TITLE 11.—BANKRUPTCY

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Chapter 1.—DEFINITIONS.

Section 1. Meaning of words and phrases.—The words and phrases used in this title and in proceedings pursuant hereto shall, unless the same be inconsistent with the context, be construed as follows: (1) "A person against whom a petition has been filed" shall include a person who has filed a voluntary petition; (2) 'adjudication" shall mean the date of the entry of a decree that the defendant, in a bankruptcy proceeding, is a bankrupt, or if such decree is appealed from, then the date when such decree is finally confirmed; (3) "appellate courts" shall include the circuit courts of appeals of the United States, the Court of Appeals of the District of Columbia, the supreme courts of the Territories, and the Supreme Court of the United States; (4) "bankrupt" shall include a person against whom an involuntary petition or an application to set a composition aside or to revoke a discharge has been filed, or who has filed a voluntary petition, or who has been adjudged a bankrupt; (5) "clerk" shall mean the clerk of a court of bankruptcy; (6) "corporations" shall mean all bodies having any of the powers and privileges of private corporations not possessed by individuals or partnerships, and shall include limited or other partnership associations organized under laws making the capital subscribed alone responsible for the debts of the association; (7) "court" shall mean the court of bankruptcy in which the proceedings are pending, and may include the referee; (8) "courts of bankruptcy" shall include the district courts of the United States, the Supreme Court of the District of Columbia, and the United States courts of Alaska, Hawaii, and Porto Rico; (9) "creditor" shall include anyone who owns a demand or claim provable in bankruptcy, and may include his duly authorized agent, attorney, or proxy; (10) "date of bankruptcy," or "time of bankruptcy," or "commencement of proceedings," or "bankruptcy," with reference to time, shall mean the date when the petition was filed; (11) "debt" shall include any debt, demand, or claim provable in bankruptcy; (12) "discharge" shall mean the release of a bankrupt from all of his debts which are provable in bankruptcy, except such as are excepted by this title; (13) "document" shall include any book, deed, or instrument in writing; (14) "holiday" shall include Christmas, the Fourth of July, the twenty-second of February, and any day appointed by the President of the United States or the Congress of the United States as a holiday or as a day of public fasting or thanksgiving; (15) a person shall be deemed insolvent within the provisions of this title whenever the aggregate of his property, exclusive of any property which he may have conveyed, transferred, concealed, or removed, or permitted to be concealed or removed, with intent to defraud, hinder, or delay his creditors, shall not, at a fair valuation, be sufficient in amount to pay his debts; (16) "judge" shall mean a judge of a court of bankruptcy, not including the referee; (17) "oath" shall include affirmation; (18) "officer" shall include clerk, marshal, receiver, referee, and trustee, and the imposing of a duty upon or the forbidding of an act by any officer shall include his successor and any person authorized by law to perform the duties of such officer; (19) "persons" shall include corporations, except where otherwise specified, and officers, partnerships, and women, and when used with reference to the commission of acts which are herein forbidden shall include persons who are participants in the forbidden acts, and the agents, officers, and members of the board of directors or trustees, or other similar controlling bodies of corporations; (20) "petition" shall mean a paper filed in a court of bankruptcy or with a clerk or deputy clerk by a debtor praying for the benefits of this title, or by creditors, alleging the commission of an act of bankruptcy by a debtor therein named; (21) "referee" shall mean the referee who has jurisdiction of the case or to whom the case has been referred, or anyone acting in his stead; (22) "conceal" shall include secrete, falsify, and mutilate; (23) "secured creditor" shall include a creditor who has security for his debt upon the property of the bankrupt of a nature to be assignable under this title, or who owns such a debt for which some indorser, surety, or other persons secondarily liable for the bankrupt has such security upon the bankrupt's assets; (24) "States" shall include Alaska, Hawaii, Porto Rico, and the District of Columbia; (25) "transfer" shall include the sale and every other and different mode of disposing of or parting with property, or the possession of property, absolutely or conditionally, as a payment, pledge, mortgage, gift, or security; (26) "trustee" shall include all of the trustees of an estate; (27) "wage earner" shall mean an individual who works for wages, salary, or hire, at a rate of compensation not exceeding $1,500 per year; (28) words importing the masculine gender may be applied to and include corporations, partnerships, and women; (29) words importing the plural number may be applied to and mean only a single person or thing; (30) words importing the singular number may be applied to and mean several persons or things. (July 1, 1898, c. 541, § 1, 30 Stat. 544; Apr. 12, 1900, c. 191, § 34, 31 Stat. 85; Mar. 3, 1909, c. 269, § 1, 35 Stat. 838.)

Chapter 2.—CREATION OF COURTS OF BANKRUPTCY AND THEIR JURISDICTION.

Section 11. Courts; jurisdiction and powers.—The courts of bankruptcy as defined in the previous chapter, viz., the district courts of the United States in the several States, the Supreme Court of the District of Columbia, and the United States courts in the District of Alaska, Hawaii, and Porto Rico, are made courts of bankruptcy, and are invested, within their respective territorial limits as established on July 1, 1898, or as they may be thereafter changed, with such jurisdiction at law and in equity as will enable them to exercise original jurisdiction in bankruptcy proceedings, in vacation in chambers and during their respective terms, as they were on July 1, 1898, or may be thereafter held, to (1) adjudge persons bankrupt who have had their principal place of business, resided, or had their domicile within their respective territorial jurisdictions for the preceding six months, or the greater portion thereof, or who do not have their principal place of business, reside, or have their domicile within the United States, but have property within their jurisdictions, or who have been adjudged bankrupts by courts of competent jurisdiction without the United States and have property within their jurisdictions; (2) allow claims, disallow claims, reconsider allowed or disallowed claims, and allow or disallow them against bankrupt estates; (3) appoint receivers or the marshals, upon application of parties in interest, in case the courts shall find it absolutely necessary, for the preservation of

estates, to take charge of the property of bankrupts after the filing of the petition and until it is dismissed or the trustee is qualified; (4) arraign, try, and punish bankrupts, officers, and other persons, and the agents, officers, members of the board of directors or trustees, or other similar controlling bodies, of corporations for violations of the provisions contained in this title, in accordance with the laws of procedure of the United States in force on July 1, 1898, or such as may be thereafter enacted, regulating trials for the alleged violation of laws of the United States; (5) authorize the business of bankrupts to be conducted for limited periods by receivers, the marshals, or trustees, if necessary in the best interests of the estates, and allow such officers additional compensation for such services, as provided in section 76 of this title; (6) bring in and substitute additional persons or parties in proceedings in bankruptcy when necessary for the complete determination of a matter in controversy; (7) cause the estates of bankrupts to be collected, reduced to money and distributed, and determine controversies in relation thereto, except as herein otherwise provided; (8) close estates, whenever it appears that they have been fully administered, by approving the final accounts and discharging the trustees, and reopen them whenever it appears they were closed before being fully administered; (9) confirm or reject compositions between debtors and their creditors, and set aside compositions and reinstate the cases; (10) consider and confirm, modify or overrule, or return, with instructions for further proceedings, records and findings certified to them by referees; (11) determine all claims of bankrupts to their exemptions; (12) discharge or refuse to discharge bankrupts and set aside discharges and reinstate the cases; (13) enforce obedience by bankrupts, officers, and other persons to all lawful orders, by fine or imprisonment or fine and imprisonment; (14) extradite bankrupts from their respective districts to other districts; (15) make such orders, issue such process, and enter such judgments in addition to those specifically provided for as may be necessary for the enforcement of the provisions of this title; (16) punish persons for contempts committed before referees; (17) pursuant to the recommendation of creditors, or when they neglect to recommend the appointment of trustees, appoint trustees, and upon complaints of creditors, remove trustees for cause upon hearings and after notices to them; (18) tax costs, whenever they are allowed by law, and render judgments therefor against the unsuccessful party, or the successful party for cause, or in part against each of the parties, and against estates, in proceedings in bankruptcy; (19) transfer cases to other courts of bankruptcy and (20) exercise ancillary jurisdiction over persons or property within their respective territorial limits in aid of a receiver or trustee appointed in any bankruptcy proceedings pending in any other court of bankruptcy.

Nothing in this section contained shall be construed to deprive a court of bankruptcy of any power it would possess were certain specific powers not herein enumerated. (July 1, 1898, c. 541, § 2, 30 Stat. 545; Apr. 12, 1900, c. 191, § 34, 31 Stat. 85; Feb. 5, 1903, c. 487, § 1, 32 Stat. 797; Mar. 3, 1909, c. 269, § 1, 35 Stat. 838; June 25, 1910, c. 412, §§ 1, 2, 36 Stat. 838, 839.)

Chapter 3.—BANKRUPT.

Sec.
21. Acts of bankruptcy.
22. Bankrupts; who may become.
23. Same; partners.
24. Same; exemptions.
25. Same; duties.
26. Same; death or insanity.
27. Same; protection and detention.
28. Same; extradition.
29. Same; suits by and against.
30. Compositions; when confirmed
31. Same; when set aside.
32. Discharges; when granted.
33. Same; when revoked.
34. Co-debtors of bankrupts.
35. Debts not affected by a discharge.

Section 21. Acts of bankruptcy.—(a) Acts of bankruptcy by a person shall consist of his having (1) conveyed, transferred, concealed, or removed, or permitted to be concealed or removed, any part of his property with intent to hinder, delay, or defraud his creditors, or any of them; or (2) transferred, while insolvent, any portion of his property to one or more of his creditors with intent to prefer such creditors over his other creditors; or (3) suffered or permitted, while insolvent, any creditor to obtain a preference through legal proceedings, and not having at least five days before a sale or final disposition of any property affected by such preference vacated or discharged such preference; or (4) made a general assignment for the benefit of his creditors, or, being insolvent, applied for a receiver or trustee for his property or because of insolvency a receiver or trustee has been put in charge of his property under the laws of a State, of a Territory, or of the United States; or (5) admitted in writing his inability to pay his debts and his willingness to be adjudged a bankrupt on that ground.

(b) A petition may be filed against a person who is insolvent and who has committed an act of bankruptcy within four months after the commission of such act. Such time shall not expire until four months after (1) the date of the recording or registering of the transfer or assignment when the act consists in having made a transfer of any of his property with intent to hinder, delay, or defraud his creditors or for the purpose of giving a preference as hereinbefore provided, or a general assignment for the benefit of his creditors, if by law such recording or registering is required or permitted, or, if it is not, from the date when the beneficiary takes notorious, exclusive, or continuous possession of the property unless the petitioning creditors have received actual notice of such transfer or assignment.

(c) It shall be a complete defense to any proceedings in bankruptcy instituted under the first subdivision of this section to allege and prove that the party proceeded against was not insolvent as defined in this title at the time of the filing the petition against him, and if solvency at such date is proved by the alleged bankrupt the proceedings shall be dismissed, and under said subdivision one the burden of proving solvency shall be on the alleged bankrupt.

(d) Whenever a person against whom a petition has been filed as hereinbefore provided under the second and third subdivisions of this section takes issue with and denies the allegation of his insolvency, it shall be his duty to appear in court on the hearing, with his books, papers, and accounts, and submit to an examination, and give testimony as to all matters tending to establish solvency or insolvency, and in case of his failure to so attend and submit to examination the burden of proving his solvency shall rest upon him.

(e) Whenever a petition is filed by any person for the purpose of having another adjudged a bankrupt, and an application is made to take charge of and hold the property of the alleged bankrupt, or any part of the same, prior to the adjudication and pending a hearing on the petition, the petitioner or applicant shall file in the same court a bond with at least two good and sufficient sureties who shall reside within the jurisdiction of said court, to be approved by the court or a judge thereof, in such sum as the court shall direct, conditioned for the payment, in case such petition is dismissed, to the respondent, his or her personal representatives, all costs, expenses, and damages occasioned by such seizure, taking, and detention of the property of the alleged bankrupt.

If such petition be dismissed by the court or withdrawn by the petitioner, the respondent or respondents shall be allowed

all costs, counsel fees, expenses, and damages occasioned by such seizure, taking, or detention of such property. Counsel fees, costs, expenses, and damages shall be fixed and allowed by the court, and paid by the obligors in such bond. (July 1, 1898, c. 541, § 3, 30 Stat. 546; Feb. 5, 1903, c. 487, § 2, 32 Stat. 797.)

22. Bankrupts; who may become.—(a) Any person, except a municipal, railroad, insurance, or banking corporation, shall be entitled to the benefits of this title as a voluntary bankrupt.

(b) Any natural person, except a wage earner or a person engaged chiefly in farming or the tillage of the soil, any unincorporated company, and any moneyed, business, or commercial corporation, except a municipal, railroad, insurance, or banking corporation, owing debts to the amount of $1,000 or over, may be adjudged an involuntary bankrupt upon default or an impartial trial, and shall be subject to the provisions and entitled to the benefits of this title.

The bankruptcy of a corporation shall not release its officers, directors, or stockholders, as such, from any liability under the laws of a State or Territory or of the United States. (July 1, 1898, c. 541, § 4, 30 Stat. 547; Feb. 5, 1903, c. 487, § 3, 32 Stat. 797; June 25, 1910, c. 412, §§ 3, 4, 36 Stat. 839.)

23. Same; partners.—(a) A partnership, during the continuation of the partnership business, or after its dissolution and before the final settlement thereof, may be adjudged a bankrupt.

(b) The creditors of the partnership shall appoint the trustee; in other respects so far as possible the estate shall be administered as herein provided for other estates.

(c) The court of bankruptcy which has jurisdiction of one of the partners may have jurisdiction of all the partners and of the administration of the partnership and individual property.

(d) The trustee shall keep separate accounts of the partnership property and of the property belonging to the individual partners.

(e) The expenses shall be paid from the partnership property and the individual property in such proportions as the court shall determine.

(f) The net proceeds of the partnership property shall be appropriated to the payment of the partnership debts, and the net proceeds of the individual estate of each partner to the payment of his individual debts. Should any surplus remain of the property of any partner after paying his individual debts, such surplus shall be added to the partnership assets and be applied to the payment of the partnership debts. Should any surplus of the partnership property remain after paying the partnership debts, such surplus shall be added to the assets of the individual partners in the proportion of their respective interests in the partnership.

(g) The court may permit the proof of the claim of the partnership estate against the individual estates, and vice versa, and may marshal the assets of the partnership estate and individual estates so as to prevent preferences and secure the equitable distribution of the property of the several estates.

(h) In the event of one or more but not all of the members of a partnership being adjudged bankrupt, the partnership property shall not be administered in bankruptcy, unless by consent of the partner or partners not adjudged bankrupt; but such partner or partners not adjudged bankrupt shall settle the partnership business as expeditiously as its nature will permit, and account for the interest of the partner or partners adjudged bankrupt. (July 1, 1898, c. 541, § 5, 30 Stat. 547.)

24. Same; exemptions.—The provisions of this title shall not affect the allowance to bankrupts of the exemptions which are prescribed by the State laws in force at the time of the filing of the petition in the State wherein they have had their domicile for the six months or the greater portion thereof immediately preceding the filing of the petition. (July 1, 1898, c. 541, § 6, 30 Stat. 548.)

25. Same; duties.—The bankrupt shall (1) attend the first meeting of his creditors, if directed by the court or a judge thereof to do so, and the hearing upon his application for a discharge, if filed; (2) comply with all lawful orders of the court; (3) examine the correctness of all proofs of claims filed against his estate; (4) execute and deliver such papers as shall be ordered by the court; (5) execute to his trustee transfers of all his property in foreign countries; (6) immediately inform his trustee of any attempt, by his creditors or other persons, to evade the provisions of this title, coming to his knowledge; (7) in case of any person having to his knowledge proved a false claim against his estate, disclose that fact immediately to his trustee; (8) prepare, make oath to, and file in court within ten days, unless further time is granted, after the adjudication, if an involuntary bankrupt, and with the petition if a voluntary bankrupt, a schedule of his property, showing the amount and kind of property, the location thereof, its money value in detail, and a list of his creditors, showing their residences, if known, if unknown, that fact to be stated, the amounts due each of them, the consideration thereof, the security held by them, if any, and a claim for such exemptions as he may be entitled to, all in triplicate, one copy of each for the clerk, one for the referee, and one for the trustee; and (9) when present at the first meeting of his creditors, and at such other times as the court shall order, submit to an examination concerning the conducting of his business, the cause of his bankruptcy, his dealings with his creditors and other persons, the amount, kind, and whereabouts of his property, and, in addition, all matters which may affect the administration and settlement of his estate; but no testimony given by him shall be offered in evidence against him in any criminal proceeding.

He shall not be required to attend a meeting of his creditors, or at or for an examination at a place more than one hundred and fifty miles distant from his home or principal place of business, or to examine claims except when presented to him, unless ordered by the court, or a judge thereof, for cause shown, and the bankrupt shall be paid his actual expenses from the estate when examined or required to attend at any place other than the city, town, or village of his residence. (July 1, 1898, c. 541, § 7, 30 Stat. 548.)

26. Same; death or insanity.—The death or insanity of a bankrupt shall not abate the proceedings, but the same shall be conducted and concluded in the same manner, so far as possible, as though he had not died or become insane. In case of death the widow and children shall be entitled to all rights of dower and allowance fixed by the laws of the State of the bankrupt's residence. (July 1, 1898, c. 541, § 8, 30 Stat. 549.)

27. Same; protection and detention.—(a) A bankrupt shall be exempt from arrest upon civil process except in the following cases: (1) When issued from a court of bankruptcy for contempt or disobedience of its lawful orders; (2) when issued from a State court having jurisdiction, and served within such State, upon a debt or claim from which his discharge in bankruptcy would not be a release, and in such case he shall be exempt from such arrest when in attendance upon a court of bankruptcy or engaged in the performance of a duty imposed by the provisions of this title.

(b) The judge may, at any time after the filing of a petition by or against a person, and before the expiration of one month after the qualification of the trustee, upon satisfactory proof by the affidavits of at least two persons that such bankrupt is about to leave the district in which he resides or has his principal place of business to avoid examination, and that his departure will defeat the proceedings in bankruptcy, issue a warrant to the marshal, directing him to bring such bankrupt forthwith before the court for examination. If upon hearing the evidence of the parties it shall appear to the court or a judge thereof that the allegations are true and that it is

necessary, he shall order such marshal to keep such bankrupt in custody not exceeding ten days, but not imprison him, until he shall be examined and released or give bail conditioned for his appearance for examination, from time to time, not exceeding in all ten days, as required by the court, and for his obedience to all lawful orders made in reference thereto. (July 1, 1898, c. 541, § 9, 30 Stat. 549.)

28. Same; extradition.—Whenever a warrant for the apprehension of a bankrupt shall have been issued, and he shall have been found within the jurisdiction of a court other than the one issuing the warrant, he may be extradited in the same manner in which persons under indictment were extradited on July 1, 1898, from one district within which a district court has jurisdiction to another. (July 1, 1898, c. 541, § 10, 30 Stat. 549.)

29. Same; suits by and against.—(a) A suit which is founded upon a claim from which a discharge would be a release, and which is pending against a person at the time of the filing of a petition against him, shall be stayed until after an adjudication or the dismissal of the petition; if such person is adjudged a bankrupt, such action may be further stayed until twelve months after the date of such adjudication, or, if within that time such person applies for a discharge, then until the question of such discharge is determined.

(b) The court may order the trustee to enter his appearance and defend any pending suit against the bankrupt.

(c) A trustee may, with the approval of the court, be permitted to prosecute as trustee any suit commenced by the bankrupt prior to the adjudication, with like force and effect as though it had been commenced by him.

(d) Suits shall not be brought by or against a trustee of a bankrupt estate subsequent to two years after the estate has been closed. (July 1, 1898, c. 541, § 11, 30 Stat. 549.)

30. Compositions; when confirmed.—(a) A bankrupt may offer, either before or after adjudication, terms of composition to his creditors after, but not before, he has been examined in open court or at a meeting of his creditors, and has filed in court the schedule of his property and the list of his creditors required to be filed by bankrupts. In compositions before adjudication the bankrupt shall file the required schedules, and thereupon the court shall call a meeting of creditors for the allowance of claims, examination of the bankrupt, and preservation or conduct of estates, at which meeting the judge or referee shall preside; and action upon the petition for adjudication shall be delayed until it shall be determined whether such composition shall be confirmed.

(b) An application for the confirmation of a composition may be filed in the court of bankruptcy after, but not before, it has been accepted in writing by a majority in number of all creditors whose claims have been allowed, which number must represent a majority in amount of such claims, and the consideration to be paid by the bankrupt to his creditors, and the money necessary to pay all debts which have priority and the cost of the proceedings, have been deposited in such place as shall be designated by and subject to the order of the judge.

(c) A date and place, with reference to the convenience of the parties in interest, shall be fixed for the hearing upon each application for the confirmation of a composition, and such objections as may be made to its confirmation.

(d) The judge shall confirm a composition if satisfied that (1) it is for the best interests of the creditors; (2) the bankrupt has not been guilty of any of the acts or failed to perform any of the duties which would be a bar to his discharge; and (3) the offer and its acceptance are in good faith and have not been made or procured except as herein provided, or by any means, promises, or acts herein forbidden.

(e) Upon the confirmation of a composition, the consideration shall be distributed as the judge shall direct, and the case dismissed. Whenever a composition is not confirmed, the estate shall be administered in bankruptcy as herein provided. (July 1, 1898, c. 541, § 12, 30 Stat. 549; June 25, 1910, c. 412, § 5, 36 Stat. 839.)

31. Same; when set aside.—The judge may, upon the application of parties in interest filed at any time within six months after a composition has been confirmed, set the same aside and reinstate the case if it shall be made to appear upon a trial that fraud was practiced in the procuring of such composition, and that the knowledge thereof has come to the petitioners since the confirmation of such composition. (July 1, 1898, c. 541, § 13, 30 Stat. 550.)

32. Discharges; when granted.—(a) Any person may, after the expiration of one month and within the next twelve months subsequent to being adjudged a bankrupt, file an application for a discharge in the court of bankruptcy in which the proceedings are pending; if it shall be made to appear to the judge that the bankrupt was unavoidably prevented from filing it within such time, it may be filed within but not after the expiration of the next six months.

(b) The judge shall hear the application for a discharge and such proofs and pleas as may be made in opposition thereto by the trustee or other parties in interest, at such time as will give the trustee or parties in interest a reasonable opportunity to be fully heard, and investigate the merits of the application and discharge the applicant unless he has (1) committed an offense punishable by imprisonment as herein provided; or (2) with intent to conceal his financial condition, destroyed, concealed, or failed to keep books of account or records from which such condition might be ascertained; or (3) obtained money or property on credit upon a materially false statement in writing, made by him to any person or his representative for the purpose of obtaining credit from such person; or (4) at any time subsequent to the first day of the four months immediately preceding the filing of the petition transferred, removed, destroyed, or concealed, or permitted to be removed, destroyed, or concealed, any of his property, with intent to hinder, delay, or defraud his creditors; or (5) in voluntary proceedings been granted a discharge in bankruptcy within six years; or (6) in the course of the proceedings in bankruptcy refused to obey any lawful order of, or to answer any material question approved by the court. A trustee shall not interpose objections to a bankrupt's discharge until he shall be authorized so to do at a meeting of creditors called for that purpose.

(c) The confirmation of a composition shall discharge the bankrupt from his debts, other than those agreed to be paid by the terms of the composition and those not affected by a discharge. (July 1, 1898, c. 541, § 14, 30 Stat. 550; Feb. 5, 1903, c. 487, § 4, 32 Stat. 797; June 25, 1910, c. 412, § 6, 36 Stat. 839.)

33. Same; when revoked.—The judge may, upon the application of parties in interest who have not been guilty of undue laches, filed at any time within one year after a discharge shall have been granted, revoke it upon a trial if it shall be made to appear that it was obtained through the fraud of the bankrupt, and that the knowledge of the fraud has come to the petitioners since the granting of the discharge, and that the actual facts did not warrant the discharge. (July 1, 1898, c. 541, § 15, 30 Stat. 550.)

34. Co-debtors of bankrupts.—The liability of a person who is a co-debtor with, or guarantor or in any manner a surety for, a bankrupt shall not be altered by the discharge of such bankrupt. (July 1, 1898, c. 541, § 16, 30 Stat. 550.)

35. Debts not affected by a discharge.—A discharge in bankruptcy shall release a bankrupt from all of his provable debts, except such as (first) are due as a tax levied by the United States, the State, county, district, or municipality in which he resides; (second) are liabilities for obtaining property by false pretenses or false representations, or for willful and malicious

injuries to the person or property of another, or for alimony due or to become due, or for maintenance or support of wife or child, or for seduction of an unmarried female, or for breach of promise of marriage accompanied by seduction, or for criminal conversation; (third) have not been duly scheduled in time for proof and allowance, with the name of the creditor, if known to the bankrupt, unless such creditor had notice or actual knowledge of the proceedings in bankruptcy; or (fourth) were created by his fraud, embezzlement, misappropriation, or defalcation while acting as an officer or in any fiduciary capacity; or (fifth) are for wages due to workmen, clerks, traveling or city salesmen, or servants, which have been earned within three months before the date of commencement of the proceedings in bankruptcy; or (sixth) are due for moneys of an employee received or retained by his employer to secure the faithful performance by such employee of the terms of a contract of employment. (July 1, 1898, c. 541, § 17, 30 Stat. 550; Feb. 5, 1903, c. 487, § 5, 32 Stat. 798; Mar. 2, 1917, c. 153, 39 Stat. 999; Jan. 7, 1922, c. 22, 42 Stat. 354.)

Chapter 4.—COURTS AND PROCEDURE THEREIN.

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Section 41. Process, pleadings, and adjudications.—(a) Upon the filing of a petition for involuntary bankruptcy, service thereof, with a writ of subpœna, shall be made upon the person therein named as defendant in the same manner that service of such process was had on July 1, 1898, upon the commencement of a suit in equity in the courts of the United States, except that it shall be returnable within fifteen days, unless the judge shall for cause fix a longer time; but in case personal service can not be made, then notice shall be given by publication in the same manner and for the same time as provided by law for notice by publication in suits to enforce a legal or equitable lien in courts of the United States, except that, unless the judge shall otherwise direct, the order shall be published not more than once a week for two consecutive weeks, and the return day shall be ten days after the last publication unless the judge shall for cause fix a longer time.

(b) The bankrupt, or any creditor, may appear and plead to the petition within five days after the return day, or within such further time as the court may allow.

(c) All pleadings setting up matters of fact shall be verified under oath.

(d) If the bankrupt, or any of his creditors, shall appear, within the time limited, and controvert the facts alleged in the petition, the judge shall determine, as soon as may be, the issues presented by the pleadings, without the intervention of a jury, except in cases where a jury trial is given by the provisions of this title, and make the adjudication or dismiss the petition.

(e) If on the last day within which pleadings may be filed none are filed by the bankrupt or any of his creditors, the judge shall on the next day, if present, or as soon thereafter as practicable, make the adjudication or dismiss the petition.

(f) If the judge is absent from the district, or the division of the district in which the petition is pending, on the next day after the last day on which pleadings may be filed, and none have been filed by the bankrupt or any of his creditors, the clerk shall forthwith refer the case to the referee.

(g) Upon the filing of a voluntary petition the judge shall hear the petition and make the adjudication or dismiss the petition. If the judge is absent from the district, or the division of the district in which the petition is filed at the time of the filing, the clerk shall forthwith refer the case to the referee. (July 1, 1898, c. 541, § 18, 30 Stat. 551; Feb. 5, 1903, c. 487, § 6, 32 Stat. 798.)

42. Jury trials.—(a) A person against whom an involuntary petition has been filed shall be entitled to have a trial by jury, in respect to the question of his insolvency, except as herein otherwise provided, and any act of bankruptcy alleged in such petition to have been committed, upon filing a written application therefor at or before the time within which an answer may be filed. If such application is not filed within such time, a trial by jury shall be deemed to have been waived.

(b) If a jury is not in attendance upon the court, one may be specially summoned for the trial, or the case may be postponed.

(c) The right to submit matters in controversy, or an alleged offense under the provisions of this title, to a jury shall be determined and enjoyed, except as provided in this title, according to the United States laws in force in relation to trials by jury. (July 1, 1898, c. 541, § 19, 30 Stat. 551; Mar. 3, 1911, c. 231, § 289, 36 Stat. 1167.)

43. Oaths, affirmations.—(a) Oaths required by this title, except upon hearings in court, may be administered by (1) referees; (2) officers authorized to administer oaths in proceedings before the courts of the United States, or under the laws of the State where the same are to be taken; and (3) diplomatic or consular officers of the United States in any foreign country.

(b) Any person conscientiously opposed to taking an oath may, in lieu thereof, affirm. Any person who shall affirm falsely shall be punished as for the making of a false oath. (July 1, 1898, c. 541, § 20, 30 Stat. 551.)

44. Evidence.—(a) A court of bankruptcy may, upon application of any officer, bankrupt, or creditor, by order require any designated person, including the bankrupt and his wife, to appear in court or before a referee or the judge of any State court, to be examined concerning the acts, conduct, or property of a bankrupt whose estate is in process of administration under the provisions of this title. The wife may be examined only touching business transacted by her or to which she is a party, and to determine the fact whether she has transacted or been a party to any business of the bankrupt.

(b) The right to take depositions in proceedings under this title shall be determined and enjoyed according to the United States laws in force relating to the taking of depositions, except as herein provided.

(c) Notice of the taking of depositions shall be filed with the referee in every case. When depositions are to be taken in opposition to the allowance of a claim notice shall also be served upon the claimant, and when in opposition to a discharge notice shall also be served upon the bankrupt.

(d) Certified copies of proceedings before a referee, or of papers, when issued by the clerk or referee, shall be admitted as evidence with like force and effect as certified copies of the records of district courts of the United States are admitted as evidence.

(e) A certified copy of the order approving the bond of a trustee shall constitute conclusive evidence of the vesting in him of the title to the property of the bankrupt, and if recorded shall impart the same notice that a deed from the bankrupt to the trustee if recorded would have imparted had not bankruptcy proceedings intervened.

(f) A certified copy of an order confirming or setting aside a composition, or granting or setting aside a discharge, not revoked, shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and of the fact that the order was made.

(g) A certified copy of an order confirming a composition shall constitute evidence of the revesting of the title of his property in the bankrupt, and if recorded shall impart the same notice that a deed from the trustee to the bankrupt if recorded would impart. (July 1, 1898, c. 541, § 21, 30 Stat. 551; Feb. 5, 1903, c. 487, § 7, 32 Stat. 798.)

45. Reference after adjudication.—(a) After a person has been adjudged a bankrupt the judge may cause the trustee to proceed with the administration of the estate, or refer it (1) generally to the referee or specially with only limited authority to act in the premises or to consider and report upon specified issues; or (2) to any referee within the territorial jurisdiction of the court, if the convenience of parties in interest will be served thereby, or for cause, or if the bankrupt does not do business, reside, or have his domicile in the district.

(b) The judge may, at any time, for the convenience of parties or for cause, transfer a case from one referee to another. (July 1, 1898, c. 541, § 22, 30 Stat. 552.)

46. Jurisdiction; United States and State courts.—(a) The United States district courts shall have jurisdiction of all controversies at law and in equity, as distinguished from proceedings in bankruptcy, between trustees as such and adverse claimants concerning the property acquired or claimed by the trustees, in the same manner and to the same extent only as though bankruptcy proceedings had not been instituted and such controversies had been between the bankrupts and such adverse claimants.

(b) Suits by the trustee shall only be brought or prosecuted in the courts where the bankrupt, whose estate is being administered by such trustee, might have brought or prosecuted them if proceedings in bankruptcy had not been instituted, unless by consent of the proposed defendant, except suits for the recovery of property under section 96, subdivision b, of this title; section 107, subdivision e, of this title; and section 110, subdivision e, of this title. (July 1, 1898, c. 541, § 23, 30 Stat. 552; Feb. 5, 1903, c. 487, § 8, 32 Stat. 798; June 25, 1910, c. 412, § 7, 36 Stat. 840.)

47. Same; appellate jurisdiction.—(a) The circuit courts of appeals of the United States, and the supreme courts of the Territories, in vacation in chambers and during their respective terms are invested with appellate jurisdiction of controversies arising in bankruptcy proceedings from the courts of bankruptcy from which they have appellate jurisdiction in other cases.

(b) The several circuit courts of appeals shall have jurisdiction in equity, either interlocutory or final, to superintend and revise in matter of law the proceedings of the several inferior courts of bankruptcy within their jurisdiction. Such power shall be exercised on due notice and petition by any party aggrieved.

(c) The Court of Appeals of the District of Columbia shall have the same appellate and supervisory jurisdiction over proceedings, controversies, and cases in bankruptcy in the District of Columbia that a circuit court of appeals has over such proceedings, controversies, and cases within its circuit and shall exercise that jurisdiction in the same manner as a circuit court of appeals is required to exercise it. (July 1, 1898, c. 541, § 24, 30 Stat. 553; Feb. 13, 1925, c. 229, §§ 1, 5, 13, 43 Stat. 936, 937, 941.)

48. Appeals and writs of error.—(a) Appeals, as in equity cases, may be taken in bankruptcy proceedings from the courts of bankruptcy to the circuit court of appeals of the United States, in the following cases, to wit, (1) from a judgment adjudging or refusing to adjudge the defendant a bankrupt; (2) from a judgment granting or denying a discharge; and (3) from a judgment allowing or rejecting a debt or claim of $500 or over. Such appeal shall be taken within ten days after the judgment appealed from has been rendered, and may be heard and determined by the appellate court in term or vacation, as the case may be.

(b) Trustees shall not be required to give bond when they take appeals or sue out writs of error.

(c) Controversies may be certified to the Supreme Court of the United States from other courts of the United States, and the former court may exercise jurisdiction thereof and issue writs of certiorari pursuant to the provisions of the United States laws in force on July 1, 1898, or such as may be thereafter enacted. (July 1, 1898, c. 541, § 25, 30 Stat. 553; Feb. 13, 1925, c. 229, §§ 1, 13, 43 Stat. 936, 941.)

49. Arbitration.—(a) The trustee may, pursuant to the direction of the court, submit to arbitration any controversy arising in the settlement of the estate.

(b) Three arbitrators shall be chosen by mutual consent, or one by the trustee, one by the other party to the controversy, and the third by the two so chosen, or if they fail to agree in five days after their appointment the court shall appoint the third arbitrator.

(c) The written finding of the arbitrators, or a majority of them, as to the issues presented, may be filed in court and shall have like force and effect as the verdict of a jury. (July 1, 1898, c. 541, § 26, 30 Stat. 553.)

50. Compromises.—The trustee may, with the approval of the court, compromise any controversy arising in the administration of the estate upon such terms as he may deem for the best interests of the estate. (July 1, 1898, c. 541, § 27, 30 Stat. 553.)

51. Designation of newspapers.—Courts of bankruptcy shall by order designate a newspaper published within their respective territorial districts, and in the county in which the bankrupt resides or the major part of his property is situated, in which notices required to be published by this title and orders which the court may direct to be published shall be inserted. Any court may in a particular case, for the convenience of parties in interest, designate some additional newspaper in which notices and orders in such case shall be published. (July 1, 1898, c. 541, § 28, 30 Stat. 554.)

52. Offenses.—(a) A person shall be punished, by imprisonment for a period not to exceed five years, upon conviction of the offense of having knowingly and fraudulently appropriated to his own use, embezzled, spent, or unlawfully transferred any property or secreted or destroyed any document belonging to a bankrupt estate which came into his charge as trustee.

(b) A person shall be punished, by imprisonment for a period not to exceed two years, upon conviction of the offense of having knowingly and fraudulently (1) concealed while a bankrupt, or after his discharge, from his trustee any of the property belonging to his estate in bankruptcy; or (2) made a false oath or account in, or in relation to, any proceeding in bankruptcy; (3) presented under oath any false claim for proof against the estate of a bankrupt, or used any such claim in composition personally or by agent, proxy, or attorney, or as agent, proxy, or attorney; or (4) received any material amount of property from a bankrupt after the filing of the petition, with intent to defeat the provisions of this title; or (5) extorted or attempted to extort any money or property from any person as a consideration for acting or forbearing to act in bankruptcy proceedings.

(c) A person shall be punished by fine, not to exceed $500, and forfeit his office, and the same shall thereupon become vacant, upon conviction of the offense of having knowingly

(1) acted as a referee in a case in which he is directly or indirectly interested; or (2) purchased, while a referee, directly or indirectly, any property of the estate in bankruptcy of which he is referee; or (3) refused, while a referee or trustee, to permit a reasonable opportunity for the inspection of the accounts relating to the affairs of, and the papers and records of, estates in his charge by parties in interest when directed by the court so to do.

(d) A person shall not be prosecuted for any offense arising under this title unless the indictment is found or the information is filed in court within one year after the commission of the offense. (July 1, 1898, c. 541, § 29, 30 Stat. 554.)

53. Rules, forms, and orders.—All necessary rules, forms, and orders as to procedure and for carrying the provisions of this title into force and effect shall be prescribed, and may be amended from time to time, by the Supreme Court of the United States. (July 1, 1898, c. 541, § 30, 30 Stat. 551.)

54. Computation of time.—Whenever time is enumerated by days in this title, or in any proceeding in bankruptcy, the number of days shall be computed by excluding the first and including the last, unless the last fall on a Sunday or holiday, in which event the day last included shall be the next day thereafter which is not a Sunday or a legal holiday. (July 1, 1898, c. 541, § 31, 30 Stat. 554.)

55. Transfer of cases.—In the event petitions are filed against the same person, or against different members of a partnership, in different courts of bankruptcy each of which has jurisdiction, the cases shall be transferred, by order of the courts relinquishing jurisdiction, to and be consolidated by the one of such courts which can proceed with the same for the greatest convenience of parties in interest. (July 1, 1898, c. 541, § 32, 30 Stat. 554.)

Chapter 5.—OFFICERS, THEIR DUTIES AND COMPENSATION.

Sec.
61. Creation of two offices.
62. Referees; appointment, removal, and districts of.
63. Same; qualifications.
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66. Same; jurisdiction.
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72. Trustees; appointment.
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75. Same; duties.
76. Compensation of trustees, receivers, and marshals.
77. Accounts and papers of trustees.
78. Bonds of referees and trustees.
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80. Fees of clerks and marshals.
81. Duties of Attorney General.
82. Statistics of bankruptcy proceedings.

Section 61. Creation of two offices.—The offices of referee and trustee are created. (July 1, 1898, c. 541, § 33, 30 Stat. 555.)

62. Referees; appointment, removal, and districts of.—Courts of bankruptcy shall, within the territorial limits of which they respectively have jurisdiction, (1) appoint referees, each for a term of two years, and may, in their discretion, remove them because their services are not needed or for other cause; and (2) designate, and from time to time change, the limits of the districts of referees, so that each county, where the services of a referee are needed, may constitute at least one district. (July 1, 1898, c. 541, § 34, 30 Stat. 555.)

63. Same; qualifications.—Individuals shall not be eligible to appointment as referees unless they are, respectively, (1) competent to perform the duties of that office; (2) not holding any office of profit or emolument under the laws of the United States or of any State other than commissioners of deeds, justices of the peace, masters in chancery, or notaries public; (3) not related by consanguinity or affinity, within the third degree as determined by the common law, to any of the judges of the courts of bankruptcy, or of the justices or judges of the appellate courts of the districts wherein they may be appointed; and (4) residents of, or have their offices in, the territorial districts for which they are to be appointed. (July 1, 1898, c. 541, § 35, 30 Stat. 555.)

64. Same; oaths.—Referees shall take the same oath of office as that prescribed for judges of United States courts. (July 1, 1898, c. 541, § 36, 30 Stat. 555.)

65. Same; number.—Such number of referees shall be appointed as may be necessary to assist in expeditiously transacting the bankruptcy business pending in the various courts of bankruptcy. (July 1, 1898, c. 541, § 37, 30 Stat. 555.)

66. Same; jurisdiction.—Referees respectively are invested, subject always to a review by the judge, within the limits of their districts as established from time to time, with jurisdiction to (1) consider all petitions referred to them by the clerks and make the adjudications or dismiss the petitions; (2) exercise the powers vested in courts of bankruptcy for the administering of oaths to and the examination of persons as witnesses and for requiring the production of documents in proceedings before them, except the power of commitment; (3) exercise the powers of the judge for the taking possession and releasing of the property of the bankrupt in the event of the issuance by the clerk of a certificate showing the absence of a judge from the judicial district, or the division of the district, or his sickness, or inability to act; (4) perform such part of the duties, except as to questions arising out of the applications of bankrupts for compositions or discharges, as are by this title conferred on courts of bankruptcy and as shall be prescribed by rules or orders of the courts of bankruptcy of their respective districts, except as herein otherwise provided; and (5) upon the application of the trustee during the examination of the bankrupts, or other proceedings, authorize the employment of stenographers at the expense of the estates at a compensation not to exceed 10 cents per folio for reporting and transcribing the proceedings. (July 1, 1898, c. 541, § 38, 30 Stat. 555.)

67. Same; duties.—(a) Referees shall (1) declare dividends and prepare and deliver to trustees dividend sheets showing the dividends declared and to whom payable; (2) examine all schedules of property and lists of creditors filed by bankrupts and cause such as are incomplete or defective to be amended; (3) furnish such information concerning the estates in process of administration before them as may be requested by the parties in interest; (4) give notices to creditors as herein provided; (5) make up records embodying the evidence, or the substance thereof, as agreed upon by the parties in all contested matters arising before them, whenever requested to do so by either of the parties thereto, together with their findings therein, and transmit them to the judges; (6) prepare and file the schedules of property and lists of creditors required to be filed by the bankrupts, or cause the same to be done, when the bankrupts fail, refuse, or neglect to do so; (7) safely keep, perfect, and transmit to the clerks the records, herein required to be kept by them, when the cases are concluded; (8) transmit to the clerks such papers as may be on file before them whenever the same are needed in any proceedings in courts, and in like manner secure the return of such papers after they have been used, or, if it be impracticable to transmit the original papers, transmit certified copies thereof by mail; (9) upon application of any party in interest, preserve the evidence taken or the substance thereof as agreed

upon by the parties before them when a stenographer is not in attendance; and (10) whenever their respective offices are in the same cities or towns where the courts of bankruptcy convene, call upon and receive from the clerks all papers filed in courts of bankruptcy which have been referred to them.

(b) Referees shall not (1) act in cases in which they are directly or indirectly interested; (2) practice as attorneys and counselors at law in any bankruptcy proceedings; or (3) purchase, directly or indirectly, any property of an estate in bankruptcy. (July 1, 1898, c. 541, § 39, 30 Stat. 555.)

68. Same; **compensation.**—(a) Referees shall receive as full compensation for their services, payable after they are rendered, a fee of $15 deposited with the clerk at the time the petition is filed in each case, except when a fee is not required from a voluntary bankrupt, and 25 cents for every proof of claim filed for allowance, to be paid from the estate, if any, as a part of the cost of administration, and from estates which have been administered before them 1 per centum commissions on all moneys disbursed to creditors by the trustee, or one-half of 1 per centum on the amount to be paid to creditors upon the confirmation of a composition.

(b) Whenever a case is transferred from one referee to another the judge shall determine the proportion in which the fee and commissions therefor shall be divided between the referees.

(c) In the event of the reference of a case being revoked before it is concluded, and when the case is specially referred, the judge shall determine what part of the fee and commissions shall be paid to the referee. (July 1, 1898, c. 541, § 40, 30 Stat. 556; Feb. 5, 1903, c. 487, § 9, 32 Stat. 799.)

69. Same; **contempts before.**—(a) A person shall not, in proceedings before a referee, (1) disobey or resist any lawful order, process, or writ; (2) misbehave during a hearing or so near the place thereof as to obstruct the same; (3) neglect to produce, after having been ordered to do so, any pertinent document; or (4) refuse to appear after having been subpœnaed, or, upon appearing, refuse to take the oath as a witness, or, after having taken the oath, refuse to be examined according to law. No person shall be required to attend as a witness before a referee at a place outside of the State of his residence, and more than one hundred miles from such place of residence, and only in case his lawful mileage and fee for one day's attendance, shall be first paid or tendered to him.

(b) The referee shall certify the facts to the judge, if any person shall do any of the things forbidden in this section. The judge shall thereupon, in a summary manner, hear the evidence as to the acts complained of, and, if it is such as to warrant him in so doing, punish such person in the same manner and to the same extent as for a contempt committed before the court of bankruptcy, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of, or in the presence of, the court. (July 1, 1898, c. 541, § 41, 30 Stat. 556.)

70. Same; **records.**—(a) The records of all proceedings in each case before a referee shall be kept as nearly as may be in the same manner as records were kept on July 1, 1898, in equity cases in district courts of the United States.

(b) A record of the proceedings in each case shall be kept in a separate book or books, and shall, together with the papers on file, constitute the records of the case.

(c) The book or books containing a record of the proceedings shall, when the case is concluded before the referee, be certified to by him, and, together with such papers as are on file before him, be transmitted to the court of bankruptcy and shall there remain as a part of the records of the court. (July 1, 1898, c. 541, § 42, 30 Stat. 556.)

71. Same; **absence or disability.**—Whenever the office of a referee is vacant, or its occupant is absent or disqualified to act, the judge may act, or may appoint another referee, or another referee holding an appointment under the same court may, by order of the judge, temporarily fill the vacancy. (July 1, 1898, c. 541, § 43, 30 Stat. 557.)

72. **Trustees; appointment.**—The creditors of a bankrupt estate shall, at their first meeting after the adjudication or after a vacancy has occurred in the office of trustee, or after an estate has been reopened, or after a composition has been set aside or a discharge revoked, or if there is a vacancy in the office of trustee, appoint one trustee or three trustees of such estate. If the creditors do not appoint a trustee or trustees as herein provided, the court shall do so. (July 1, 1898, c. 541, § 44, 30 Stat. 557.)

73. Same; **qualifications.**—Trustees may be (1) individuals who are respectively competent to perform the duties of that office, and reside or have an office in the judicial district within which they are appointed, or (2) corporations authorized by their charters or by law to act in such capacity and having an office in the judicial district within which they are appointed. (July 1, 1898, c. 541, § 45, 30 Stat. 557.)

74. Same; **death or removal.**—The death or removal of a trustee shall not abate any suit or proceeding which he is prosecuting or defending at the time of his death or removal, but the same may be proceeded with or defended by his joint trustee or successor, in the same manner as though the same had been commenced or was being defended by such joint trustee alone or by such successor. (July 1, 1898, c. 541, § 46, 30 Stat. 557.)

75. Same; **duties.**—(a) Trustees shall respectively (1) account for and pay over to the estates under their control all interest received by them on property of such estates; (2) collect and reduce to money the property of the estates for which they are trustees, under the direction of the court, and close up the estate as expeditiously as is compatible with the best interests of the parties in interest; and such trustees, as to all property in the custody or coming into the custody of the bankruptcy court, shall be deemed vested with all the rights, remedies, and powers of a creditor holding a lien by legal or equitable proceedings thereon; and also, as to all property not in the custody of the bankruptcy court, shall be deemed vested with all the rights, remedies, and powers of a judgment creditor holding an execution duly returned unsatisfied; (3) deposit all money received by them in one of the designated depositories; (4) disburse money only by check or draft on the depositories in which it has been deposited; (5) furnish such information concerning the estates of which they are trustees and their administration as may be requested by parties in interest; (6) keep regular accounts showing all amounts received and from what sources and all amounts expended and on what accounts; (7) lay before the final meeting of the creditors detailed statements of the administration of the estates; (8) make final reports and file final accounts with the courts fifteen days before the days fixed for the final meetings of the creditors; (9) pay dividends within ten days after they are declared by the referees; (10) report to the courts, in writing, the condition of the estates and the amounts of money on hand, and such other details as may be required by the courts, within the first month after their appointment and every two months thereafter, unless otherwise ordered by the courts; and (11) set apart the bankrupt's exemptions and report the items and estimated value thereof to the court as soon as practicable after their appointment.

(b) Whenever three trustees have been appointed for an estate, the concurrence of at least two of them shall be necessary to the validity of their every act concerning the administration of the estate.

(c) The trustee shall, within thirty days after the adjudication, file a certified copy of the decree of adjudication in the office where conveyances of real estate are recorded in every

county where the bankrupt owns real estate not exempt from execution, and pay the fee for such filing, and he shall receive a compensation of 50 cents for each copy so filed, which, together with the filing fee, shall be paid out of the estate of the bankrupt as a part of the cost and disbursements of the proceedings. (July 1, 1898, c. 541, § 47, 30 Stat. 557; Feb. 5, 1903, c. 487, § 10, 32 Stat. 799; June 25, 1910, c. 412, § 8, 36 Stat. 840.)

76. Compensation of trustees, receivers, and marshals.—(a) Trustees shall receive for their services, payable after they are rendered, a fee of $5 deposited with the clerk at the time the petition is filed in each case, except when a fee is not required from a voluntary bankrupt, and such commissions on all moneys disbursed or turned over to any person, including lien holders, by them, as may be allowed by the courts, not to exceed 6 per centum on the first $500 or less, 4 per centum on moneys in excess of $500 and less than $1,500, 2 per centum on moneys in excess of $1,500 and less than $10,000, and 1 per centum on moneys in excess of $10,000. And in case of the confirmation of a composition after the trustee has qualified the court may allow him, as compensation, not to exceed one-half of 1 per centum of the amount to be paid the creditors on such composition.

(b) In the event of an estate being administered by three trustees instead of one trustee or by successive trustees, the court shall apportion the fees and commissions between them according to the services actually rendered, so that there shall not be paid to trustees for the administering of any estate a greater amount than one trustee would be entitled to.

(c) The court may, in its discretion, withhold all compensation from any trustee who has been removed for cause.

(d) Receivers or marshals appointed pursuant to section 11, subdivision 3, of this title shall receive for their services, payable after they are rendered, compensation by way of commissions upon the moneys disbursed or turned over to any person, including lien holders, by them, and also upon the moneys turned over by them or afterwards realized by the trustees from property turned over in kind by them to the trustees, as the court may allow, not to exceed 6 per centum on the first $500 or less, 4 per centum on moneys in excess of $500 and less than $1,500, 2 per centum on moneys in excess of $1,500 and less than $10,000, and 1 per centum on moneys in excess of $10,000. In case of the confirmation of a composition such commissions shall not exceed one-half of 1 per centum of the amount to be paid creditors on such compositions. When the receiver or marshal acts as a mere custodian and does not carry on the business of the bankrupt as provided in clause 5 of section 11, of this title, he shall not receive nor be allowed in any form or guise more than 2 per centum on the first $1,000 or less, and one-half of 1 per centum on all above $1,000 on moneys disbursed by him or turned over by him to the trustee and on moneys subsequently realized from property turned over by him in kind to the trustee. Before the allowance of compensation notice of application therefor, specifying the amount asked, shall be given to creditors in the manner indicated in section 94 of this title.

(e) Where the business is conducted by trustees, marshals, or receivers, as provided in clause 5 of section 11, the court may allow such officers additional compensation for such services by way of commissions upon the moneys disbursed or turned over to any person, including lien holders, by them, and, in cases of receivers or marshals, also upon the moneys turned over by them or afterwards realized by the trustees from property turned over in kind by them to the trustees; such commissions not to exceed 6 per centum on the first $500 or less, 4 per centum on moneys in excess of $500 and less than $1,500, 2 per centum on moneys in excess of $1,500 and less than $10,000, and 1 per centum on moneys in excess of $10,000. In case of the confirmation of a composition such commissions shall not exceed one-half of 1 per centum of the amount to be paid creditors on such composition. Before the allowance of compensation notice of application therefor, specifying the amount asked, shall be given to creditors in the manner indicated in section 94. (July 1, 1898, c. 541, § 48, 30 Stat. 557; Feb. 5, 1903, c. 487, § 11, 32 Stat. 799; June 25, 1910, c. 412, § 9, 36 Stat. 840.)

77. Accounts and papers of trustees.—The accounts and papers of trustees shall be open to the inspection of officers and all parties in interest. (July 1, 1898, c. 541, § 49, 30 Stat. 558.)

78. Bonds of referees and trustees.—(a) Referees, before assuming the duties of their offices, and within such time as the district courts of the United States having jurisdiction shall prescribe, shall respectively qualify by entering into bond to the United States in such sum as shall be fixed by such courts, not to exceed $5,000, with such sureties as shall be approved by such courts, conditioned for the faithful performance of their official duties.

(b) Trustees, before entering upon the performance of their official duties, and within ten days after their appointment, or within such further time, not to exceed five days, as the court may permit, shall respectively qualify by entering into bond to the United States, with such sureties as shall be approved by the courts, conditioned for the faithful performance of their official duties.

(c) The creditors of a bankrupt estate, at their first meeting after the adjudication, or after a vacancy has occurred in the office of trustee, or after an estate has been reopened, or after a composition has been set aside or a discharge revoked, if there is a vacancy in the office of trustee, shall fix the amount of the bond of the trustee; they may at any time increase the amount of the bond. If the creditors do not fix the amount of the bond of the trustee as herein provided the court shall do so.

(d) The court shall require evidence as to the actual value of the property of sureties.

(e) There shall be at least two sureties upon each bond.

(f) The actual value of the property of the sureties, over and above their liabilities and exemptions, on each bond shall equal at least the amount of such bond.

(g) Corporations organized for the purpose of becoming sureties upon bonds, or authorized by law to do so, may be accepted as sureties upon the bonds of referees and trustees whenever the courts are satisfied that the rights of all parties in interest will be thereby amply protected.

(h) Bonds of referees, trustees, and designated depositories shall be filed of record in the office of the clerk of the court and may be sued upon in the name of the United States for the use of any person injured by a breach of their conditions.

(i) Trustees shall not be liable, personally or on their bonds, to the United States, for any penalties or forfeitures incurred by the bankrupts under this title, of whose estates they are respectively trustees.

(j) Joint trustees may give joint or several bonds.

(k) If any referee or trustee shall fail to give bond, as herein provided and within the time limited, he shall be deemed to have declined his appointment, and such failure shall create a vacancy in his office.

(l) Suits upon referees' bonds shall not be brought subsequent to two years after the alleged breach of the bond.

(m) Suits upon trustees' bonds shall not be brought subsequent to two years after the estate has been closed. (July 1, 1898, c. 541, § 50, 30 Stat. 558.)

79. Duties of clerks.—Clerks shall respectively (1) account for, as for other fees received by them, the clerk's fee paid in each case and such other fees as may be received for certified copies of records which may be prepared for persons other than officers; (2) collect the fees of the clerk, referee, and

trustee in each case instituted before filing the petition, except the petition of a proposed voluntary bankrupt which is accompanied by an affidavit stating that the petitioner is without, and can not obtain, the money with which to pay such fees; (3) deliver to the referees upon application all papers which may be referred to them, or, if the offices of such referees are not in the same cities or towns as the offices of such clerks, transmit such papers by mail, and in like manner return papers which were received from such referees after they have been used; (4) and within ten days after each case has been closed pay to the referee, if the case was referred, the fee collected for him, and to the trustee the fee collected for him at the time of filing the petition. (July 1, 1898, c. 541, § 51, 30 Stat. 558.)

80. Fees of clerks and marshals.—(a) Clerks shall respectively charge and collect for their service to each estate, a filing fee of $10, except when a fee is not required from a voluntary bankrupt, which said fee shall be paid into the Treasury of the United States in the manner provided by law.

(b) Marshals shall respectively charge the estate where an adjudication in bankruptcy is made, except as herein otherwise provided, for the performance of their services in proceedings in bankruptcy, the same fees, and account for them in the same way, as they are entitled to charge for the performance of the same or similar services in other cases in accordance with laws in force on July 1, 1898, or such as may be thereafter enacted, fixing the compensation of marshals. (July 1, 1898, c. 541, § 52, 30 Stat. 559; Feb. 26, 1919, c. 49, § 1, 40 Stat. 1182; Feb. 11, 1921, c. 46, 41 Stat. 1099.)

81. Duties of Attorney General.—The Attorney General shall annually lay before Congress statistical tables showing for the whole country, and by States, the number of cases during the year of voluntary and involuntary bankruptcy; the amount of the property of the estates; the dividends paid and the expenses of administering such estates; and such other like information as he may deem important. (July 1, 1898, c. 541, § 53, 30 Stat. 559.)

82. Statistics of bankruptcy proceedings.—Officers shall furnish in writing and transmit by mail such information as is within their knowledge, and as may be shown by the records and papers in their possession, to the Attorney General, for statistical purposes, within ten days after being requested by him to do so. (July 1, 1898, c. 541, § 54, 30 Stat. 559.)

Chapter 6.—CREDITORS.

Sec.
91. Creditors' meetings.
92. Same; voters at.
93. Proof and allowance of claims.
94. Creditors; notices to.
95. Bankruptcy petitions; filing and dismissal.
96. Preferred creditors.

Section 91. Creditors' meetings.—(a) The court shall cause the first meeting of the creditors of a bankrupt to be held, not less than ten or more than thirty days after the adjudication, at the county seat of the county in which the bankrupt has had his principal place of business, resided, or had his domicile; or if that place would be manifestly inconvenient as a place of meeting for the parties in interest, or if the bankrupt is one who does not do business, reside, or have his domicile within the United States, the court shall fix a place for the meeting which is the most convenient for parties in interest. If such meeting should by any mischance not be held within such time, the court shall fix the date, as soon as may be thereafter, when it shall be held.

(b) At the first meeting of creditors the judge or referee shall preside, and, before proceeding with the other business, may allow or disallow the claims of creditors there presented, and may publicly examine the bankrupt or cause him to be examined at the instance of any creditor.

(c) The creditors shall at each meeting take such steps as may be pertinent and necessary for the promotion of the best interests of the estate and the enforcement of the provisions of this title.

(d) A meeting of creditors, subsequent to the first one, may be held at any time and place when all of the creditors who have secured the allowance of their claims sign a written consent to hold a meeting at such time and place.

(e) The court shall call a meeting of creditors whenever one-fourth or more in number of those who have proven their claims shall file a written request to that effect; if such request is signed by a majority of such creditors, which number represents a majority in amount of such claims, and contains a request for such meeting to be held at a designated place, the court shall call such meeting at such place within thirty days after the date of the filing of the request.

(f) Whenever the affairs of the estate are ready to be closed a final meeting of creditors shall be ordered. (July 1, 1898, c. 541, § 55, 30 Stat. 559.)

92. Same; voters at.—(a) Creditors shall pass upon matters submitted to them at their meetings by a majority vote in number and amount of claims of all creditors whose claims have been allowed and are present, except as otherwise provided in this title.

(b) Creditors holding claims which are secured or have priority shall not, in respect to such claims, be entitled to vote at creditors' meetings, nor shall such claims be counted in computing either the number of creditors or the amount of their claims, unless the amounts of such claims exceed the values of such securities or priorities, and then only for such excess. (July 1, 1898, c. 541, § 56, 30 Stat. 560.)

93. Proof and allowance of claims.—(a) Proof of claims shall consist of a statement under oath, in writing, signed by a creditor setting forth the claim, the consideration therefor, and whether any, and, if so what, securities are held therefor, and whether any, and, if so what, payments have been made thereon, and that the sum claimed is justly owing from the bankrupt to the creditor.

(b) Whenever a claim is founded upon an instrument of writing, such instrument, unless lost or destroyed, shall be filed with the proof of claim. If such instrument is lost or destroyed, a statement of such fact and of the circumstances of such loss or destruction shall be filed under oath with the claim. After the claim is allowed or disallowed, such instrument may be withdrawn by permission of the court, upon leaving a copy thereof on file with the claim.

(c) Claims after being proved may, for the purpose of allowance, be filed by the claimants in the court where the proceedings are pending or before the referee if the case has been referred.

(d) Claims which have been duly proved shall be allowed, upon receipt by or upon presentation to the court, unless objection to their allowance shall be made by parties in interest, or their consideration be continued for cause by the court upon its own motion.

(e) Claims of secured creditors and those who have priority may be allowed to enable such creditors to participate in the proceedings at creditors' meetings held prior to the determination of the value of their securities or priorities, but shall be allowed for such sums only as to the courts seem to be owing over and above the value of their securities or priorities.

(f) Objections to claims shall be heard and determined as soon as the convenience of the court and the best interests of the estates and the claimants will permit.

(g) The claims of creditors who have received preferences, voidable under section 96, subdivision (b), of this title, or to whom conveyances, transfers, assignments, or incumbrances, void or voidable under section 107, subdivision (e), of this title, have been made or given, shall not be allowed unless such

creditors shall surrender such preferences, conveyances, transfers, assignments, or incumbrances.

(h) The value of securities held by secured creditors shall be determined by converting the same into money according to the terms of the agreement pursuant to which such securities were delivered to such creditors or by such creditors and the trustee, by agreement, arbitration, compromise, or litigation, as the court may direct, and the amount of such value shall be credited upon such claims, and a dividend shall be paid only on the unpaid balance.

(i) Whenever a creditor whose claim against a bankrupt estate is secured by the individual undertaking of any person fails to prove such claim, such person may do so in the creditor's name, and if he discharge such undertaking in whole or in part he shall be subrogated to that extent to the rights of the creditor.

(j) Debts owing to the United States, a State, a county, a district, or a municipality as a penalty or forfeiture shall not be allowed, except for the amount of the pecuniary loss sustained by the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby and such interest as may have accrued thereon according to law.

(k) Claims which have been allowed may be reconsidered for cause and reallowed or rejected in whole or in part, according to the equities of the case, before but not after the estate has been closed.

(l) Whenever a claim shall have been reconsidered and rejected, in whole or in part, upon which a dividend has been paid, the trustee may recover from the creditor the amount of the dividend received upon the claim if rejected in whole, or the proportional part thereof if rejected only in part.

(m) The claim of any estate which is being administered in bankruptcy against any like estate may be proved by the trustee and allowed by the court in the same manner and upon like terms as the claims of other creditors.

(n) Claims shall not be proved against a bankrupt estate subsequent to one year after the adjudication; or if they are liquidated by litigation and the final judgment therein is rendered within thirty days before or after the expiration of such time, then within sixty days after the rendition of such judgment. The right of infants and insane persons without guardians, without notice of the proceedings, may continue six months longer. (July 1, 1898, c. 541, § 57, 30 Stat. 560; Feb. 5, 1903, c. 487, § 12, 32 Stat. 799.)

94. Creditors; notices to.—(a) Creditors shall have at least ten days' notice by mail, to their respective addresses as they appear in the list of creditors of the bankrupt, or as afterwards filed with the papers in the case by the creditors, unless they waive notice in writing, of (1) all examinations of the bankrupt; (2) all hearings upon applications for the confirmation of compositions; (3) all meetings of creditors; (4) all proposed sales of property; (5) the declaration and time of payment of dividends; (6) the filing of the final accounts of the trustee, and the time when and the place where they will be examined and passed upon; (7) the proposed compromise of any controversy; (8) the proposed dismissal of the proceedings, and (9) there shall be thirty days' notice of all applications for the discharge of bankrupts.

(b) Notice to creditors of the first meeting shall be published at least once and may be published such number of additional times as the court may direct; the last publication shall be at least one week prior to the date fixed for the meeting. Other notices may be published as the court shall direct.

(c) All notices shall be given by the referee, unless otherwise ordered by the judge. (July 1, 1898, c. 541, § 58, 30 Stat. 561; June 25, 1910, c. 412, § 9½, 36 Stat. 841.)

95. Bankruptcy petitions; filing and dismissal.—(a) Any qualified person may file a petition to be adjudged a voluntary bankrupt.

(b) Three or more creditors who have provable claims against any person which amount in the aggregate, in excess of the value of securities held by them, if any, to $500 or over; or if all of the creditors of such person are less than twelve in number, then one of such creditors whose claim equals such amount may file a petition to have him adjudged a bankrupt.

(c) Petitions shall be filed in duplicate, one copy for the clerk and one for service on the bankrupt.

(d) If it be averred in the petition that the creditors of the bankrupt are less than twelve in number, and less than three creditors have joined as petitioners therein, and the answer avers the existence of a larger number of creditors, there shall be filed with the answer a list under oath of all the creditors, with their addresses, and thereupon the court shall cause all such creditors to be notified of the pendency of such petition and shall delay the hearing upon such petition for a reasonable time, to the end that parties in interest shall have an opportunity to be heard; if upon such hearing it shall appear that a sufficient number have joined in such petition, or if prior to or during such hearing a sufficient number shall join therein, the case may be proceeded with, but otherwise it shall be dismissed.

(e) In computing the number of creditors of a bankrupt for the purpose of determining how many creditors must join in the petition, such creditors as were employed by him at the time of the filing of the petition or are related to him by consanguinity or affinity within the third degree, as determined by the common law, and have not joined in the petition, shall not be counted.

(f) Creditors other than original petitioners may at any time enter their appearance and join in the petition, or file an answer and be heard in opposition to the prayer of the petition.

(g) A voluntary or involuntary petition shall not be dismissed by the petitioner or petitioners or for want of prosecution or by consent of parties until after notice to the creditors, and to that end the court shall, before entertaining an application for dismissal, require the bankrupt to file a list, under oath, of all his creditors, with their addresses, and shall cause notice to be sent to all such creditors of the pendency of such application, and shall delay the hearing thereon for a reasonable time to allow all creditors and parties in interest opportunity to be heard. (July 1, 1898, c. 541, § 59, 30 Stat. 561; June 25, 1910, c. 412, § 10, 36 Stat. 841.)

96. Preferred creditors.—(a) A person shall be deemed to have given a preference if, being insolvent, he has, within four months before the filing of the petition, or after the filing of the petition and before the adjudication, procured or suffered a judgment to be entered against himself in favor of any person, or made a transfer of any of his property, and the effect of the enforcement of such judgment or transfer will be to enable any one of his creditors to obtain a greater percentage of his debt than any other of such creditors of the same class. Where the preference consists in a transfer, such period of four months shall not expire until four months after the date of the recording or registering of the transfer, if by law such recording or registering is required.

(b) If a bankrupt shall have procured or suffered a judgment to be entered against him in favor of any person or have made a transfer of any of his property, and if, at the time of the transfer, or of the entry of the judgment, or of the recording or registering of the transfer if by law recording or registering thereof is required, and being within four months before the filing of the petition in bankruptcy or after the filing thereof and before the adjudication, the bankrupt be insolvent and the

judgment or transfer then operate as a preference, and the person receiving it or to be benefited thereby, or his agent acting therein, shall then have reasonable cause to believe that the enforcement of such judgment or transfer would effect a preference, it shall be voidable by the trustee and he may recover the property or its value from such person. And for the purpose of such recovery any court of bankruptcy, as hereinbefore defined, and any State court which would have had jurisdiction if bankruptcy had not intervened, shall have concurrent jurisdiction.

(c) If a creditor has been preferred, and afterwards in good faith gives the debtor further credit without security of any kind for property which becomes a part of the debtor's estates, the amount of such new credit remaining unpaid at the time of the adjudication in bankruptcy may be set off against the amount which would otherwise be recoverable from him.

(d) If a debtor shall, directly or indirectly, in contemplation of the filing of a petition by or against him, pay money or transfer property to an attorney and counselor at law, solicitor in equity, or proctor in admiralty for services to be rendered, the transaction shall be reexamined by the court on petition of the trustee or any creditor and shall only be held valid to the extent of a reasonable amount to be determined by the court, and the excess may be recovered by the trustee for the benefit of the estate. (July 1, 1898, c. 541, § 60, 30 Stat. 562; Feb. 5, 1903, c. 487, § 13, 32 Stat. 799; June 25, 1910, c. 412, § 11, 36 Stat. 842.)

Chapter 7.—ESTATES.

Sec.
101. Depositories for money.
102. Expenses of administration.
103. Debts provable against.
104. Debts which have priority.
105. Declaration and payment of dividends.
106. Unclaimed dividends.
107. Liens, conveyances, transfers, and assignments; validity of.
108. Set-offs and counterclaims.
109. Property; seizure to avoid deterioration.
110. Same; title.
111. Records; duty of clerks to keep; inspection.
112. Restriction of compensation of referees, receivers, and trustees.

Section 101. Depositories for money.—Courts of bankruptcy shall designate, by order, banking institutions as depositories for the money of bankrupt estates, as convenient as may be to the residences of trustees, and shall require bonds to the United States, subject to their approval, to be given by such banking institutions, and may from time to time as occasion may require, by like order increase the number of depositories or the amount of any bond or change such depositories. (July 1, 1898, c. 541, § 61, 30 Stat. 562.)

102. Expenses of administration.—The actual and necessary expenses incurred by officers in the administration of estates shall, except where other provisions are made for their payment, be reported in detail, under oath, and examined and approved or disapproved by the court. If approved, they shall be paid or allowed out of the estates in which they were incurred. (July 1, 1898, c. 541, § 62, 30 Stat. 562.)

103. Debts provable against.—(a) Debts of the bankrupt may be proved and allowed against his estate which are (1) a fixed liability, as evidenced by a judgment or an instrument in writing, absolutely owing at the time of the filing of the petition against him, whether then payable or not, with any interest thereon which would have been recoverable at that date or with a rebate of interest upon such as were not then payable and did not bear interest; (2) due as costs taxable against an involuntary bankrupt who was at the time of the filing of the petition against him plaintiff in a cause of action which would pass to the trustee and which the trustee declines to prosecute after notice; (3) founded upon a claim for taxable costs incurred in good faith by a creditor before the filing of a petition in an action to recover a provable debt; (4) founded upon an open account, or upon a contract express or implied; and (5) founded upon provable debts reduced to judgments after the filing of the petition and before the consideration of the bankrupt's application for a discharge, less costs incurred and interest accrued after the filing of the petition and up to the time of the entry of such judgments.

(b) Unliquidated claims against the bankrupt may, pursuant to application to the court, be liquidated in such manner as it shall direct, and may thereafter be proved and allowed against the estate. (July 1, 1898, c. 541, § 63, 30 Stat. 562.)

104. Debts which have priority.—(a) The court shall order the trustee to pay all taxes legally due and owing by the bankrupt to the United States, State, county, district, or municipality in advance of the payment of dividends to creditors, and upon filing the receipts of the proper public officers for such payment he shall be credited with the amount thereof, and in case any question arises as to the amount or legality of any such tax the same shall be heard and determined by the court.

(b) The debts to have priority, except as herein provided, and to be paid in full out of bankrupt estates, and the order of payment shall be (1) the actual and necessary cost of preserving the estate subsequent to filing the petition; (2) the filing fees paid by creditors in involuntary cases, and, where property of the bankrupt, transferred or concealed by him either before or after the filing of the petition, shall have been recovered for the benefit of the estate of the bankrupt by the efforts and at the expense of one or more creditors, the reasonable expenses of such recovery; (3) the cost of administration, including the fees and mileage payable to witnesses as on July 1, 1898, or thereafter provided by the laws of the United States, and one reasonable attorney's fee, for the professional services actually rendered, irrespective of the number of attorneys employed, to the petitioning creditors in involuntary cases, to the bankrupt in involuntary cases while performing the duties herein prescribed, and to the bankrupt in voluntary cases, as the court may allow; (4) wages due to workmen, clerks, traveling or city salesmen, or servants which have been earned within three months before the date of the commencement of proceedings, not to exceed $300 to each claimant; and (5) debts owing to any person who by the laws of the States or the United States is entitled to priority.

(c) In the event of the confirmation of a composition being set aside, or a discharge revoked, the property acquired by the bankrupt in addition to his estate at the time the composition was confirmed or the adjudication was made shall be applied to the payment in full of the claims of creditors for property sold to him on credit, in good faith, while such composition or discharge was in force, and the residue, if any, shall be applied to the payment of the debts which were owing at the time of the adjudication. (July 1, 1898, c. 541, § 64, 30 Stat. 563; Feb. 5, 1903, c. 487, § 14, 32 Stat. 800; June 15, 1906, c. 3333, 34 Stat. 267.)

105. Declaration and payment of dividends.—(a) Dividends of an equal per centum shall be declared and paid on all allowed claims, except such as have priority or are secured.

(b) The first dividend shall be declared within thirty days after the adjudication, if the money of the estate in excess of the amount necessary to pay the debts which have priority and such claims as have not been, but probably will be, allowed equals 5 per centum or more of such allowed claims. Dividends subsequent to the first shall be declared upon like terms as the first and as often as the amount shall equal 10 per centum or more and upon closing the estate. Dividends may be declared oftener and in smaller proportions if the judge

shall so order. The first dividend shall not include more than 50 per centum of the money of the estate in excess of the amount necessary to pay the debts which have priority and such claims as probably will be allowed. The final dividend shall not be declared within three months after the first dividend shall be declared.

(c) The rights of creditors who have received dividends, or in whose favor final dividends have been declared, shall not be affected by the proof and allowance of claims subsequent to the date of such payment or declarations of dividends; but the creditors proving and securing the allowance of such claims shall be paid dividends equal in amount to those already received by the other creditors if the estate equals so much before such other creditors are paid any further dividends.

(d) Whenever a person shall have been adjudged a bankrupt by a court without the United States and also by a court of bankruptcy, creditors residing within the United States shall first be paid a dividend equal to that received in the court without the United States by other creditors before creditors who have received a dividend in such court shall be paid any amounts.

(e) A claimant shall not be entitled to collect from a bankrupt estate any greater amount than shall accrue pursuant to the provisions of this title. (July 1, 1898, c. 541, § 65, 30 Stat. 563; Feb. 5, 1903, c. 487, § 15, 32 Stat. 800.)

106. Unclaimed dividends.—(a) Dividends which remain unclaimed for six months after the final dividend has been declared shall be paid by the trustee into court.

(b) Dividends remaining unclaimed for one year shall, under the direction of the court, be distributed to the creditors whose claims have been allowed but not paid in full, and after such claims have been paid in full the balance shall be paid to the bankrupt. In case unclaimed dividends belong to minors such minors may have one year after arriving at majority to claim such dividends. (July 1, 1898, c. 541, § 66, 30 Stat. 564.)

107. Liens, conveyances, transfers, and assignments; validity of.—(a) Claims which for want of record or for other reasons would not have been valid liens as against the claims of the creditors of the bankrupt shall not be liens against his estate.

(b) Whenever a creditor is prevented from enforcing his rights as against a lien created, or attempted to be created, by his debtor, who afterwards becomes a bankrupt, the trustee of the estate of such bankrupt shall be subrogated to and may enforce such rights of such creditor for the benefit of the estate.

(c) A lien created by or obtained in or pursuant to any suit or proceeding at law or in equity, including an attachment upon mesne process or a judgment by confession, which was begun against a person within four months before the filing of a petition in bankruptcy by or against such person shall be dissolved by the adjudication of such person to be a bankrupt if (1) it appears that said lien was obtained and permitted while the defendant was insolvent and that its existence and enforcement will work a preference, or (2) the party or parties to be benefited thereby had reasonable cause to believe the defendant was insolvent and in contemplation of bankruptcy, or (3) that such lien was sought and permitted in fraud of the provisions of this title; or if the dissolution of such lien would militate against the best interests of the estate of such person the same shall not be dissolved, but the trustee of the estate of such person, for the benefit of the estate, shall be subrogated to the rights of the holder of such lien and empowered to perfect and enforce the same in his name as trustee with like force and effect as such holder might have done had not bankruptcy proceedings intervened.

(d) Liens given or accepted in good faith and not in contemplation of or in fraud upon the provisions of this title, and for a present consideration, which have been recorded according to law, if record thereof was necessary in order to impart notice, shall, to the extent of such present consideration only, not be affected by anything herein.

(e) All conveyances, transfers, assignments, or incumbrances of his property or any part thereof, made or given by a person adjudged a bankrupt under the provisions of this title within four months prior to the filing of the petition, with the intent and purpose on his part to hinder, delay, or defraud his creditors, or any of them, shall be null and void as against the creditors of such debtor, except as to purchasers in good faith and for a present fair consideration; and all property of the debtor conveyed, transferred, assigned, or encumbered as aforesaid shall, if he be adjudged a bankrupt, and the same is not exempt from execution and liability for debts by the law of his domicile, be and remain a part of the assets and estate of the bankrupt and shall pass to his said trustee, whose duty it shall be to recover and reclaim the same by legal proceedings or otherwise for the benefit of the creditors. And all conveyances, transfers, or incumbrances of his property made by a debtor at any time within four months prior to the filing of the petition against him, and while insolvent, which are held null and void as against the creditors of such debtor by the laws of the State, Territory, or District in which such property is situate, shall be deemed null and void under the provisions of this title against the creditors of such debtor if he be adjudged a bankrupt, and such property shall pass to the assignee and be by him reclaimed and recovered for the benefit of the creditors of the bankrupt. For the purpose of such recovery any court of bankruptcy as hereinbefore defined, and any State court which would have had jurisdiction if bankruptcy had not intervened, shall have concurrent jurisdiction.

(f) That all levies, judgments, attachments, or other liens, obtained through legal proceedings against a person who is insolvent, at any time within four months prior to the filing of a petition in bankruptcy against him, shall be deemed null and void in case he is adjudged a bankrupt, and the property affected by the levy, judgment, attachment, or other lien shall be deemed wholly discharged and released from the same, and shall pass to the trustee as a part of the estate of the bankrupt, unless the court shall, on due notice, order that the right under such levy, judgment, attachment, or other lien shall be preserved for the benefit of the estate; and thereupon the same may pass to and shall be preserved by the trustee for the benefit of the estate as aforesaid. And the court may order such conveyance as shall be necessary to carry the purposes of this section into effect. Nothing herein contained shall have the effect to destroy or impair the title obtained by such levy, judgment, attachment, or other lien, of a bona fide purchaser for value who shall have acquired the same without notice or reasonable cause for inquiry. (July 1, 1898, c. 541, § 67, 30 Stat. 561; Feb. 5, 1903, c. 487, § 16, 32 Stat. 800; June 25, 1910, c. 412, § 12, 36 Stat. 842.)

108. Set-offs and counterclaims.—(a) In all cases of mutual debts or mutual credits between the estate of a bankrupt and a creditor the account shall be stated and one debt shall be set off against the other, and the balance only shall be allowed or paid.

(b) A set-off or counterclaim shall not be allowed in favor of any debtor of the bankrupt which (1) is not provable against the estate; or (2) was purchased by or transferred to him after the filing of the petition, or within four months before such filing, with a view to such use and with knowledge or notice that such bankrupt was insolvent, or had committed an act of bankruptcy. (July 1, 1898, c. 541, § 68, 30 Stat. 565.)

109. Property; seizure to avoid deterioration.—A judge may, upon satisfactory proof, by affidavit, that a bankrupt against

whom an involuntary petition has been filed and is pending has committed an act of bankruptcy, or has neglected or is neglecting, or is about to so neglect his property that it has thereby deteriorated or is thereby deteriorating or is about thereby to deteriorate in value, issue a warrant to the marshal to seize and hold it subject to further orders. Before such warrant is issued the petitioners applying therefor shall enter into a bond in such an amount as the judge shall fix, with such sureties as he shall approve, conditioned to indemnify such bankrupt for such damages as he shall sustain in the event such seizure shall prove to have been wrongfully obtained. Such property shall be released, if such bankrupt shall give bond in a sum which shall be fixed by the judge, with such sureties as he shall approve, conditioned to turn over such property, or pay the value thereof in money to the trustee, in the event he is adjudged a bankrupt pursuant to such petition. (July 1, 1898, c. 541, § 69, 30 Stat. 565.)

110. Same; title.—(a) The trustee of the estate of a bankrupt, upon his appointment and qualification, and his successor or successors, if he shall have one or more, upon his or their appointment and qualification, shall in turn be vested by operation of law with the title of the bankrupt, as of the date he was adjudged a bankrupt, except in so far as it is to property which is exempt, to all (1) documents relating to his property; (2) interests in patents, patent rights, copyrights, and trade-marks; (3) powers which he might have exercised for his own benefit, but not those which he might have exercised for some other person; (4) property transferred by him in fraud of his creditors; (5) property which prior to the filing of the petition he could by any means have transferred or which might have been levied upon and sold under judicial process against him. When any bankrupt shall have any insurance policy which has a cash surrender value payable to himself, his estate, or personal representatives, he may, within thirty days after the cash surrender value has been ascertained and stated to the trustee by the company issuing the same, pay or secure to the trustee the sum so ascertained and stated, and continue to hold, own, and carry such policy free from the claims of the creditors participating in the distribution of his estate under the bankruptcy proceedings, otherwise the policy shall pass to the trustee as assets; and (6) rights of action arising upon contracts or from the unlawful taking or detention of, or injury to, his property.

(b) All real and personal property belonging to bankrupt estates shall be appraised by three disinterested appraisers; they shall be appointed by, and report to, the court. Real and personal property shall, when practicable, be sold subject to the approval of the court; it shall not be sold otherwise than subject to the approval of the court for less than 75 per centum of its appraised value.

(c) The title to property of a bankrupt estate which has been sold, as provided in this title, shall be conveyed to the purchaser by the trustee.

(d) Whenever a composition shall be set aside, or discharge revoked, the trustee shall, upon his appointment and qualification, be vested as provided in this title with the title to all of the property of the bankrupt as of the date of the final decree setting aside the composition or revoking the discharge.

(e) The trustee may avoid any transfer by the bankrupt of his property which any creditor of such bankrupt might have avoided, and may recover the property so transferred, or its value, from the person to whom it was transferred, unless he was a bona fide holder for value prior to the date of the adjudication. Such property may be recovered or its value collected from whoever may have received it, except a bona fide holder for value. For the purpose of such recovery any court of bankruptcy as defined in this title, and any State court which would have had jurisdiction if bankruptcy had not intervened, shall have concurrent jurisdiction.

(f) Upon the confirmation of a composition offered by a bankrupt, the title to his property shall thereupon revest in him. (July 1, 1898, c. 541, § 70, 30 Stat. 565; Feb. 5, 1903, c. 487, § 16, 32 Stat. 800.)

111. Records; duty of clerks to keep; inspection.—The clerks of the several district courts of the United States shall prepare and keep in their respective offices complete and convenient indexes of all petitions and discharges in bankruptcy filed prior to July 1, 1898, or thereafter filed in the said courts, and shall, when requested so to do, issue certificates of search certifying as to whether or not any such petitions or discharges have been filed; and said clerks shall be entitled to charge and collect for such certificates the same fees as now allowed by law for certificates as to judgments in said courts. Bankruptcy indexes and dockets shall at all times be open to inspection and examination by all persons or corporations without any fee or charge therefor. (July 1, 1898, c. 541, § 71; Feb. 5, 1903, c. 487, § 17, 32 Stat. 800; Feb. 11, 1925, c. 204, § 8, 43 Stat. 858.)

112. Restriction of compensation of referees, receivers, and trustees.—Neither the referee, receiver, nor trustee shall in any form or guise receive, nor shall the court allow him, any other or further compensation for his services than that expressly authorized and prescribed in this title. (July 1, 1898, c. 541, § 72; Feb. 5, 1903, c. 487, § 18, 32 Stat. 800; June 25, 1910, c. 412, § 13, 36 Stat. 842.)