

Punishment
for said offence,
&c.

Act of June
23, 1836, ch.
115, excepting
13th and 14th
secs., repealed.

So much of act
of 14th April
1836, ch. 52, as
prohibits the
payment by the
U. S. of bank
notes under cer-
tain denomina-
tions, repealed.

United States, and all persons advising, or knowingly and willingly participating in such embezzlement, upon being convicted thereof before any court of the United States of competent jurisdiction, shall, for every such offence, forfeit and pay to the United States a fine equal to the amount of the money embezzled, and shall suffer imprisonment for a term not less than six months nor more than five years.

SEC. 3. *And be it further enacted*, That the act entitled "An act to regulate the deposits of the public money," approved on the twenty-third day of June, eighteen hundred and thirty-six, excepting the thirteenth and fourteenth sections thereof, be and the same hereby is repealed.

SEC. 4. *And be it further enacted*, That so much of an act, passed the fourteenth of April, eighteen hundred and thirty-six, entitled "An act making appropriations for the payment of the Revolutionary and other pensioners of the United States, for the year eighteen hundred and thirty-six," as provides that no bank note of less denomination than ten dollars, and after the third day of March, eighteen hundred and thirty-seven, no bank note of less denomination than twenty dollars, shall be offered in payment in any case whatsoever, in which money is to be paid by the United States, or the Post Office Department, be, and the same hereby is, repealed.

APPROVED, August 13, 1841.

STATUTE I.

Aug. 16, 1841.

[Obsolete.]
Appropriation.

CHAP. VIII.—*An Act to provide for the payment of Navy Pensions.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of one hundred and thirty-nine thousand six hundred and sixty-six dollars and six cents is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the payment of pensions and half-pay chargeable on the navy pension fund: *Provided*, That all widows or children of all naval officers, seamen, or marines, now deceased, and entitled to receive or make proof of their pensions under the act of the third of March, eighteen hundred and thirty-seven, shall receive the same until the close of the next session of Congress; but no widows or children of any naval officer, seaman, or marine, who may hereafter die, shall be entitled to any pension by virtue only of any provision in the said act.

Proviso; pen-
sions under act
3d March 1837,
ch. 33, limited.
No widow, &c.
of any naval of-
ficer, &c. who
may hereafter
die, entitled,
under the act of
1837, ch. 33.

No officer, &c.
shall receive
pay as a pen-
sioner and offi-
cer in service.

SEC. 2. *And be it further enacted*, That no officer, seaman, or marine, entitled to a pension from the navy pension fund, who receives pay from the public treasury, shall receive more from the said fund than is sufficient to make the whole amount received from both the above-named sources equal to the pay fixed by law for the grade to which the officer, seaman, or marine may belong as an officer in the services in which he may be engaged, during the year, so that no officer shall receive pay at the same time both as a pensioner and an officer in service.

APPROVED, August 16, 1841.

STATUTE I.

Aug. 19, 1841.

Repealed, 3d
March 1843, ch.
82.

CHAP. IX.—*An Act to establish a uniform system of bankruptcy throughout the United States.* (a)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, established throughout the United States, a uniform system of bank-

(a) See notes of the decisions of the courts of the United States on the bankrupt act of April 4, 1800, vol. 2, 19.

In the case of Nelson, a petitioner in bankruptcy, in the Kentucky district, and Garland, an opposing creditor, several points were adjourned by the district to the circuit court. Upon the hearing of the case in the circuit court, the district judge, as well as the justice of the Supreme Court, sat in the case; and,

ruptcy, as follows: All persons whatsoever, residing in any State, District or Territory of the United States, owing debts, which shall not have been created in consequence of a defalcation as a public officer; or as executor, administrator, guardian or trustee, or while acting in any other fiduciary capacity, who shall, by petition, setting forth to the best of his knowledge and belief, a list of his or their creditors, their respective places of residence, and the amount due to each, together with an accurate inventory of his or their property, rights, and credits, of every name, kind, and description, and the location and situation of each and every parcel and portion thereof, verified by oath, or, if conscientiously scrupulous of taking an oath, by solemn affirmation, apply to the proper court, as hereinafter mentioned, for the benefit of this act, and themselves declare themselves to be unable to meet their debts and engagements, shall be deemed bankrupts within the purview of this act, and may be so declared accordingly by a decree of such court; all persons, being merchants, or using the trade of merchandise, all retailers of merchandise, and all bankers, factors, brokers, underwriters, or marine insurers, owing debts to the amount of not less than two thousand

Uniform system of bankruptcy established. All persons owing debts not created by defalcation, &c. may be declared bankrupts.

Merchants, bankers, &c., on petition of their creditors, may be declared bankrupts in certain cases.

being opposed in opinion upon questions adjourned from the district court, they were certified to the Supreme Court on the motion of the counsel of the petitioner. *Held*, that the district judge cannot sit as a member of the circuit court, under the "Act to establish a uniform system of bankruptcy throughout the United States." Consequently, the points adjourned could not be brought before the Supreme Court on a certificate of division. *Nelson v. Carland*, 17 Peters' Rep., 181; S. C., 1 Howard, 265.

An appeal or writ of error will not lie from the decision of the circuit court, in a case of bankruptcy, adjourned from the district court. The decision of the circuit court is conclusive on the district judge. *Ibid*.

Under the late bankrupt act of the United States, the existence of a fiduciary debt, contracted before the passage of the act, constitutes no objection to the discharge of the debtor from other debts. *Chapman v. Forsyth*, 2 Howard, 202.

A factor, who receives the money of his principal, is not a fiduciary, within the meaning of the act. *Ibid*.

A bankrupt is bound to state, upon his schedule, the nature of a debt if it be a fiduciary one. Should he omit to do so, he would be guilty of a fraud, and his discharge will not avail him; but if a creditor, in such case, proves his debt and receives a dividend from the estate, he is estopped from afterwards saying that his debt was not within the law. *Ibid*.

But if the fiduciary creditor does not prove his debt, he may recover it afterwards from the discharged bankrupt, by showing that it was within the exceptions of the act. *Ibid*.

In Kentucky, the creditor obtains a lien upon the property of his debtor by the delivery of a *f. fa.* to the sheriff; and this lien is as absolute before the levy as it is afterwards. *Savage's Assignee v. Best*, 3 Howard, 807.

Therefore, a creditor is not deprived of this lien by an act of bankruptcy on the part of the debtor committed before the levy is made, but after the execution is in the hands of the sheriff. *Ibid*.

This court has no revising power over the decrees of the district court sitting in bankruptcy; nor is it authorized to issue a writ of prohibition to it in any case, except where the district is proceeding as a court of admiralty and maritime jurisdiction. *Ex parte Christy*, 3 Howard, 292.

The district court, when sitting in bankruptcy, has jurisdiction over liens and mortgages existing upon the property of a bankrupt, so as to inquire into their validity and extent, and grant the same relief which the state courts might or ought to grant. *Ibid*.

The control of the district court over proceedings in the state courts upon such liens, is exercised, not over the state courts themselves, but upon the parties, through an injunction or other appropriate proceeding in equity. *Ibid*.

The design of the bankrupt act was to secure a prompt and effectual administration of the estate of all bankrupts, worked out by the courts of the United States, without the assistance of state tribunals. *Ibid*.

The phrase in the 6th section, "any creditor or creditors who shall claim any debt or demand under the bankruptcy," does not mean only such creditors who come in and prove their debts, but all creditors who have a present subsisting claim upon the bankrupt's estate, whether they have a security or mortgage therefor, or not. *Ibid*.

Such creditors have a right to ask that the property mortgaged shall be sold, and the proceeds applied towards the payment of their debts; and the assignee, on the other hand, may contest their claims. *Ibid*.

In the case of a contested claim, the district court has jurisdiction, if resort be had to a formal bill in equity or other plenary proceeding; and also jurisdiction to proceed summarily. *Ibid*.

The principles established in the case of *Ex parte* the City Bank of New Orleans in the matter of *Christy*, assignee of *Walden*, reviewed and confirmed. *Ibid*.

But this court does not decide whether or not the jurisdiction of the district court over all the property of a bankrupt, mortgaged or otherwise, is exclusive, so as to take it away from the state courts in such cases. *Norton's Assignee v. Boyd*, 3 Howard, 426.

Where the defendant below became a bankrupt, the Supreme Court will not award a supersedeas to stay an execution, because the assignee of the bankrupt has his remedy in the circuit court. *Black v. Zacharie*, 3 Howard, 453.

dollars, shall be liable to become bankrupts within the true intent and meaning of this act, and may, upon the petition of one or more of their creditors, to whom they owe debts amounting in the whole to not less than five hundred dollars, to the appropriate court, be so declared accordingly, in the following cases, to wit: whenever such person, being a merchant, or actually using the trade of merchandise, or being a retailer of merchandise, or being a banker, factor, broker, underwriter, or marine insurer, shall depart from the State, District, or Territory, of which he is an inhabitant, with intent to defraud his creditors; or shall conceal himself to avoid being arrested; or shall willingly or fraudulently procure himself to be arrested, or his goods and chattels, lands, or tenements, to be attached, distrained, sequestered, or taken in execution; or shall remove his goods, chattels, and effects, or conceal them to prevent their being levied upon, or taken in execution, or by other process; or make any fraudulent conveyance, assignment, sale, gift, or other transfer of his lands, tenements, goods or chattels, credits, or evidence of debt: *Provided, however*, That any person so declared a bankrupt, at the instance of a creditor, may, at his election, by petition to such court within ten days after its decree, be entitled to a trial by jury before such court, to ascertain the fact of such bankruptcy; or if such person shall reside at a great distance from the place of holding such court, the said judge, in his discretion, may direct such trial by jury to be had in the county of such person's residence, in such manner, and under such directions, as the said court may prescribe and give; and all such decrees passed by such court, and not so re-examined, shall be deemed final and conclusive as to the subject-matter thereof.

Proviso; persons declared bankrupts at the instance of creditors, entitled to trial by jury.

Where persons reside at a great distance.

Payments, &c. made in contemplation of bankruptcy, &c.

Assignee under the bankruptcy may recover the same, as part of the assets.

Such preferences prevent a discharge.

Proviso.
Proviso.

Preference to any creditor to prevent a discharge, &c.

Proviso.

SEC. 2. *And be it further enacted*, That all future payments, securities, conveyances, or transfers of property, or agreements made or given by any bankrupt, in contemplation of bankruptcy, and for the purpose of giving any creditor, endorser, surety, or other person, any preference or priority over the general creditors of such bankrupts; and all other payments, securities, conveyances, or transfers of property, or agreements made or given by such bankrupt in contemplation of bankruptcy, to any person or persons whatever, not being a bona fide creditor or purchaser, for a valuable consideration, without notice, shall be deemed utterly void, and a fraud upon this act; and the assignee under the bankruptcy shall be entitled to claim, sue for, recover, and receive the same as part of the assets of the bankruptcy; and the person making such unlawful preferences and payments shall receive no discharge under the provisions of this act: *Provided*, That all dealings and transactions by and with any bankrupt, bona fide made and entered into more than two months before the petition filed against him, or by him, shall not be invalidated or affected by this act: *Provided*, That the other party to any such dealings or transactions had no notice of a prior act of bankruptcy, or of the intention of the bankrupt to take the benefit of this act. And in case it shall be made to appear to the court, in the course of the proceedings in bankruptcy, that the bankrupt, his application being voluntary, has, subsequent to the first day of January last, or at any other time, in contemplation of the passage of a bankrupt law, by assignments or otherwise, given or secured any preference to one creditor over another, he shall not receive a discharge unless the same be assented to by a majority in interest of those of his creditors who have not been so preferred: *And provided, also*, That nothing in this act contained shall be construed to annul, destroy, or impair any lawful rights of married women, or minors, or any liens, mortgages, or other securities on property, real or personal, which may be valid by the laws of the States respectively, and which are not inconsistent with the provisions of the second and fifth sections of this act.

SEC. 3. *And be it further enacted*, That all the property, and rights

of property, of every name and nature, and whether real, personal, or mixed, of every bankrupt, except as is hereinafter provided, who shall, by a decree of the proper court, be declared to be a bankrupt within this act, shall, by mere operation of law, ipso facto, from the time of such decree, be deemed to be divested out of such bankrupt, without any other act, assignment, or other conveyance whatsoever; and the same shall be vested, by force of the same decree, in such assignee as from time to time shall be appointed by the proper court for this purpose. which power of appointment and removal such court may exercise at its discretion, toties quoties; and the assignee so appointed shall be vested with all the rights, titles, powers, and authorities to sell, manage, and dispose of the same, and to sue for and defend the same, subject to the orders and directions of such court, as fully, to all intents and purposes, as if the same were vested in, or might be exercised by, such bankrupt before or at the time of his bankruptcy declared as aforesaid; and all suits in law or in equity, then pending, in which such bankrupt is a party, may be prosecuted and defended by such assignee to its final conclusion, in the same way, and with the same effect as they might have been by such bankrupt; and no suit commenced by or against any assignee shall be abated by his death or removal from office, but the same may be prosecuted or defended by his successor in the same office; *Provided, however,* That there shall be excepted from the operation of the provisions of this section the necessary household and kitchen furniture, and such other articles and necessities of such bankrupt as the said assignee shall designate and set apart, having reference in the amount to the family, condition, and circumstances of the bankrupt, but altogether not to exceed in value, in any case, the sum of three hundred dollars; and, also, the wearing apparel of such bankrupt, and that of his wife and children; and the determination of the assignee in the matter shall, on exception taken, be subject to the final decision of said court.

SEC. 4. *And be it further enacted,* That every bankrupt, who shall bona fide surrender all his property, and rights of property, with the exception before mentioned, for the benefit of his creditors, and shall fully comply with and obey all the orders and directions which may from time to time be passed by the proper court, and shall otherwise conform to all the other requisitions of this act, shall (unless a majority in number and value of his creditors who have proved their debts, shall file their written dissent thereto) be entitled to a full discharge from all his debts, to be decreed and allowed by the court which has declared him a bankrupt, and a certificate thereof granted to him by such court accordingly, upon his petition filed for such purpose; such discharge and certificate not, however, to be granted until after ninety days from the decree of bankruptcy, nor until after seventy days' notice in some public newspaper, designated by such court, to all creditors who have proved their debts, and other persons in interest, to appear at a particular time and place, to show cause why such discharge and certificate shall not be granted; at which time and place any such creditors, or other persons in interest, may appear and contest the right of the bankrupt thereto: *Provided,* That in all cases where the residence of the creditor is known, a service on him personally, or by letter addressed to him at his known usual place of residence, shall be prescribed by the court, as in their discretion shall seem proper, having regard to the distance at which the creditor resides from such court. And if any such bankrupt shall be guilty of any fraud or wilful concealment of his property or rights of property, or shall have preferred any of his creditors contrary to the provisions of this act, or shall wilfully omit or refuse to comply with any orders or directions of such court, or to conform to any other requisites of this act, or shall, in the proceedings under this

All property, &c. except, &c. vested in an assignee.

Court may appoint and remove the assignee. Rights and powers of the assignee.

Proviso.

What bankrupts entitled to a full discharge, &c.

Such discharge and certificate not to be granted until after a certain time, &c.

Proviso.

What bankrupts not entitled to a discharge or certificate.

act, admit a false or fictitious debt against his estate, he shall not be entitled to any such discharge or certificate; nor shall any person, being a merchant, banker, factor, broker, underwriter, or marine insurer, be entitled to any such discharge or certificate, who shall become bankrupt, and who shall not have kept proper books of account, after the passing of this act; nor any person who, after the passing of this act, shall apply trust funds to his own use: *Provided*, That no discharge of any bankrupt under this act shall release or discharge any person who may be liable for the same debt as a partner, joint contractor, endorser, surety, or otherwise, for or with the bankrupt. And such bankrupt shall at all times be subject to examination, orally, or upon written interrogatories, in and before such court, or any commission appointed by the court therefor, on oath, or, if conscientiously scrupulous of taking an oath, upon his solemn affirmation, in all matters relating to such bankruptcy, and his acts and doings, and his property and rights of property, which, in the judgment of such court, are necessary and proper for the purposes of justice; and if in any such examination, he shall wilfully and corruptly answer, or swear, or affirm, falsely, he shall be deemed guilty of perjury, and shall be punishable therefor, in like manner as the crime of perjury is now punishable by the laws of the United States; and such discharge and certificate, when duly granted, shall, in all courts of justice, be deemed a full and complete discharge of all debts, contracts, and other engagements of such bankrupt, which are proveable under this act, and shall be and may be pleaded as a full and complete bar to all suits brought in any court of judicature whatever, and the same shall be conclusive evidence of itself in favor of such bankrupt, unless the same shall be impeached for some fraud or wilful concealment by him of his property or rights of property, as aforesaid, contrary to the provisions of this act, on prior reasonable notice specifying in writing such fraud or concealment; and if, in any case of bankruptcy, a majority, in number and value, of the creditors who shall have proved their debts at the time of hearing of the petition of the bankrupt for a discharge as hereinbefore provided, shall at such hearing file their written dissent to the allowance of a discharge and certificate to such bankrupt, or if, upon such hearing, a discharge shall not be decreed to him, the bankrupt may demand a trial by jury upon a proper issue to be directed by the court, at such time and place, and in such manner, as the court may order; or he may appeal from that decision, at any time within ten days thereafter, to the circuit court next to be held for the same district, by simply entering in the district court, or with the clerk thereof, upon record, his prayer for an appeal. The appeal shall be tried at the first term of the circuit court after it be taken, unless, for sufficient reason, a continuance be granted; and it may be heard and determined by said court summarily, or by a jury, at the option of the bankrupt; and the creditors may appear and object against a decree of discharge and the allowance of the certificate, as hereinbefore provided. And if, upon a full hearing of the parties, it shall appear to the satisfaction of the court, or the jury shall find that the bankrupt has made a full disclosure and surrender of all his estate, as by this act required, and has in all things conformed to the directions thereof, the court shall make a decree of discharge, and grant a certificate, as provided in this act.

Sec. 5. *And be it further enacted*, That all creditors coming in and proving their debts under such bankruptcy, in the manner hereinafter prescribed, the same being bona fide debts, shall be entitled to share in the bankrupt's property and effects, pro rata, without any priority or preference whatsoever, except only for debts due by such bankrupt to the United States, and for all debts due by him to persons who, by the laws of the United States, have a preference, in consequence of having

Proviso.

Bankrupts subject to examination under oath.

Perjury.

Such discharge and certificate to be deemed a complete discharge, unless, &c.

Bankrupts failing to obtain a discharge, may demand a trial by jury, or appeal to the circuit court.

Appeal to be tried, when and how.

Decree of discharge may be made, and a certificate granted, upon a certain finding.

Creditors to share the bankrupt's property, how.

Debts to U. States, or for money paid by sureties, to be first paid.

paid moneys as his sureties, which shall be first paid out of the assets; and any person who shall have performed any labor as an operative in the service of any bankrupt shall be entitled to receive the full amount of the wages due to him for such labor, not exceeding twenty-five dollars; *Provided*, That such labor shall have been performed within six months next before the bankruptcy of his employer; and all creditors whose debts are not due and payable until a future day, all annuitants, holders of bottomry and *répondentia* bonds, holders of policies of insurances, sureties, endorsers, bail, or other persons, having uncertain or contingent demands against such bankrupt, shall be permitted to come in and prove such debts or claims under this act, and shall have a right, when their debts and claims become absolute, to have the same allowed them; and such annuitants and holders of debts payable in future may have the present value thereof ascertained, under the direction of such court, and allowed them accordingly, as debts in present; and no creditor or other person, coming in and proving his debt or other claim, shall be allowed to maintain any suit at law or in equity therefor, but shall be deemed thereby to have waived all right of action and suit against such bankrupt; and all proceedings already commenced, and all unsatisfied judgments already obtained thereon, shall be deemed to be surrendered thereby; and in all cases where there are mutual debts or mutual credits between the parties, the balance only shall be deemed the true debt or claim between them, and the residue shall be deemed adjusted by the set-off; all such proof of debts shall be made before the court decreeing the bankruptcy, or before some commissioner appointed by the court for that purpose; but such court shall have full power to set aside and disallow any debt, upon proof that such debt is founded in fraud, imposition, illegality, or mistake; and corporations to whom any debts are due, may make proof thereof by their president, cashier, treasurer, or other officer, who may be specially appointed for that purpose; and in appointing commissioners to receive proof of debts, and perform other duties, under the provisions of this act, the said court shall appoint such persons as have their residence in the county in which the bankrupt lives.

Sec. 6. *And be it further enacted*, That the district court in every district shall have jurisdiction in all matters and proceedings in bankruptcy arising under this act, and any other act which may hereafter be passed on the subject of bankruptcy; the said jurisdiction to be exercised summarily, in the nature of summary proceedings in equity; and for this purpose the said district court shall be deemed always open. And the district judge may adjourn any point or question arising in any case in bankruptcy into the circuit court for the district, in his discretion, to be there heard and determined; and for this purpose the circuit court of such district shall also be deemed always open. And the jurisdiction hereby conferred on the district court shall extend to all cases and controversies in bankruptcy arising between the bankrupt and any creditor or creditors who shall claim any debt or demand under the bankruptcy; to all cases and controversies between such creditor or creditors and the assignee of the estate, whether in office or removed; to all cases and controversies between such assignee and the bankrupt, and to all acts, matters, and things to be done under and in virtue of the bankruptcy, until the final distribution and settlement of the estate of the bankrupt, and the close of the proceedings in bankruptcy. And the said courts shall have full authority and jurisdiction to compel obedience to all orders and decrees passed by them in bankruptcy, by process of contempt and other remedial process, to the same extent the circuit courts may now do in any suit pending therein in equity. And it shall be the duty of the district court in each district, from time to time, to prescribe suitable rules and regulations, and forms of proceed-

Operatives entitled to full amount of wages for labour, not exceeding \$25.
Proviso.

Value of debts payable in future may be ascertained and allowed.

Suits not maintainable on debts or claims proved under this act.

In mutual debts or credits, the balance to be the true debt.
Proof of debts.

Corporations may prove debts by an officer thereof.

Commissioners to be residents of the county where the bankrupt lives.

District courts to have jurisdiction in all matters of bankruptcy.

Judge may adjourn any point to the circuit court.

Cases to which the jurisdiction of the district courts shall extend.

Courts may compel obedience to their orders and decrees.

District courts to prescribe rules, &c.

Said courts to prescribe a tariff of fees and charges for services under this act.

Proceedings, where to be had.

At least 20 days' notice to be given.

Evidence by witnesses to be under oath, &c.

Proof of debts, &c. to be under oath, &c.

Such proofs open to contestation, &c.

Circuit courts to have concurrent jurisdiction with district courts, in certain cases.

Such suits to be brought within two years

ings, in all matters of bankruptcy; which rules, regulations, and forms, shall be subject to be altered, added to, revised, or annulled, by the circuit court of the same district, and other rules and regulations, and forms substituted therefor; and, in all such rules, regulations, and forms, it shall be the duty of the said courts to make them as simple and brief as practicable, to the end to avoid all unnecessary expenses, and to facilitate the use thereof by the public at large. And the said courts shall, from time to time, prescribe a tariff or table of fees and charges to be taxed by the officers of the court or other persons, for services under this act, or any other on the subject of bankruptcy; which fees shall be as low as practicable, with reference to the nature and character of such services.

SEC. 7. *And be it further enacted*, That all petitions by any bankrupt for the benefit of this act, and all petitions by a creditor against any bankrupt under this act, and all proceedings in the case to the close thereof, shall be had in the district court within and for the district in which the person supposed to be a bankrupt shall reside, or have his place of business at the time when such petition is filed, except where otherwise provided in this act. And upon every such petition, notice thereof shall be published in one or more public newspapers printed in such district, to be designated by such court at least twenty days before the hearing thereof; and all persons interested may appear at the time and place where the hearing is thus to be had, and show cause, if any they have, why the prayer of the said petitioner should not be granted; all evidence by witnesses to be used in all hearings before such court shall be under oath, or solemn affirmation, when the party is conscientiously scrupulous of taking an oath, and may be oral or by deposition, taken before such court, or before any commissioner appointed by such court, or before any disinterested State judge of the State in which the deposition is taken; and all proof of debts or other claims, by creditors entitled to prove the same by this act, shall be under oath or solemn affirmations as aforesaid, before such court or commissioner appointed thereby, or before some disinterested State judge of the State where the creditors live, in such form as may be prescribed by the rules and regulations hereinbefore authorized to be made and established by the courts having jurisdiction in bankruptcy. But all such proofs of debts and other claims shall be open to contestation in the proper court having jurisdiction over the proceedings in the particular case in bankruptcy; and as well the assignee as the creditor shall have a right to a trial by jury, upon an issue to be directed by such court, to ascertain the validity and amount of such debts or other claims; and the result therein, unless a new trial shall be granted, if in favor of the claims, shall be evidence of the validity and amount of such debts or other claims. And if any person or persons shall falsely and corruptly answer, swear, or affirm, in any hearing or on trial of any matter, or in any proceeding in such court in bankruptcy, or before any commissioner, he and they shall be deemed guilty of perjury, and punishable therefor in the manner and to the extent provided by law for other cases.

SEC. 8. *And be it further enacted*, That the circuit court within and for the district where the decree of bankruptcy is passed, shall have concurrent jurisdiction with the district court of the same district of all suits at law and in equity which may and shall be brought by any assignee of the bankrupt against any person or persons claiming an adverse interest, or by such person against such assignee, touching any property or rights of property of said bankrupt transferable to, or vested in, such assignee; and no suit at law or in equity shall, in any case, be maintainable by or against such assignee or by or against any person claiming an adverse interest touching the property and rights of property aforesaid, in any court whatsoever unless the same shall be brought

within two years after the declaration and decree of bankruptcy, or after the cause of suit shall first have accrued.

SEC. 9. *And be it further enacted*, That all sales, transfers, and other conveyances of the assignee of the bankrupt's property and rights of property, shall be made at such times and in such manner as shall be ordered and appointed by the court in bankruptcy; and all assets received by the assignee in money, shall, within sixty days afterwards, be paid into the court, subject to its order respecting its future safe-keeping and disposition; and the court may require of such assignee a bond, with at least two sureties, in such sum as it may deem proper, conditioned for the due and faithful discharge of all his duties, and his compliance with the orders and directions of the court; which bond shall be taken in the name of the United States, and shall, if there be any breach thereof, be sued and sueable, under the order of such court, for the benefit of the creditors and other persons in interest.

SEC. 10. *And be it further enacted*, That in order to ensure a speedy settlement and close of the proceedings in each case in bankruptcy, it shall be the duty of the court to order and direct a collection of the assets, and a reduction of the same to money, and a distribution thereof at as early periods as practicable, consistently with a due regard to the interests of the creditors: and a dividend and distribution of such assets as shall be collected and reduced to money, or so much thereof as can be safely so disposed of, consistently with the rights and interests of third persons having adverse claims thereto, shall be made among the creditors who have proved their debts, as often as once in six months from the time of the decree declaring the bankruptcy; notice of such dividends and distribution to be given in some newspaper or newspapers in the district, designated by the court, ten days at least before the order therefor is passed; and the pendency of any suit at law or in equity, by or against such third persons, shall not postpone such division and distribution, except so far as the assets may be necessary to satisfy the same; and all the proceedings in bankruptcy in each case shall, if practicable, be finally adjusted, settled, and brought to a close, by the court, within two years after the decree declaring the bankruptcy. And where any creditor shall not have proved his debt until a dividend or distribution shall have been made and declared, he shall be entitled to be paid the same amount, pro rata, out of the remaining dividends or distributions thereafter made, as the other creditors have already received, before the latter shall be entitled to any portion thereof.

SEC. 11. *And be it further enacted*, That the assignee shall have full authority, by and under the order and direction of the proper court in bankruptcy, to redeem and discharge any mortgage or other pledge, or deposit, or lien upon any property, real or personal, whether payable in present or at a future day, and to tender a due performance of the conditions thereof. And such assignee shall also have authority, by and under the order and direction of the proper court in bankruptcy, to compound any debts, or other claims, or securities due or belonging to the estate of the bankrupt; but no such order or direction shall be made until notice of the application is given in some public newspaper in the district, to be designated by the court, ten days at least before the hearing, so that all creditors and other persons in interest may appear and show cause, if any they have, at the hearing, why the order or direction should not be passed.

SEC. 12. *And be it further enacted*, That if any person, who shall have been discharged under this act, shall afterward become bankrupt, he shall not again be entitled to a discharge under this act, unless his estate shall produce (after all charges) sufficient to pay every creditor seventy-five per cent. on the amount of the debt which shall have been allowed to each creditor.

Sales, &c. by the assignee, when and how to be made.

Assignee may be required to give bond.

Collection of assets, distribution, &c.

Dividend and distribution.

Notice thereof to be given.

Proceedings, if practicable, to be closed in two years.

Debts not proved until a dividend has been made, how to be paid.

Assignee, by order of the court, may redeem and discharge any mortgage, &c.

And compound debts, &c. due the estate.

Persons once discharged, becoming bankrupts again, not to be discharged unless, &c.

Proceedings to be matters of record—how to be kept.

Fees to clerk of court.

Allowance to court officers.

On partners in trade becoming insolvent.

Joint and separate debts.

Creditors, &c. may prove debts.

Assignees to keep separate accounts.

Nett proceeds of joint stock to be paid to creditors of the company.

And of separate estates, to separate creditors. Balance, of separate estate, to be added to joint stock.

And of joint stock, to be divided among separate estates.

Certificate of discharge to each partner.

Decree of bankruptcy, &c. to be recited in deeds of lands.

Such deeds to effectually pass the title of the bankrupt.

Jurisdiction conferred upon the circuit court

SEC. 13. *And be it further enacted*, That the proceedings in all cases in bankruptcy shall be deemed matters of record; but the same shall not be required to be recorded at large, but shall be carefully filed, kept, and numbered, in the office of the court, and a docket only, or short memorandum thereof, with the numbers, kept in a book by the clerk of the court; and the clerk of the court, for affixing his name and the seal of the court to any form, or certifying a copy thereof, when required thereto, shall be entitled to receive, as compensation, the sum of twenty-five cents and no more. And no officer of the court, or commissioner, shall be allowed by the court more than one dollar for taking the proof of any debt or other claim of any creditor or other person against the estate of the bankrupt; but he may be allowed, in addition, his actual travel expenses for that purpose.

SEC. 14. *And be it further enacted*, That where two or more persons, who are partners in trade, become insolvent, an order may be made in the manner provided in this act, either on the petition of such partners, or any one of them, or on the petition of any creditor of the partners; upon which order all the joint stock and property of the company, and also all the separate estate of each of the partners, shall be taken, excepting such parts thereof as are herein exempted; and all the creditors of the company, and the separate creditors of each partner, shall be allowed to prove their respective debts; and the assignees shall also keep separate accounts of the joint stock or property of the company, and of the separate estate of each member thereof; and after deducting out of the whole amount received by such assignees the whole of the expenses and disbursements paid by them, the nett proceeds of the joint stock shall be appropriated to pay the creditors of the company, and the nett proceeds of the separate estate of each partner shall be appropriated to pay his separate creditors; and if there shall be any balance of the separate estate of any partner, after the payment of his separate debts, such balance shall be added to the joint stock, for the payment of the joint creditors; and if there shall be any balance of the joint stock, after payment of the joint debts, such balance shall be divided and appropriated to and among the separate estates of the several partners, according to their respective rights and interests therein, and as it would have been if the partnership had been dissolved without any bankruptcy; and the sum so appropriated to the separate estate of each partner shall be applied to the payment of his separate debts; and the certificate of discharge shall be granted or refused to each partner, as the same would or ought to be if the proceedings had been against him alone under this act; and in all other respects the proceedings against partners shall be conducted in the like manner as if they had been commenced and prosecuted against one person alone.

SEC. 15. *And be it further enacted*, That a copy of any decree of bankruptcy, and the appointment of assignees, as directed by the third section of this act, shall be recited in every deed of lands belonging to the bankrupt, sold and conveyed by any assignees under and by virtue of this act; and that such recital, together with a certified copy of such order, shall be full and complete evidence both of the bankruptcy and assignment therein recited, and supersede the necessity of any other proof of such bankruptcy and assignment to validate the said deed; and all deeds containing such recital, and supported by such proof, shall be as effectual to pass the title of the bankrupt, of, in, and to the lands therein mentioned and described to the purchaser, as fully, to all intents and purposes, as if made by such bankrupt himself, immediately before such order.

SEC. 16. *And be it further enacted*, That all jurisdiction, power, and authority, conferred upon and vested in the district court of the United States by this act, in cases in bankruptcy, are hereby conferred upon

and vested in the circuit court of the United States for the District of Columbia, and in and upon the supreme or superior courts of any of the Territories of the United States, in cases in bankruptcy, where the bankrupt resides in the said District of Columbia, or in either of the said Territories.

SEC. 17. *And be it further enacted*, That this act shall take effect from and after the first day of February next.

APPROVED, August 19, 1841.

for District of Columbia, and supreme courts of territories.

This act to take effect from 1st Feb. next.

STATUTE I.

Aug. 19, 1841.

CHAP. X.—*An Act further to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office. (a)*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the act entitled "An act to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office," approved July seventh, eighteen hundred and thirty-eight, as to all warrants issued prior to the tenth day of August, eighteen hundred and forty, and no others, be, and the same is hereby, revived, and to continue in force until the first day of January, eighteen hundred and forty-four.

APPROVED, August 19, 1841.

1st sec. act of 7th July 1838, ch. 166, revived and continued to 1st Jan. 1844.

STATUTE I.

Aug. 19, 1841.

CHAP. XI.—*An Act to authorize the recovery of fines and forfeitures incurred under the charter, laws, and ordinances of Georgetown, before justices of the peace.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to remove all existing doubts as to the chartered powers of the Mayor, Recorder, Aldermen and Common Council of Georgetown, the said Corporation of Georgetown shall be, and they are hereby, authorized and empowered to recover all fines, penalties, and forfeitures incurred, or that may be incurred, under their charter, and the laws and ordinances passed in pursuance thereof, by warrant before any justice of the peace of the District of Columbia, and execution on his judgment, in like manner, and subject to a like appeal to the Circuit Court of the District of Columbia, as in other cases of small debts.

APPROVED, August 19, 1841.

Corporation of Georgetown to recover fines, &c. how.

STATUTE I.

Aug. 25, 1841.

CHAP. XII.—*An Act to revive and extend the charters of certain banks in the District of Columbia.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the charters of the Bank of the Metropolis, of the Bank of Washington, and of the Patriotic Bank of Washington, in the city of Washington; the charter of the Farmers and Mechanics' Bank of Georgetown, in Georgetown; and the charters of the Farmers' Bank of Alexandria, and of the Bank of Potomac, in the town of Alexandria, be, and the same are, severally and respectively hereby revived; and all the powers, rights, privileges, immunities, limitations, prohibitions, and restrictions contained in said charters are hereby renewed, extended, and made applicable in full force to each of said banks, respectively, and to the presidents, directors, other officers, and stockholders of each of them, in the same manner, and to the same extent, as was granted and provided by the said several and respective charters, and the laws in force on the first day of January, in the year eighteen hundred and thirty-eight, subject to the limitations and provisions hereinafter contained: *Provided*, Said

Act of May 31, 1838, ch. 91, Act of July 3, 1840, ch. 39, Act of June 7, 1844, ch. 40, Charters of Bank of Metropolis, Bank of Washington, &c. revived. Powers, &c. renewed to the extent granted by said charters, &c.

Proviso.

(a) Notes of acts relating to Virginia resolutions on warrants, vol. 3, 612.