

liable for so much of his debt to the estate of which he was assignee as shall not be paid by dividends under his insolvency, and for interest at the rate of nine *per centum* per annum on the whole debt.

any such action as shall be taxed by the proper officer in that behalf, subject to be reviewed in like manner and by the same authority as any other taxation of costs by such officer.

Suits not to abate by death or removal of assignees.

**86.** Whenever any assignee shall die or be removed, or a new assignee shall be chosen, no action shall be thereby abated, but the court in which any action is depending may, upon the suggestion of such death or removal and new choice, allow the name of the surviving or new assignee to be substituted in the place of the former, and such action shall be prosecuted in the name or names of the said surviving or new assignee or assignees in the same manner as if he had originally commenced the same.

Inaction against a debtor to the estate, in what case he may pay money into court.

**87.** If the assignees commence any action for any money due to the insolvent's estate before the time allowed for the insolvent to dispute the insolvency shall have elapsed, any defendant in any such action shall be entitled, after notice given to the assignees, to pay the same or any part thereof into the court in which such action is brought, and all proceedings with respect to the money so paid into court shall thereupon be stayed until such time shall have elapsed ; and if within that time the insolvent shall not have commenced such action or other proceeding as allowed by this Ordinance, and prosecuted the same with due diligence, the money shall be paid out of court to the assignees, but otherwise shall abide the event of such action or other proceeding, and upon such event shall be paid out of court, either to the assignees or the person adjudged insolvent, as the court shall direct; and after such payment of money so made into court it shall not be lawful for the person so adjudged insolvent to proceed against the defendant for recovery of the same money.

Limitation of actions.

**88.** Every action brought against any person for anything done in pursuance of this Ordinance shall be commenced within three months next after the act committed ; and if there be a judgment for the defendant, or if the plaintiff shall be nonsuited or discontinue his action after appearance thereto, the defendant shall receive such indemnity as to all costs, charges, and expenses incurred in and about

#### LAST EXAMINATION

**89.** The last examination of the insolvent shall be at the second public sitting of the court for the insolvent to surrender and conform, as advertised in the Gazette, and the insolvent shall prepare such balance sheet and accounts, and in such form, as the court shall direct, and shall subscribe such balance sheet and accounts, and file the same in court, and deliver a copy thereof to the assignees ten days at least before the day appointed for the last examination, or the adjournment day thereof for that purpose ; and such balance sheet and accounts, before such last examination, may be amended from time to time as occasion shall require and such court shall direct ; and the insolvent shall make oath of the truth of such balance sheet and accounts whenever he shall be duly required by the court so to do ; and the last examination of the insolvent shall in no case be passed unless his balance sheet shall have been duly filed as aforesaid , and the court may on the application of the assignees or of the insolvent make such allowance out of the estate of the insolvent for the preparation of such balance sheet and accounts, and to such person, as the court shall think fit, in any case in which it shall be made to appear to the satisfaction of the court, from the nature of the accounts or other good cause, that the insolvent required assistance in that behalf.

The insolvent to prepare balance sheet and accounts, &c,

**90.** If any insolvent apprehended by any warrant of the court shall, within the time allowed for him to surrender, submit to be examined, and in all things conform, he shall have the same benefit as if he had voluntarily surrendered.

Insolvents apprehended by warrant.

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**91.** It shall be lawful for the court, at the time appointed for the last examination of the insolvent, or at any enlargement or adjournment thereof, to adjourn such examination *sine die* ; and in such case the insolvent shall be free from arrest or imprisonment for such time (if any) as such

Court may adjourn last examination *sine die*.

court shall from time to time by endorsement on the summons of the insolvent, think fit to appoint.

If insolvent in custody, court may appoint a person to attend him with books, papers, &c., to enable him to prepare a balance sheet.

**92.** Whenever any insolvent is in prison or in custody under any process, attachment, execution, commitment or sentence, the court may appoint a person to attend him from time to time to produce to him his books, papers, and writings, in order that he may prepare his balance sheet, and show the particulars of his estate and effects, previous to his last examination and discovery thereof.

**PROOF OF DEBTS AND PAYMENTS IN FULL**

When and how debts may be proved.

**93.** At the sittings appointed by the court under section 30 of this Ordinance, and at every adjournment thereof, and at every other sitting held for proof of debts, and whereof and of the purport whereof ten days' notice shall have been given in the Gazette, every creditor of the insolvent may prove his debt by his own oath or affidavit ; and all bodies politic and public companies incorporated or authorized to sue or bring actions may prove by an agent, provided such agent shall in his deposition swear that he is such agent, and that he is authorized to make such proof:

Provided always that if it shall appear to the court that any clerk, agent, or other person is more fully cognizant of the nature of the debt sought to be proved than the creditor is, the said court shall allow such clerk, agent, or other person to prove such debt by his oath or affidavit ; and

Provided that any creditor who is out of Sri Lanka may, in case he have no known agent in Sri Lanka capable of proving the alleged debt, make the necessary affidavit before some person duly qualified to administer oaths in the place where he resides, such person being certified to be so qualified by some sufficient authority in that behalf;

Creditor may be examined upon oath.

Provided also that it shall be lawful for the court to examine upon oath, either by word of mouth or by interrogatories in writing, every person claiming to prove a debt, or to require such further proof, and to examine such other persons in relation thereto, as such court shall think fit.

**94.** Every person with whom any insolvent shall have really and bona fide contracted any debt or demand before the filing of the petition for sequestration of his estate shall, notwithstanding any prior act of insolvency committed by such insolvent, be admitted to prove the same as if no such act of insolvency had been committed ; provided such person had not at the time the same was contracted notice of any act of insolvency by such insolvent committed.

**95.** The court, out of the estate and effects of the insolvent, shall order payment of all taxes due by the insolvent at the time of his insolvency up to the end of the current quarter.

**96.** If any person already appointed or employed, or who may be hereafter appointed to or employed, in any office in the National Savings Bank, or in the Loan Board, or in any friendly society duly incorporated, and being intrusted with the keeping of the accounts, or having in his hands or possession by virtue of his office or employment any moneys or effects belonging to such Savings Bank, Loan Board, or society, or any deeds or securities relating to the same, shall become insolvent, the court shall, upon application made by the order of any such society, or any committee thereof, or the major part of them assembled at any meeting thereof, order payment and delivery over to be made to such society, or to such person as such society or committee may appoint, of all moneys and other things belonging to such society, and shall also order payment out of the estate and effects of the insolvent of all sums of money remaining due which the insolvent received by virtue of his said office or employment, before any either of his debts are paid or satisfied.

**97.** When any insolvent shall have been indebted at the time of filing the petition for the sequestration of his estate to any servant, clerk, or superintendent, labourer, cooly, or workman of such insolvent, in respect of the wages or salary of such servant, clerk, or superintendent, labourer, cooly, or workman, it shall be lawful for the court, upon proof thereof, to order so much as shall be so due, not exceeding three months' wages or salary, and not exceeding

Bonafide creditors for debts contracted after an act of insolvency may prove

Amount of taxes.

If insolvent an officer of friendly society, court to order payment of debt to them before any other debts.

Three months' wages or salary to clerks or servants.