

If insolvent does not dispute the insolvency, Gazette to be evidence of the adjudication and petition, as against insolvent, and in suits or debts, &c., by assignees.

143. If the insolvent shall not (if he were within Sri Lanka at the date of the adjudication) within twenty-one days after the advertisement of the insolvency in the Gazette, or (if he were in any part of India, Pakistan or Bangladesh at the date of the adjudication) within three months after such advertisement, or (if he were elsewhere at the date of adjudication) within twelve months after such advertisement, have commenced an action or other proceeding to dispute or annul the petition for sequestration of his estate as insolvent, and shall not have prosecuted the same with due diligence and effect, the Gazette containing such advertisement shall be conclusive evidence in all cases as against such insolvent, and in all actions brought by the assignees for any debt or demand for which such insolvent might have sustained any action had he not been adjudged insolvent, that such person so adjudged insolvent became an insolvent before the date and filing of the petition for sequestration, and that such petition was filed on the day on which the same is stated in the Gazette to bear date.

In other cases no proof of petitioning creditor's debt or act of insolvency, unless notice to dispute them.

144. In any action, (other than an action brought by the assignees for any debt or demand for which the insolvent might have sustained an action had he not been adjudged insolvent), and whether at the suit of or against the assignees, or against any person acting under the warrant of the court, for anything done under such warrant, no proof shall be required at the trial, of the petitioning creditor's debt, or of the act of the insolvency respectively, unless the other party in such action shall, if defendant at or before answering, and if plaintiff before issue joined, give notice in writing to such assignees or other person that he intends to dispute one or both, and which of such matters; and in case such notice shall have been given, if such assignees or other person shall prove the matter so disputed, or the other party admit the same, the Judge before whom the cause shall be tried may (if he think fit) grant a certificate of such proof or admission; and such assignees or other person shall be entitled to the costs occasioned by such notice, and such costs shall, if such assignees or other person shall obtain a judgment, be added to the costs, and if the other party

shall obtain a judgment, shall be deducted from the costs which such other party would otherwise be entitled to receive from such assignees or other person.

145. The court may, in all matters before it, award such costs as to such court shall seem fit and just; and in all cases in which costs shall be so awarded against any person, it shall and may be lawful for such court to cause such costs to be recovered from such person in the same manner as costs awarded by such court in civil suits may be recovered.

Court may award costs, and how recovered.

146. Every person summoned to attend before the court as a person known or suspected to have any of the estate of the insolvent in his possession, or who is supposed to be indebted to the insolvent, shall have such costs and charges as the court in its discretion shall think fit, and every witness summoned to attend before the court shall have his necessary expenses tendered to him in like manner as is now by law required upon service of subpoena to a witness in a civil action.

Witnesses and persons known or suspected to have insolvent's property, &c., when entitled to costs.

OFFENCES AGAINST THE LAW RELATING TO INSOLVENCY AND OTHER MATTERS IN THIS ORDINANCE

147. If any person adjudged insolvent shall not upon the day limited for his surrender, and before three of the clock of such day, or at the hour and upon the day allowed him for finishing his examination, after notice thereof in writing to be served upon him personally or left at the usual or last known place of abode or business of such person, or personal notice in case such person be then in prison, and notice given in the Gazette of the filing of the petition for sequestration of his estate as insolvent, as the case may be, and of the sittings of the court (having no lawful impediment proved to the satisfaction of the court at such time, and allowed by the court by a memorandum thereof then made on the proceedings), surrender himself to such court and sign or subscribe such surrender, and submit to be examined before such court from time to time; or if any such insolvent upon such examination shall not discover all his real and personal estate, and how and to whom, upon what consideration, and when he

Insolvent not surrendering,

not discovering his property,

disposed of, assigned, or transferred any of such estate (and all books, papers, and writings relating thereunto), except such part as shall have been really and bona fide before sold or disposed of in the way of his trade or laid out in the ordinary expenses of his family ; or if any such insolvent, upon such examination, shall not deliver up to such court all such parts of such estate, and all books, papers, and writings relating thereunto, as shall be in his possession, custody, or power (except the necessary wearing apparel of himself, his wife, and children) ; or if any such insolvent shall remove, conceal, or embezzle any part of such estate to the value of one hundred rupees or upwards, or any books of accounts, papers, or writings relating thereto, with intent to defraud his creditors, every such insolvent shall be liable to such term of imprisonment not less than seven years as the Court of Appeal shall judge, or shall be liable to imprisonment, with or without hard labour, for any term not exceeding seven years.

not delivering his books. &c-

removing, concealing, or embezzling property, books, &c-

Punishment.

Insolvent destroying or falsifying books, &c.

Punishment.

Insolvent obtaining goods on credit under false pretences,

or removing or concealing goods so obtained.

Punishment.

148. If any insolvent shall, after an act of insolvency committed, or in contemplation of insolvency, or with intent to defeat the object of the law relating to insolvents, destroy, alter, mutilate, or falsify any of his books, papers, writings, or securities, or make or be privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors, every such insolvent shall on conviction be liable to imprisonment, with or without hard labour, for any term not exceeding three years.

149. If any insolvent shall within three months next preceding the date of the filing of the petition for sequestration of his estate, under the false colour and pretence of carrying on business and dealing in the ordinary course of trade, obtain on credit from any other person any goods or property with intent to defraud the owner thereof ; or if any insolvent shall, within such time and with such intent, remove, conceal, or dispose of any goods or property so obtained, every such insolvent shall on conviction be liable to imprisonment, with or without hard labour, for any term not exceeding two years.

150. Any insolvent or insolvent's wife who shall upon any examination directed or authorized by this Ordinance, and any person who shall upon any examination, or in any affidavit or deposition so authorized or directed, or in any affidavit or deposition, wilfully and corruptly give false evidence, or wilfully and corruptly swear anything which shall be false, being convicted thereof, shall be liable to the penalties prescribed for the offence of giving false evidence in a judicial proceeding.

151. If at the sitting appointed for the last examination of any insolvent, or at any adjournment thereof, it shall appear to the District Court that the insolvent has committed any of the offences hereinafter enumerated, the court shall refuse to grant the insolvent any further protection from arrest, and if at any sitting or adjourned sitting for the allowance of the certificate of any insolvent, it shall appear that he has committed any of such offences, the court shall refuse to grant such certificate, or shall suspend the same for such time as it shall think fit, and shall in like manner refuse to grant the insolvent any further protection—

(i) if the insolvent shall at any time after the filing of the petition for sequestration of his estate, or within two months next preceding the filing of such petition, with intent to conceal the state of his affairs, or to defeat the objects of the law of insolvency, have destroyed any book, paper, deed, writing, or other document relating to his trade, dealings, or estate ;

(ii) if the insolvent shall, with the like intent, have kept or caused to be kept false books, or have made false entries in, or withheld entries from, or wilfully altered or falsified any book, paper, deed, writing, or other document relating to his trade, dealings, or estate ;

(iii) if the insolvent shall have contracted any of his debts by any manner of fraud, or by means of false pretences, or shall by any manner of fraud, or by means of false pretences, have obtained the forbearance of any of his debts by any of his creditors ;

(iv) if the insolvent shall at any time within two months next preceding the filing of the petition for sequestration of his

False evidence.

Giving false evidence

If at last examination it appears that insolvent has been guilty of any of the following offences, further protection refused ; certificate refused or suspended.

Offences.