

CHAPTER 103

INSOLVENTS

Ordinances AN ORDINANCE TO PROVIDE FOR THE DUE COLLECTION, ADMINISTRATION, AND
 Nos 7 of 1853, DISTRIBUTION OF INSOLVENT ESTATES.
 24 of 1884.

[2nd July. 1854.]

Short title. 1. This Ordinance may be cited as the Insolvency Ordinance. ' 4. The several District Courts throughout Sri Lanka shall be courts for the administration of insolvent estates under this Ordinance, and shall be auxiliary to each other for proof of debts and for the examination of persons or witnesses in all matters under this Ordinance, or for any or either of such purposes :

Cessio bonorum abolished.

2. It shall not be lawful for any person to obtain from any court within Sri Lanka, or for any such court to grant to any person, the benefit or relief of cession of goods and property commonly called the *cessio bonorum*, as heretofore known to and allowed by the Roman-Dutch law in force within Sri Lanka:

Provided that nothing herein contained shall be deemed or taken to affect in any way the estate or condition of any person to whom before the commencement of this Ordinance the said benefit or relief shall have been duly granted, which estate shall be administered, and which condition shall be judged of, as if this Ordinance had not been enacted.

Judges may make rules.

3. The Judges of the Supreme Court may from time to time make such rules and orders as they may think fit for the better carrying of this Ordinance into effect, and generally for regulating the practice of the District Court and the forms of proceedings under this Ordinance in all insolvency matters not provided for in this Ordinance.:

Provided that such rules and orders shall not be inconsistent with or repugnant to the provisions of this Ordinance, and that no such rules or orders shall be of any force or effect until they shall have been laid before Parliament and notified in the Gazette in manner provided in Article 136 of the Constitution.

Provided that all such examinations shall be taken down in writing, and shall be transmitted to the court in which the petition for sequestration is being prosecuted, and shall be annexed to and form part of the proceedings in the matter to which the same shall relate, and that no such examination shall be taken without the request in writing of the Judge of the District Court before whom the matter is being prosecuted.

5. All decisions and orders of the District Courts made under the authority of this Ordinance shall be subject to an appeal to the Court of Appeal.

ACTS OF INSOLVENCY IN GENERAL

7.* If any person residing in Sri Lanka or having any property, real or personal, therein, shall depart therefrom, or being out of Sri Lanka shall remain abroad, or shall depart from his dwelling house, or otherwise absent himself, or begin to keep his house, or suffer himself to be arrested or taken in execution for any debt not due, or yield himself to prison, or procure himself to be arrested or taken in execution, or his goods, money, lands, or other property to be attached, sequestered, or taken in execution, or make or cause to be made, either in Sri Lanka

* Section 6 is omitted from this Edition, as the procedure relating to appeals is now regulated by the Civil Procedure Code.

or elsewhere, any fraudulent grant, conveyance, or mortgage of any of his lands or goods, or make or cause to be made any fraudulent gift, delivery, or transfer of any of his goods or other property, every such person doing, suffering, procuring, executing, permitting, making, or causing to be made any of the acts, deeds, or matters aforesaid, with intent to defeat or delay his creditors, shall be deemed to have thereby committed an act of insolvency.

Conveyance by a person of all his property to trustees not an act of insolvency, unless petition for sequestration is filed within three months.

8. If any person shall execute any conveyance or assignment by deed of all his property to a trustee or trustees for the benefit of all the creditors of such person, the execution of such deed shall not be deemed an act of insolvency, unless a petition for sequestration of the estate of such person be filed within three months from the execution thereof:

Provided such deed shall be executed by every such trustee within fifteen days after the execution thereof by such first-mentioned person, and notice thereof be given within one month after the execution thereof by such first-mentioned person in the Gazette and in some newspaper published in Colombo; and such notice shall contain the date and execution of such deed and the name and place of abode of every such trustee.

Lying in prison for twenty-one days, and escaping out of prison, acts of insolvency.

9. If any person having been arrested or committed to prison for debt or on any attachment for non-payment of money shall, upon such or any other arrest or commitment for debt or non-payment of money, or upon any detention for debt, lie in prison for twenty-one days, or having been arrested or committed to prison for any other cause shall lie in prison for twenty-one days after any writ of execution issued against him and not discharged, every such person shall thereby be deemed to have committed an act of insolvency; or if any such person having been arrested, committed, or detained for debt shall escape out of prison or custody, every such person shall be deemed to have thereby committed an act of insolvency from the time of such arrest, commitment, or detention.

Filing declaration of insolvency an act of insolvency.

10. If any person residing in Sri Lanka shall file in the District Court of the district in which he shall have resided or carried on business for six months next immediately preceding a declaration in writing in the

form A in the Schedule signed by such person and attested by an attorney-at-law, or some other witness, that he is unable to meet his engagements, every such person shall be deemed thereby to have committed an act of insolvency at the time of filing such declaration, provided a petition for sequestration of his estate shall be filed by or against such person within two months from the filing of such declaration.

11. If any person, after the filing of any petition for sequestration of his estate, shall pay money to the petitioning creditor, or give or deliver to such petitioning creditor any satisfaction or security for his debt or any part thereof, whereby such petitioning creditor may receive more for every ten rupees in respect of his debt than the other creditors, such payment, gift, delivery, satisfaction or security shall be an act of insolvency; and if adjudication that such estate be sequestered shall have been made upon such petition, the court may either declare such adjudication to be valid, and direct the same to be proceeded in, or may order it to be annulled, and a petition or new petition for sequestration may be filed, and such petition or new petition may be supported either by proof of such last-mentioned or any other act of insolvency.

Compounding with petitioning creditor an act of insolvency

12. If any plaintiff shall recover judgment in any action for the recovery of any debt or money demand in any court in Sri Lanka against any person residing within the same, and shall be in a situation to sue out execution upon such judgment, and there be nothing due from such plaintiff by way of set-off against such judgment, and the defendant shall not within thirty days after notice in writing personally served upon such defendant requiring immediate payment of such judgment-debt, pay, secure, or compound for the same to the satisfaction of such plaintiff, every such defendant shall be deemed to have committed an act of insolvency on the thirty-first day after service of such notice:

Defendant not paying, securing, or compounding for a judgment debt within thirty days after notice an act of insolvency.

Provided that if such execution shall in the meantime be suspended or restrained by any rule, order, or proceeding of any court having jurisdiction in that behalf, no further proceeding shall be had on such notice, but it shall be lawful nevertheless for such