

merely of increasing the number of votes at the election for assignees and thereby influencing the same, or to have undertaken to share with any creditor of the insolvent, in return for his vote, the commission or remuneration to be awarded to him as such assignee, the court shall declare such assignee to have forfeited the office of such assignee in regard to the insolvent estate for which he shall have been elected, and to be incapable of being again elected thereto; and it shall be lawful for such court, if it should so think fit, to further declare that the person so offending shall be incapable of being elected an assignee under the provisions of this Ordinance for and during his natural life, or for such period as such court shall determine and adjudge; and any person interested in the due administration of the insolvent estate may apply by motion to such court to declare any such assignee to have forfeited his office by reason of any such misconduct as aforesaid; and as often as a vacancy in the office of assignee shall be created by any such forfeiture, the court declaring the same shall order a new assignee to be chosen by the creditors, and the same proceedings shall be had thereon as on the original election of assignees.

**70.** When any person shall have been adjudged an insolvent, all his personal estate and effects, present and future, wheresoever the same may be found or known, and all property which he may purchase, or which may revert, descend, be devised or bequeathed, or come to him before he shall have obtained his certificate, and all debts due or to be due to him, wheresoever the same may be found or known, and the property, right, and interest in such debts, shall become absolutely vested in the assignees for the time being, for the benefit of the creditors of the insolvent, by virtue of their appointment; and after such appointment neither the insolvent nor any person claiming through or under him shall have power to recover the same, nor to make any release or discharge thereof; but such assignees shall have like remedy to recover the same in their own names as the insolvent himself might have had if he had not been adjudged insolvent.

**71.** When any person shall have been adjudged an insolvent, all lands in Sri Lanka to which any insolvent is entitled, and all interest to which such insolvent is entitled in any such lands, and of which he

might according to the laws of Sri Lanka have disposed, and all such lands in Sri Lanka as he shall purchase, or as shall descend, be devised, revert to, or come to such insolvent before he shall have obtained his certificate, and all deeds, papers, and writings respecting the same, shall become absolutely vested in the assignees for the time being, for the benefit of the creditors of the insolvent, by virtue of their appointment, without any deed of conveyance for that purpose, and as often as any such assignee shall die or be lawfully removed or displaced, and a new assignee shall be duly appointed, such of the aforesaid real estate as shall remain unsold or unconveyed, shall, by virtue of such appointment, vest in the new assignee, either alone or jointly with the existing assignees, as the case may require, without any conveyance for that purpose.

**72.** If the assignees of the estate and effects of any insolvent having or being entitled to any land under a conveyance to him, or under an agreement for any such conveyance, subject to any perpetual yearly rent reserved by such conveyance or agreement, or having or being entitled to any lease or agreement for a lease, shall elect to take such land, or the benefit of such conveyance or agreement, or such lease or agreement for a lease, as the case may be, the insolvent shall not be liable to pay any rent accruing after the filing of the petition for sequestration of his estate against him, or to be sued in respect of any subsequent non-observance or non-performance of the conditions, covenants, or agreements in any such conveyance or agreement, or lease or agreement for a lease; and if the assignees shall decline to take such land, or the benefit of such conveyance or agreement or lease or agreement for lease, the insolvent shall not be liable if, within fourteen days after he shall have had notice that the assignees have declined, he shall deliver up such conveyance or agreement or lease or agreement for lease to the person then entitled to the rent, or having so agreed to lease, as the case may be; and if the assignees shall not (upon being thereto required) elect whether they will accept or decline such land or conveyance or agreement for conveyance, or such lease or agreement for a lease, any person entitled to such rent, or having so conveyed or agreed to convey, or leased or agreed to

Insolvent not liable to rents or covenants in conveyances, leases, &c., if assignees accept the same.

How if assignees decline.

How assignees compelled to elect.

Movable property to vest in assignees.

Immovable property to vest in assignees.

lease, or any person claiming under him, shall be entitled to apply to the District Court, and the District Court may order them to elect and deliver up such conveyance or agreement for conveyance or lease, or agreement for lease, in case they shall decline the same, and the possession of the premises, or may make such other order therein as it shall think fit.

Assignees how compelled to elect whether they will abide by or decline agreement for the purchase of land.

73. If any insolvent shall have entered into any agreement for the purchase of any estate or interest in land, the vendor thereof, or any person claiming under him, if the assignees shall not (upon being thereto required) elect whether they will abide by and execute such agreement or abandon the same, may apply to the District Court, and the court may thereupon order them to deliver up the agreement and the possession of the premises to the vendor or person claiming under him, or may make such other order therein as such court shall think fit.

Assignees may execute power vested in the insolvent.

74. All powers vested in any insolvent which he might legally execute for his own benefit may be executed by the assignees for the benefit of the creditors in such manner as the insolvent might have executed the same.

Court may order insolvent to join in conveyances.

75. It shall be lawful for the District Court, upon the application of the assignees or of any purchaser from them of any part of the insolvent's estate, if such insolvent shall not try the validity of the adjudication, or if there shall have been a judgment establishing its validity, to order the insolvent to join in any conveyance of such estate or any part thereof; and if he shall not execute any such conveyance within the time directed by the order, such insolvent and all persons claiming under him shall be stopped from objecting to the validity of such conveyance, and all estate, right, or title which such insolvent had therein shall be as effectually barred by such order as if such conveyance had been executed by him.

Property mortgaged or pledged may be redeemed by the assignees.

76. If any insolvent shall have granted, conveyed, assured, or pledged any real or personal estate, or deposited any deeds, such grant, conveyance, assurance, pledge, or deposit being upon condition or power of redemption at a future day by payment of money or otherwise, the assignees may, before the time of the performance of such condition, make tender or payment of

money or other performance, according to such condition, as fully as the insolvent might have done, and after such tender, payment, or performance such real or personal estate may be sold and disposed of for the benefit of the creditors.

77. In every case the assignees may, with the approbation of the District Court, appoint the insolvent himself to superintend the management of the estate or to carry on the trade of such insolvent for behoof of the creditors, and in all or any other respects they may think fit to aid them in administering the insolvent's estate and effects, in such manner and on such terms as they may think best for the benefit of the persons interested in the estate.

Assignees may appoint the insolvent to manage the estate.

78. The assignees shall be subject to the orders of the District Court in their conduct as assignees; and it shall be lawful for the court at all times to summon the assignees, and require them to produce all books, papers, deeds, writings, and other documents relating to the insolvency in their possession, and to direct them to pay and deliver over to the court all moneys, books, papers, deeds, writings, and other documents which may have come to their possession or custody as such assignees.

Assignees to subject to orders of the court.

79. If any person adjudged insolvent shall at the time of the adjudication of insolvency be a member of a *firm*, it shall be lawful for the District Court to authorize the assignees, upon their application to commence or prosecute any action in the name of such assignees and of the remaining partner against any debtor of the partnership, and such judgment, decree, or order may be obtained therein as if such action had been instituted with the consent of such partner, and if such partner shall execute any release of the debt or demand for which such action is instituted such release shall be void :

Where one of firm is insolvent, the court may authorize action in name of the assignee; and of the other partner.

Provided that every such partner shall have notice given him of such application, and be at liberty to show cause against it, and if no benefit be claimed by him by virtue of the said proceedings shall be "indemnified against the payment of any costs in respect of such action in such manner as the court may direct; and it shall be lawful for such court, upon the application of such partner, to direct that he may receive so much of the proceeds of such action as such court shall direct.

Partner to have notice, and may show cause.

As to sale of estates by assignees, conditions of sale, &c.

**80.** The assignees shall, subject to the directions of the creditors given at any meeting of such creditors, forthwith proceed to make sale of all the property belonging to the insolvent, real and personal, giving due notice thereof in the Gazette, and also such other notice as they shall think fit:

Provided that from the sale of the said personal property shall be excepted, until the creditors shall determine thereon, the wearing apparel, bedding, household furniture, and tools of trade of the insolvent and his family ; and

Provided that the sale of all real property shall take place in such manner and under such conditions as shall be determined on by the greater part in number and value of the creditors present at any meeting duly summoned;

Provided, however, that such conditions shall be subject to the approval or disapproval of the District Court on the application of any person interested therein.

As to wearing apparel, tools, &c., of insolvent.

**81.** It shall be lawful for the assignees, with the consent of the greater part in number and value of the creditors who shall have proved their debts present at any meeting of creditors whereof, and of the purpose of which ten days' notice shall have been given in the Gazette, to permit the insolvent to retain, for his own use, the whole or such part of his wearing apparel, bedding, household furniture and tools of trade excepted from the sale of his personal property, as the said creditors shall agree to allow to the said insolvent:

Provided that every such permission shall be subject to the approval or disapproval of the District Court on the application of any person interested in the due administration of the estate.

Assignees, with leave of the court, may bring or defend actions;

**82.** The assignees, with the leave of the District Court first obtained, upon application to such court, but not otherwise, may commence, prosecute, or defend any action which the insolvent might have commenced and prosecuted or defended, and in such case the costs to which they may be put in respect of such action shall be allowed out of the proceeds of the estate and effects of the insolvent; and with like leave of the court, after notice to the creditors, and subject to such condition (if any) as to obtaining the consent of

may compound debts;

creditors, or any proportion of them as the court shall think fit to direct, the assignees may take such reasonable part of any debt due to the insolvent's estate as may by composition be obtained, or may give time or take security for the payment of such debts, and may, with like leave of the court, submit to arbitration any difference or dispute between the assignees and any other person for or on account or by reason of anything relating to the estate and effects of the insolvent.

and refer disputes to arbitrators.

**83.** If the assignees shall agree in manner aforesaid to refer any matter in dispute to arbitration, such agreement of reference may be made a rule of court, whether such agreement contain a clause to that effect or not.

Reference to arbitration may be made a rule of court.

**84.** All persons from whom the assignees shall have recovered any real or personal estate, either by judgment or decree, are hereby discharged, in case the petition for sequestration or the adjudication of insolvency thereunder be afterwards annulled or dismissed, from all demands which may thereafter be made in respect of the same by the person against whom such adjudication was made, and all persons claiming under him ; and all persons who shall, without action, bona fide deliver up possession of any real or personal estate to the assignees, or pay any debt claimed by them, are hereby discharged from all claim of any such person as aforesaid in respect of the same, or any person claiming under him;

If petition or adjudication be annulled, &c., persons from whom the assignees have recovered, or who have bona fide paid the assignees, &c., discharged from claims by the insolvent.

Provided the person so delivering up any real or personal estate, or paying any debt, shall not have had notice of an action or other proceeding to dispute or annul the petition for sequestration or adjudication thereunder, and such action or other proceeding shall not have been commenced and prosecuted within the time and in manner allowed by this Ordinance-

**85.** If any assignee, indebted to the estate of which he is such assignee in respect of money, being part of the estate of the insolvent retained or employed by him, become insolvent, and obtain his certificate, it shall have the effect only of freeing his person from arrest and imprisonment, but his future effects, (his tools of trade, necessary household goods, and the necessary wearing apparel of himself, his wife, and children excepted,) shall remain

Assignee indebted to the estate becoming insolvent, his future property liable,