

Outstanding debts, &c., may be sold, and the purchaser may sue for them.

and effects into money ; and within two months after the same shall be so-converted, the same shall also be divided in manner aforesaid ; and if at the expiration of two years from the filing of any petition for sequestration, there shall remain any outstanding debts or other property due or belonging to the estate of the insolvent, which cannot, in the opinion of the court, be collected and received without unreasonable or inconvenient delay, it shall be lawful for the assignees, under the direction, of the court, to sell and assign such debts and other property, and also the books of the insolvent relating to his trade, dealings, or estate, in such manner and subject to such conditions as shall be ordered by the court ; and any person to whom any of such debts shall be so sold or assigned, may sue for the same in his own name as fully as the assignees of such insolvent might have done-

Remedy for dividend.

**119.** No action for any dividend shall be brought against any assignee by any creditor who shall have proved under the insolvency ; but if the assignees shall refuse to pay any such dividend, the court may order payment thereof, with interest for the time that it shall have been withheld, and may also order the costs of the application, and such order shall have the effect of a judgment by the said court.

#### UNCLAIMED DIVIDENDS

Unclaimed dividends, &c., to be paid into the Treasury.

**120.** All unclaimed dividends, and also any undivided surplus of an insolvent's estate over and above the amount finally directed to be divided amongst the creditors of any insolvent, shall be paid into the Treasury to be carried in the books of the Treasury to the account intituled " The Unclaimed Dividend Account ", subject to the order of the District Court, acting in prosecution of any insolvency for the payment thereof of any dividend due to any creditor.

How unclaimed dividends, &c., in the hands of assignees to be disposed of.

**121.** Subject to any rule at any time in force under this Ordinance relating to unclaimed dividends, if any assignee under any insolvency shall have, either in his own hands, or at any bank, or otherwise subject to his order or disposition, or shall know that there is in the hands or subject to the

order and disposition of himself and any co-assignee, or of either of them, any unclaimed dividend or any such undivided surplus as aforesaid, such assignee shall, within three months next after the expiration of one year from the time of the declaration and order of payment of such dividend, either pay the same to the creditor or other the person entitled to the same, or cause a certificate thereof to be filed in the District Court, containing a full and true account of the name of the creditor to whom such unclaimed dividend is due, and of the amount of such dividend, and shall in like manner as to any undivided surplus as aforesaid within three months next after the expiration of one year after the final declaration of dividends, cause a certificate stating the full and true amount of such surplus to be filed in the District Court, and every certificate to be filed as aforesaid shall be signed by the assignees filing the same, and every assignee shall, within one year next after the filing of any such certificate as aforesaid, pay or cause to be paid into the Treasury, to be carried to the account intituled " The Unclaimed Dividend Account ", the full amount of the unclaimed dividends mentioned in such certificate, or so much thereof as shall not have been then paid to the creditors or other persons entitled thereto, and also the full amount of such undivided surplus as aforesaid :

Provided always that no certificate of any unclaimed dividends shall be filed until the expiration of one year after the declaration and order for payment of such dividends.

#### ALLOWANCES TO THE INSOLVENT

**122.** It shall be lawful for the District Court, if it think fit, from time to time to make such allowance to the insolvent out of his estate, until he shall have passed his last examination, as shall be necessary for the Support of himself and his family :

Allowance to insolvent for maintenance.

Provided always that no such allowance shall be made by the court for any period after the adjournment of the last examination *sine die*.

If estate pay ten rupees for every ten rupees and interest, surplus to be paid to insolvent.

**123.** If the produce of the estate of any insolvent shall be sufficient to pay ten rupees for every ten rupees of the liabilities, and interest as hereinafter mentioned, and to leave a surplus, the court may order such surplus to be paid to such insolvent, his executors, administrators, or assigns ; and every such insolvent shall be entitled to recover the remainder, if any, of the debts due to him ; but such surplus shall not be paid until all the creditors who have proved shall have received the interest due upon their debts.

#### CERTIFICATE OF CONFORMITY

Mode of obtaining certificate.

**124.** Forthwith after the insolvent shall have passed his last examination the District Court shall appoint a public sitting for the allowance of his certificate (whereof and of the purport whereof twenty-one days' notice shall be given in the Gazette and to the assignees), and at such sitting the assignees or any of the creditors of such insolvent who shall have given to the secretary of the court three clear days' notice in writing of his intention to oppose, may be heard against the allowance of such certificate, and the court having regard to the conformity of the insolvent to this Ordinance, and to his conduct as a trader, or in relation to his estate, before as well as after his insolvency, and whether the allowance of such certificate be opposed by any creditor or not, shall judge of any objection against allowing such certificate, and either find the insolvent entitled thereto and allow the same, or refuse or suspend the allowance thereof, or annex such conditions thereto as the justice of the case may require.

Form of certificate.

**125.** The certificate of conformity under this Ordinance shall be in writing under the hand of the District Judge, and shall certify that the insolvent has made a full discovery of his estate and effects and in all things conformed, and that so far as the court can judge there does not appear any reason to question the truth or fulness of such discovery (and shall be in the form Q in the Schedule, or to the like effect) ; and notice of the allowance of such certificate and of the class thereof shall be advertised in the Gazette in such manner as may be directed by the court.

**126.** The certificate of conformity allowed under this Ordinance, subject to the provisions herein contained, shall discharge the insolvent from all debts due by him when he became insolvent, and from all claims and demands made provable under the insolvency :

Effect of certificate.

Provided always that no such certificate shall release or discharge any person who was a partner with such insolvent at the time of his insolvency, or was then jointly bound or had made any joint contract with such insolvent, or who was a surety for him.

**127.** No insolvent shall be entitled to a certificate of conformity under this Ordinance, and any such certificate if allowed shall be void, if such insolvent shall after an act of insolvency, or in contemplation of insolvency, or with intent to defeat the object of this Ordinance, have parted with, concealed, destroyed, altered, mutilated, or falsified, or caused to be concealed, destroyed, altered, mutilated, or falsified, any of his books, papers, writings, or securities, or made or been privy to the making of any false or fraudulent entry in any book of accounts or other document with intent to defraud his creditors, or shall have concealed any part of his property, or if any person having proved a false debt under the insolvency, such insolvent being privy thereto or afterwards knowing the same, shall not have disclosed the same to his assignees within one month after such knowledge.

Certificate not granted or void if insolvent has concealed or falsified books, &c.,

or concealed any property, or permitted any fictitious debts to be proved.

**128.** Any contract or security made or given by any insolvent or other person unto or in trust for any creditor for securing the payment of any money due by such insolvent at his insolvency, as a consideration or with intent to persuade such creditor to forbear opposing, or to consent to the allowance of the insolvent's certificate, or to forbear to petition for the recall of the same, shall be void, and the money thereby secured or agreed to be paid shall not be recoverable.

Contract or security to induce creditor to forbear opposition void.

**129.** At any time within six months after any certificate of conformity shall have been allowed, and subject to such order as to deposit of costs as may be made by the Court of Appeal, any creditor of the

Certificate may be recalled.

insolvent, or any assignee, may apply to the Court of Appeal that such certificate may be recalled and delivered up to be cancelled ; and the Court of Appeal may, on good cause shown, order such certificate to be recalled and cancelled.

Insolvent not liable upon any promise to pay debt discharged by certificate.

**130.** No insolvent, after his certificate shall have been allowed, shall be liable to pay or satisfy any debt, claim, or demand, from which he shall have been discharged by virtue of such certificate, or any part of such debt, claim, or demand, upon any contract, promise, or agreement made after the filing of the petition for sequestration of his estate.

Insolvent, having obtained his certificate, free from arrest ; may plead his certificate ; evidence under it.

**131.** Any insolvent who shall, after his certificate shall have been allowed, be arrested or have any action brought against him for any debt, claim, or demand provable under his insolvency, shall be discharged upon entering an appearance, and may plead in general that the cause of action accrued before he became insolvent, and may give this Ordinance and the special matter in evidence ; and such insolvent's certificate shall be sufficient evidence of the insolvency, petition for sequestration, and other proceedings precedent to the obtaining such certificate ; and if any such insolvent shall be taken in execution or detained in prison for such debt, claim, or demand where judgment has been obtained before the allowance of his certificate, it shall be lawful for any Judge of the court wherein judgment has been so obtained, on such insolvent's producing his certificate, to order any officer who shall have such insolvent in custody by virtue of such execution, to discharge such insolvent, and such officer shall be hereby indemnified for so doing.

Insolvent, if in execution, discharged.

Appeal against allowance or refusal of certificate.

**132.** No such certificate shall be delivered to the insolvent until after the expiration of the time allowed for entering an appeal ; and if an appeal be duly entered against the judgment of such court for the allowance of the certificate, or for the refusal, the withholding, or the class of the certificate, and notice thereof be given to the court in such manner as may by any general rule or order to be made in pursuance of this Ordinance be directed, the certificate shall be further kept by the court,

and abide the judgment of the Court of Appeal thereupon ; and upon any appeal duly entered and prosecuted relating to the certificate or to the judgment of the court as to any offence under this Ordinance charged against the insolvent, the Court of Appeal shall have power to rescind or vary the order of the District Court, or to make such other order thereon as it may think fit ; and upon an order for the allowance of any certificate by the Court of Appeal, and whether with conditions or not, or after a suspension thereof by order of the Court of Appeal or not, such certificate may be allowed and signed by the District Judge or by two or more Judges of the Court of Appeal.

**133.** The allowance of the certificate by the District Court, and any order for the refusal or suspension of the allowance thereof (except in case of appeal), shall be final and conclusive, and shall not be revised by the District Court, unless the said court shall thereafter see good and sufficient cause to believe that the allowance of such certificate, or the refusal or suspension thereof, has been obtained on false evidence, or by reason of an improper suppression of evidence, or has otherwise been fraudulently obtained, in any of which cases it shall and may be lawful for the District Court, upon the application of the insolvent, or of any creditor of the insolvent, and subject to such order as to deposit of a sum for costs, and to such notices to the insolvent and to creditors, by advertisement or otherwise, as the court shall think fit, to grant a rehearing of the matter, and to rehear the same accordingly, and upon such rehearing, the District Court shall make such order as to the allowance of the certificate, or the refusal or suspension thereof, as the justice of the case may require, in like manner, upon like conditions, and having regard to the like circumstances, so far as the case will admit, as upon any original hearing ; and in case the certificate shall have been previously allowed, and upon such rehearing, the allowance thereof shall not be confirmed, such certificate shall have no force or effect whatever, and the same shall be delivered up to the court and cancelled.

Allowance, refusal, or suspension of certificate (except in case of appeal) to be final in what cases.