factor, being entrusted with money, goods or effects belonging to other persons, shall depart the state, or begin to keep his or her house, or otherwise to absent him or herself, or suffer him or herself willingly to be arrested for debt, or other things not due, for money delivered, wares sold, or other good consideration, or yield him or herself to prison, or willingly or fraudulently procure him or herself to be arrested, or his or her goods, money or chattels to be attached or sequestered, or depart from his or her dwelling-house, or make or cause to be made any fraudulent conveyance of his her or their lands or chattels whereby his, her or their creditors may be defeated or delayed in the recovery of their debts, or being arrested for debt shall, after his, her or their arrest, be in

prison two months or more for that arrest, or any other arrest or detention for debt, or being arrested for fifty pounds or more shall escape out of prison, shall be adjudged a bankrupt.

[Section II.] (Section III. P. L.) And be it further enacted by the authority aforesaid, That the president (or in case of his death or of any vacancy in the said office of president then the vice-president) of the supreme executive council, upon petition in writing against such persons being bankrupt to him to be exhibited by any one creditor or more persons being partners whose single debt shall amount to two hundred pounds, or by two creditors whose debts shall amount to three hundred pounds, or of more than two creditors whose debts shall amount to four hundred pounds, shall have power by commission under the great seal to appoint such persons as to him shall seem good not exceeding five to be the commissioners of the said bankrupt. Provided always, That the debt or debts, demand or demands of such creditor or creditors so as aforesaid entitled to apply for and procure a commission to be issued against any such bankrupt shall have arisen on a contract or transaction subsequent to the passing of this act: And provided also, That before any commission shall issue, the creditors petitioning shall make affidavit or solemn affirmation before the said president or vice-president of the truth of their debts and give bond to the said president or vice-president in the penalty of four hundred pounds to be conditioned for proving their debts as well before the commissioners as upon a trial at law in case the due issuing forth the same shall be contested, and also for proving the party a bankrupt, and to proceed on such commission as herein is mentioned. And if such debts shall not be really due or if after such commission taken out it cannot be proved that the party was a bankrupt, then the said president or vice-president as aforesaid shall upon the petition of the party grieved in case there be occasion assign such bond to the said party who may sue for the same in his own name.

[Section III.] (Section IV. P. L.) And be it further enacted by the authority aforesaid, That the commissioners so to be appointed or the major part of them shall have power to take by their discretion such order with the body of such person by

imprisonment as also with all his lands which he shall have in his own right before he became bankrupt, and also with all such lands as such person shall have purchased for money or other [recompense] jointly with his wife or child or children to the only use of such offender or for such use or title as such offender then shall have in the same, which he may depart withal or with any persons in trust to the secret use of such offender and also with his or her money, goods, merchandise and debts and cause the said lands, money, goods, merchandise and debts to be appraised to the best value and by deed of bargain and sale to convey the said lands and real estate in fee simple or for such estate as the bankrupt had therein and for the best price that may be gotten for the same and also all deeds, touching only the same and also all the books of accounts, papers and writings belonging to such offender and also to sell all his goods and chattels and merchandises and to receive, sue for and recover in their own names but to the use of the creditors all the debts of such offender or otherwise to order the same for satisfaction of the creditors to every of the creditors in proportion to the debts; and every direction and other thing done by the said commissioners so authorized or the major part of them shall be good in law against the said offender, his wife, heirs, children and such persons as by such joint purchase with the offenders shall have any estate or interest in the premises and against all persons claiming by, from, or under such offender by any acts done after such person shall become a bankrupt. Provided always, That no purchaser for good consideration shall be impeached unless the commission shall be sued forth against such bankrupt within five years after he shall become a bankrupt.

[Section IV.] (Section V. P. L.) And be it further enacted by the authority aforesaid, That the said commissioners or the major part of them shall have power by deed under their hands and seals to bargain, sell or convey any lands, tenements or hereditaments whereof any bankrupt shall be seized of any estate in tail, in possession, remainder or reversion, for the benefit of the creditors; and all such deeds shall be good against all persons whom the bankrupt, by common recovery or other

means, might debar from any remainder, rent, title or possibility of the said hereditaments.

[Section V.] (Section VI. P. L.) And be it further enacted by the authority aforesaid, That if any bankrupt shall convey or assure any lands, goods, or estate unto any persons upon condition or power of redemption, by payment of money or otherwise, it shall be lawful for the commissioners to appoint under their hands and seals persons to make tender of money or other performance, according to the nature of such condition as fully as the bankrupt might have done, and the commissioners shall after such tender or performance have power to sell such lands, goods and estates, for the benefit of the creditors as fully as they may sell any other part of the estate of such bankrupt.

[Section VI.] (Section VII. P. L.) And be it further enacted by the authority aforesaid, That the commissioners shall have power to assign or dispose [of] all the debts due to and for the benefit of the said bankrupt to the use of the creditors and the same disposition of the debts shall vest the property in the persons to whom any debt shall be assigned by the commissioners as fully as if the bond, judgment or contract whereupon the said debt shall arise had been made to the persons to whom the same shall be so assigned, and after the said assignment neither the said bankrupt nor any other to whom such debt shall be due shall have power to recover the same nor make discharge thereof neither shall the same be attached as the debt of the bankrupt or such other person but the party to whom the same shall be assigned shall have remedy to recover the same in the name of the person to whom the same shall be so assigned or ordered, as the party himself might have had: Provided, that no debtor of the bankrupt be hereby endangered for the payment of his debt, bona fide, to such bankrupt before he shall know that he or she is a bankrupt.

[Section VII.] (Section VIII. P. L.) And be it further enacted by the authority aforesaid, That such of the commissioners as shall put the commission in execution shall on request made by the bankrupt not only make declaration to the bankrupt of the employing and bestowing of his lands, goods and debts but also make payment of the overplus if any [be] to the

bankrupt who after full satisfaction of the creditors shall have power to recover the residue of the debts.

[Section VIII.] (Section IX. P. L.) And be it further enacted by the authority aforesaid, That if any after such act committed and complaint thereof made to the commissioners or the major part of them by any party grieved suspecting any of the goods or debts of such offender to be in the possession of any person or any person to be indebted to such offender, do make relation thereof to the commissioners, they shall have power to call before them by such process or means as they shall think convenient all such persons so supposed to have any such goods or debts in their custody or supposed to be indebted to such offender and upon their appearance to examine them as well by their oaths or affirmations as by such means as the commissioners shall think meet for the knowledge of all such goods and debts, and if such persons upon examination do not declare the whole truth of such things as they shall be examined of or deny to swear or to subscribe their examination, then such persons upon proof made before the commissioners by examination or otherwise shall forfeit double the value of all such goods and debts by them concealed which forfeiture shall be levied of the lands, goods and chattels of such person so denying to swear or affirm, or not disclosing the whole truth in such manner as is herein after appointed, and the same forfeitures be distributed for satisfaction of the debts of the creditors in such rate as is before declared.

[Section IX.] (Section X. P. L.) And be it further enacted by the authority aforesaid, That if any person or persons fraudulently by collusion, claim or detain any debts, goods or tenements which shall be appertaining to such offender, other than such as they prove to be due for money paid, wares delivered, or other just consideration, before the commissioners, every such person shall forfeit double as much, which forfeiture shall be levied and employed as herein directed in the case of forfeitures.

[Section X.] (Section XI. P. L.) And be it further enacted by the authority aforesaid, That if any person who shall be a bankrupt by the intent of this act shall convey to any of his or her children, or other persons, any lands or goods, or trans-

fer his or her debts into other persons' names except the same shall be conveyed or transferred upon marriage of any of his or her children, both the parties married being of the age of consent, or some valuable consideration, it shall be in the power of the commissioners to sell or dispose thereof in as ample manner as if the bankrupt had been actually seized or possessed thereof.

[Section XI.] (Section XII. P. L.) And be it further enacted by the authority aforesaid, That the commissioners may call before them the bankrupt and if upon warning left in writing on three several days at the usual place of abode of such person, his wife or family, or personal notice, if such person shall be in prison, and three weeks' notice in two of the newspapers printed in the city of Philadelphia, such person shall not within forty-two days surrender himself and yield his body before the commissioners and submit to be examined upon oath or solemn affirmation and to subscribe such examination with his name and conform to the directions of this act, the commissioners may adjudge and proclaim the said person a bankrupt, award a warrant to such persons as they shall think meet to apprehend the body of the offender and to bring him before the commissioners wheresoever the party may be found, to be examined: And it shall be lawful for the commissioners to examine the said offender upon interrogations, touching the lands, goods, debts, books of accounts and such other things as may tend to disclose his estate or secret grants and eloining of his lands, goods, money and debts, as they shall think meet: Provided always, That it shall and may be lawful for the president or vice-president in case of a vacancy in the office of president, in his discretion to enlarge the time for such person surrendering himself and discovering his effects not exceeding fifty days from the end of the said forty-two days so as such order for enlarging the time be made six days before the time on which such person was to have surrendered himself.

[Section XII.] (Section XIII. P. L.) And be it enacted by the authority aforesaid, That every bankrupt having surrendered, shall at all seasonable times before the expiration of the said forty-two days or such further time as shall be allowed to

finish his examination, be at liberty to inspect his books and writings in the presence of some person to be appointed by the commissioners and to bring with him for his assistance such persons as he shall think fit, not exceeding two at one time, and to make extracts and copies to enable him to make a full discovery of his effects, and the said bankrupt shall be free from arrests in coming to surrender and from actual surrender for said forty-two days or such further time as shall be allowed for finishing his examination, provided such bankrupt was not in custody at the time of surrender; and in case such bankrupt shall be arrested for debt, or on any escape warrant, 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 shall be discharged, and in case any officer shall detain such bankrupt such officer shall forfeit to such bankrupt for his own use five pounds for every day he shall detain him, and in case any bankrupt be in custody at the time of issuing the commission and is willing to submit to be examined and can be brought before the commissioners the expense thereof shall be paid out of the bankrupt's estate, but in case such bankrupt is in execution, or cannot be brought before the commissioners, then the commissioners shall attend the bankrupt in custody and take his discovery; and the commissioners are required to appoint persons to attend such bankrupt in prison and to produce his books and writings in order to prepare his discovery, a copy whereof the commissioners shall apply for and the bankrupt shall deliver to their order ten days before such last examination.

[Section XIII.] (Section XIV. P. L.) And be it further enacted by the authority aforesaid, That if therein the offender shall refuse to be examined or to answer fully and to subscribe his examination as aforesaid, it shall be lawful for the commissioners to commit the offender to close imprisonment until he shall better conform himself, and if the said offender shall submit to be examined and upon his examination it shall appear that he hath committed any wilful or corrupt perjury tending to the damage of the creditors twenty pounds, the party so offending may thereof be indicted in any of the courts of record of

this state and being thereof convicted, shall stand in the pillory in some public place two hours and have one of his ears nailed to the pillory and cut off.

[Section XIV.] (Section XV. P. L.) And be it further enacted by the authority aforesaid, That every person who shall knowingly help to hide or convey or shall knowingly receive or keep secret any person so as aforesaid warned to appear shall suffer such imprisonment or pay such fine to the state as upon conviction thereof upon indictment shall be adjudged.

[Section XV.] (Section XVI. P. L.) And be it further enacted by the authority aforesaid, That if any person, known or suspected to detain any of the lands, hereditaments, goods or debts of the bankrupt, or to be indebted to or for the benefit of the bankrupt shall after lawful warning to the said persons given to come before the commissioners to be examined refuse to come or shall not come at the time appointed having no lawful impediment such as shall be allowed of by the commissioners and which shall be then made known to the commissioners, or having knowledge of any other meeting of the commissioners shall not appear before them at such time as they may appoint, or being come shall refuse to be sworn or affirmed and to make answer to such interrogatories as shall be administered and to subscribe the said answers, it shall be lawful for the commissioners to commit to such prison as to them shall be thought meet all such persons as shall refuse to be sworn or affirmed and make answer and also to direct their warrants to such persons as by them shall be thought meet to apprehend such persons as shall refuse to appear and to bring them before the commissioners to be examined; and upon their refusal to come or to be examined and subscribe their examination to commit the party so refusing to such prison as the commissioners shall think meet until the said person shall submit himself to the commissioners and be by them examined and subscribe his examination according to the directions of this act: Provided that such witnesses as shall be sent for, shall have such costs as the commissioners shall think fit to be ratably borne by the creditors. And if any person other than the bankrupt either by subornation of others or by his own act shall wilfully and

corruptly commit wilful perjury by his deposition to be taken before the commissioners the party so offending and all persons that shall unlawfully and corruptly procure any such wilful, unlawful and corrupt perjury may therefor be indicted in any court of record and being convicted shall forfeit fifty pounds, half to the commonwealth and half to the creditor who shall sue or prosecute for the same, and if he or she do not pay the said fifty pounds he or she shall be imprisoned for six months and stand one hour in the pillory: And moreover shall be disabled to be a witness in any court of record.

[Section XVI.] (Section XVII. P.L.) And be it further enacted by the authority aforesaid, That after such time as any person shall by the commissioners be lawfully declared a bankrupt, the said commissioners shall have power to examine upon oath or affirmation the wife of such bankrupt for the discovery of the estate of such bankrupt concealed or disposed of by such wife or by any other person. And the said wife shall incur such penalties for not coming before the said commissioners or for refusing to be sworn or affirmed and 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.

[Section XVII.] (Section XVIII. P.L.) And be it further enacted by the authority aforesaid, That if any bankrupt shall upon his examination before the commissioners be found fraudulently to have conveyed away his goods, land or other estates to the value of twenty pounds, to the end to hinder the execution of this act or to defraud or hinder his creditors of the same and shall not upon his examination discover unto the commissioners and if it be in his power, deliver unto them all that estate so fraudulently conveyed away or detained or that cannot make it appear unto the said commissioners that he hath sustained some casual loss whereby he is disabled to pay what he then owed, may be indicated for such fraud or abuse at any court of oyer and terminer or general quarter sessions of the peace of the county of place where he shall become a bankrupt, and if the bankrupt shall be thereof convicted he shall be set

upon the pillory for two hours and have one of his ears nailed to the pillory and cut off.

[Section XVIII.] (Section XIX. P.L.) And be it further enacted by the authority aforesaid, That it shall be lawful for the commissioners or any other persons or officers by them to be appointed, by their warrant under their hands and seals to break open the houses, chambers, shops, warehouses, doors, trunks or chests of the bankrupt, where the said bankrupt or any of his goods or estates, deeds, books of account or writings shall be reputed to be, and to seize upon and order the body, goods, money and other estate, deeds, books of account, or other writings, of such bankrupt, by imprisonment or otherwise, as to the commissioners shall be thought meet.

[Section XIX.] (Section XX. P.L.) And be it further enacted by the authority aforesaid, That if any person shall become bankrupt and at such time by consent of the owner have in their possession and disposition any goods whereof they shall be reputed owners, and take upon them the sale or disposition as owners, the commissioners shall have power to sell the same for the benefit of the creditors as fully as any other part of the estate of the bankrupt.

[Section XX.] (Section XXI. P.L.) And be it further enacted by the authority aforesaid, That all money which shall be forfeited by this act shall be recovered by the creditors only, or any of them that will sue or prosecute for the same by action of debt, suit, indictment or information, in any court of record and the money so recovered, the charges of suit deducted, shall be distributed towards payment of the creditors.

[Section XXI.] (Section XXII. P.L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the commissioners to appoint such time and place for receiving the proofs of the creditors in support of their respective claims and for distribution of the bankrupt's estate, moneys and effects, as to them shall seem meet, and finally to close the accounts of the said estates and distributions at such time, not less than twelve months nor exceeding eighteen months after the date of the commission; unless the said time shall be enlarged by order of the president or vice-president

aforesaid, from and after which time every creditor shall be barred from claiming any share in the distribution of the said bankrupt's estate. Provided always, That if any suit at law shall be depending or any part of the estate shall remain undisposed of or some future estate or effects of the bankrupt shall come in; in this latter case the commissioners shall immediately convert the same estate or effects into money and within two months afterwards shall divide the same among the creditors. Provided also, That due and full notice shall be given of the several times and places of meeting for the purposes aforesaid by advertisement in two of the public newspapers printed in the city of Philadelphia for three several [weeks] at least, and thirty days before such times of meeting as aforesaid.

[Section XXII.] (Section XXIII. P.L.) And be it further enacted by the authority aforesaid, That at each of the said meetings for the purpose of making a dividend, creditors shall be permitted to prove their debts; and every assignee shall produce upon oath or affirmation his accounts, and what upon the balance to be liquidated by the commissioners shall appear to be in his hands; and all sums expended in suing forth and prosecuting the commission, and all just allowances shall be made, and such part of the residue of the net produce of the bankrupt's estate as the commissioners shall direct shall be divided pro rata among those creditors who shall have duly proved their debts; and the said commissioners shall take receipts from each creditor in a book to be kept for that purpose and such receipt shall be a full discharge to the said commissioners for so much as they shall fairly pay.

[Section XXIII.] (Section XXIV. P.L.) And be it further enacted by the authority aforesaid, That all bankrupts who shall surrender and conform as by this act is directed shall receive from the commissioners a certificate thereof and the same certificate shall be allowed by the president or vice-president and shall be allowed five pounds per centum out of the net produce of the estate that shall be received, in case the net produce of the estate after such allowance made shall be sufficient to pay ten shillings in the pound, and so as the said five per

centum shall not amount to above three hundred pounds; and in case the net produce of the said estate shall be sufficient to pay twelve shillings and sixpence in the pound then all persons so conforming, shall be allowed seven pounds ten shillings per centum, so as such allowance shall not exceed three hundred and seventy-five pounds; and in case the net produce shall, over and above the allowance, be sufficient to pay fifteen shillings in the pound, then the persons so conforming shall be allowed ten per centum, so as [such] ten per centum shall not amount to above four hundred and fifty pounds; and every such bankrupt shall be discharged from all debts owing at the time he did become bankrupt. And, in case such bankrupt shall afterwards be impleaded for any debt due before he became bankrupt, such bankrupt shall be discharged upon common bail and may plead in general that the cause of action did accrue before such time as he became a bankrupt, and the certificate of such bankrupt's conforming, and the allowance thereof, shall be sufficient evidence of the trading, bankruptcy, commission, and other proceedings precedent to the obtaining such certificate, unless the plaintiff can prove the said certificate was obtained unfairly or make appear any concealment by such bankrupt to the value of fifteen pounds.

[Section XXIV.] (Section XXV. P.L.) Be it further enacted by the authority aforesaid, That if the net proceeds of such bankrupt estate shall not amount to ten shillings in the pound, such bankrupt shall not be allowed the five per centum, but shall be allowed so much as the commissioners shall think fit, not exceeding three per centum.

[Section XXV.] (Section XXVI. P.L.) And be it further enacted by the authority aforesaid, 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 one of the judges of the court wherein judgment was so obtained on such bankrupt's producing his certificates so as aforesaid allowed to order any sheriff or gaoler who shall have such bankrupt in his custody to discharge such bankrupt without fee.

[Section XXVI.] (Section XXVII. P.L.) And be it further enacted by the authority aforesaid, That upon the certificates of the commissioners under their hands and seals that such commission is issued and such persons proved before them to become bankrupt, it shall be lawful for any justice of the supreme court or any member of the supreme executive council, and they are hereby required, upon application made, to grant their warrants for apprehending such person and him to commit to the common gaol of the county where he shall be apprehended, there to remain until he can be removed by order of the commissioners, and the gaoler to whose custody such person shall be committed is required to give notice to one of the commissioners of such person being in his custody and the commissioners are empowered to seize the effects of such bankrupt (the necessary wearing apparel of such bankrupt or of his wife or children excepted) and his books and writings which shall then be in the custody of such bankrupt or of any other person in prison. .

[Section XXVII.] (Section XXVIII. P.L.) And be it further enacted by the authority aforesaid, That if any person so apprehended shall, within the time allowed, submit to be examined and conforms as if he had surrendered, such person shall have the benefit of this act as if he had voluntarily come in.

[Section XXVIII.] (Section XXIX. P.L.) And be it further enacted by the authority aforesaid, That every person who shall give credit on securities payable at future days to persons who are or shall become bankrupts, upon good consideration, bona fide, for money or other thing not due before the time of such person becoming bankrupt, shall be admitted to prove their securities or agreements, as if they were payable presently, and shall have a dividend in proportion to the other creditors, discounting at the rate of six per centum per annum from the actual payment to the time such money would have become due; and the obligor in any bottomree or respondentia bond, and the assured in a policy of insurance shall be admitted to claim; and after the loss or contingency 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 becoming bankrupt; and such creditors may petition for a commission or join in petitioning.

[Section XXIX.] (Section XXX. P.L.) And be it further enacted by the authority aforesaid, That every creditor having security for his debts, by judgment, specialty, or other security, or having no security, or having made an attachment of the goods or chattels, lands or tenements of such bankrupt, whereof there is no execution served and executed upon any the lands, goods and estates of such bankrupt before such time as he shall become bankrupt, shall not be relieved upon any such judgment, specialty, attachment, or other security, for any more than a ratable part of their debts with the other creditors without respect to any penalty contained in such judgment, specialty or other security.

[Section XXX.] (Section XXXI. P.L.) And be it further enacted by the authority aforesaid, That in case any person shall be committed by the commissioners for refusing to answer or not fully answering any question, the commissioners shall in their warrant of commitment specify such question.

[Section XXXI.] (Section XXXII. P.L.) And be it further enacted by the authority aforesaid, That in case any person committed by the commissioner's warrant shall bring a habeas corpus in order to be discharged and there shall appear any insufficiency in the form of the 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 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, and in case such gaoler to whom such person shall be committed shall wilfully suffer such person to escape or to go without the walls or doors of the prison, such gaoler shall for such offence being convicted

by indictment forfeit five hundred pounds for the use of the creditors.

[Section XXXII.] (Section XXXIII. P.L.) And be it further enacted by the authority aforesaid, That the gaoler shall upon the request of any creditor having proved his debt and producing a certificate thereof under the hands of the commissioners (which the commissioners shall give without fee or reward) produce such person so committed, and in case such gaoler shall refuse to show such person being in his actual custody at the time of such request to such creditor requesting to see such person such gaoler shall forfeit one hundred pounds for the use of the creditors to be recovered by action of debt in the name of the creditor requesting such sight.

[Section XXXIII.] (Section XXXIV. P.L.) And be it further enacted by the authority aforesaid, That the commissioners or the major part of them shall have power to compound with the debtors of the said bankrupts in cases of dispute or controversy by arbitration or otherwise and that all such debtors shall have the benefit and advantage of a defalcation where there are mutual debts between them and the bankrupt in like manner as in other cases.

[Section XXXIV.] (Section XXXV. P.L.) And be it further enacted by the authority aforesaid, That if after any commission of bankrupts sued forth and dealt in by the commissioners, the offender happen to die before the commissioners shall distribute the goods or any of them, the commissioners shall in that case proceed in execution upon the commission for the offender's goods, lands and debts as they might have done if the party were living.

[Section XXXV.] (Section XXXVI. P.L.) And be it further enacted by the authority aforesaid, That before the commissioners shall be capable of acting they shall respectively take and subscribe the following oath or affirmation which shall be administered by the president or vice-president and afterwards filed in the secretary's office.

I. A. B. do swear (or affirm) that I will faithfully, impartially and honestly, according to the best of my skill and knowledge,

execute the several powers and trusts reposed in me as commissioner in a commission of bankruptcy against

and that without favor or affection, prejudice or malice.

[Section XXXVI.] (Section XXXVII. P.L.) And be it further enacted by the authority aforesaid, That if any action shall be brought against any commissioner or other person having authority under the commission for any matter by force of this act, the defendant may plead not guilty and give this act in evidence and in case of a nonsuit, discontinuance, or a verdict or judgment for him he shall have double costs.

[Section XXXVII.] (Section XXXVIII. P.L.) And be it further enacted by the authority aforesaid, That the said commissioners and the other officers employed under the commission for their care, trouble and services, shall be allowed, and deduct out of the amount of the whole of the bankrupt's estate which is to be divided among the creditors five pounds per centum and no more, to be distributed in adequate shares among them as they shall severally agree and in case they cannot agree then by the justices of the supreme court in term time or any two of them in the vacation.

[Section XXXVIII.] (Section XXXIX. P.L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act the justices of the supreme court and the justices of the courts of common pleas of the counties of this state respectively shall have jurisdiction and power to discharge from personal imprisonment all persons who now are or shall be held in execution for debt or demand (other than for fine or forfeiture due to the commonwealth,) although the debts and demands to which such prisoner may be liable exceed the sum of one hundred and fifty pounds to any one of such prisoner's creditors: Provided always, That no such relief from personal imprisonment be given to any person who shall be liable to be proceeded against by virtue of this act as a bankrupt till six months after such person shall have been in actual custody in some gaol within this commonwealth nor in case such prisoner shall be adjudged to be a bankrupt within the description of this act. And that the aforesaid courts respectively

may and shall grant relief in the premises to such insolvent debtors in the same manner and upon the same terms as is directed by the act of assembly entitled, "An act for the relief of insolvent debtors within the province of Pennsylvania," passed the fourteenth day of February in the year one thousand seven hundred and thirty, new style.¹

[Section XXXIX.] (Section XL. P.L.) Provided always, and be it enacted by the authority aforesaid, That this act shall continue in force for the space of seven years from the first day of January next and no longer.

Passed September 16, 1785. Recorded L. B. No. 3, p. 27, etc.

See the note to the Acts of Assembly passed February 14, 1729-30, Chapter 315 and the Acts of Assembly passed March 15, 1787, Chapter 1275; March 22, 1793, Chapter 1663, April 11, 1793, Chapter 1693; April 18, 1794, Chapter 1746; April 4, 1797, Chapter 1950.

CHAPTER MCLXXXIV.

AN ACT TO DECLARE AND ESTABLISH THE CONSTITUTIONAL RIGHTS OF THE PRESIDENT AND COUNCIL OF THIS STATE TO DRAW FOR THE PUBLIC MONEYS IN THE HANDS OF THE TREASURER OF THE COMMONWEALTH, AND TO REPEAL DIVERS ACTS OF ASSEMBLY SO FAR AS THEY ARE REPUGNANT TO THE SAME.

(Section I. P.L.) Whereas the executive authority of making warrants and drawing for the public moneys in the hands of the treasurer of the commonwealth is by the constitution of this commonwealth vested in and belongs to the president and council of this state and the previous modes of taxing the people and the appropriation of the supplies arising thence by laws to be solemnly enacted belongs to the representatives of the freemen of the commonwealth in general assembly met and the regular and orderly issuing of the public moneys under the prudent regulations by one body of men will tend to economy therein and will promote and secure the regularity of the treasury accounts:

And whereas divers acts of assembly heretofore made have directed that the moneys of this state in the hands of the said

¹See the act of February 14, 1729-30, Chapter 315 and note.