

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL, for its concurrence.

Legislative Assembly Chamber,
Sydney, 13 November, 1861. }

CHA. TOMPSON,
Clerk of Legislative Assembly.

New South Wales.



ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ.

No. .

An Act to amend the Laws relating to Insolvency.

WHEREAS it is expedient to amend the Law relating to Insolvency Preamble.

and the administration thereof in manner hereinafter contained Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

5

1. Every payment heretofore or hereafter made by any person before the sequestration of his estate under the Act fifth Victoria number seventeen to any creditor for or on account of any just debt due at the time of payment shall except only in the cases hereinafter mentioned be and be deemed to have been a valid payment anything in the said Act notwithstanding. Certain payments before insolvency protected.

10

2. Provided that such creditor or the person receiving payment on his behalf shall not at the time of payment have known that the debtor was then insolvent—or was by such payment rendered insolvent—or that he then contemplated the surrender of his estate as insolvent—or that proceedings for causing his estate to be sequestrated had been commenced—or that the payment was a voluntary preference of such creditor to other creditors And notice to the creditor or person so receiving payment of any such matter by whomsoever given if in accordance with the fact shall be equivalent to and be deemed knowledge in such creditor or person. Exceptions.

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Insolvency Laws Amendment—1861.

3. Provided also that nothing in this Act shall extend to any suit or action already determined or commenced before the first day of September one thousand eight hundred and sixty-one and pending at the passing of this Act or shall affect any matter or question therein.
- 5 4. The powers and jurisdiction now vested in and exercised by the Supreme Court or any Judge thereof in or in respect of certain matters in Insolvency that is to say—the sequestration of Estates—the release of Estates from sequestration—the directing and prosecuting of the examinations of Insolvents and witnesses and ordering and enforcing the production of books and papers—the ordering of payments by an Insolvent becoming able to satisfy his creditors wholly or in part—the approval of accounts—and the confirmation of plans of distribution—shall be and the same are hereby transferred to and vested in the Chief Commissioner of Insolvent Estates Subject nevertheless to Appeal to the Supreme Court in such manner and upon such terms as the Judges by any General Rules made by them shall direct.
- 10 5. It shall no longer be necessary that the granting suspending or refusing by the Chief Commissioner of a certificate to any Insolvent shall be confirmed by the Supreme Court in the first instance but every such grant suspension or refusal by the said Commissioner shall take effect from the date thereof unless reversed or altered by the Supreme Court upon Appeal And every such Appeal shall be within twenty-one days and shall be subject to any General Rules made as aforesaid.
- 20 6. The Official Assignees in Insolvency shall be in all respects as such Assignees under the control and direction of the Chief Commissioner And if at any time it shall appear to such Commissioner that any Official Assignee has improperly or unnecessarily incurred costs charges or expenses in any matter affecting an Insolvent Estate or its administration he may disallow the same as against the estate Subject nevertheless to Appeal to the Supreme Court by the Official Assignee or any other person interested in the question in such manner and upon such terms as may be provided by any General Rules made as aforesaid.
- 25 7. All Sales in Insolvency effected by or by the order of any Official Assignee shall unless the Chief Commissioner shall in any case otherwise direct be by public auction of which six days public notice at the least shall be given And no sale by private contract shall be complete until approved under the hand of the Chief Commissioner.
- 35 8. The Governor shall with the advice of the Executive Council appoint a fit person to be “Registrar in Insolvency” who shall also be the Accountant of the Court and shall be under the control and direction of the Chief Commissioner And it shall be the duty of such Registrar to preserve the records and keep the books and accounts of the Insolvency Department—to tax all costs incurred in Insolvency proceedings—to audit and report to the Chief Commissioner upon the accounts and plans of distribution of the Official Assignees and to attend to such other matters relating to Insolvency as may be required of him by the Chief Commissioner subject in all cases of taxation to review by the Chief Commissioner upon application for that purpose.
- 40 9. The Chief Commissioner in any Insolvent Estate in which he shall see fit may order meetings of creditors to be held and the proof of debts thereat to take place before the Registrar subject to review by himself as aforesaid And the Chief Commissioner may authorize the calling and holding of any meeting of creditors in any estate for any purpose at the instance of the Assignee therein or of any three creditors upon such day or after the expiration of such time as he may think fit.
- 50 10. The Chief Commissioner may cause the Insolvent in any estate and also all persons required as witnesses therein from time to time

Retrospective operation of Act.

Transfer of certain jurisdiction to Chief Commissioner.

Certificates of Insolvents need not be confirmed &c. by Supreme Court.

Power to disallow improper charges.

Sales in Insolvency.

Registrar in Insolvency.

Commissioner may authorize meetings and proof of debts before Registrar.

Examination of Insolvent and witnesses.

Insolvency Laws Amendment—1861.

time to be summoned and examined either before himself or some other Commissioner in Insolvency and may issue Summonses for that purpose on the application of the Official Assignee or of any creditor or without any such application. And obedience to any such summons may be
 5 enforced and non-compliance therewith be punished by him in like manner as provided by the sixty-eighth and two following sections of the Act fifth Victoria number seventeen with respect to parties summoned by the Supreme Court or a Judge.

10 11. Whenever an Insolvent shall have been required by or in
 15 pursuance of any General Rule made by the Judges to file or deliver a
 Schedule of his Assets and Liabilities or a Statement of property
 disposed of by him within sixty days before sequestration or a Supple-
 mentary Schedule shewing his transactions for six or twelve months before
 sequestration he may be proceeded against for not complying with any
 such requisition by attachment as for contempt of a Rule of Court.

Insolvents not filing
Schedule &c. when
required.

12. The person who may be elected Assignee by the creditors in
 any Insolvent Estate need not be a creditor.

Creditors Assignee.

13. This Act shall be styled and may be cited as the “Insolvency
 Laws Amendment Act of 1861.”

Short Title.

THE HISTORY OF

the city of London, from the first settlement of the
 Britons, to the present time. The first part of
 the history is divided into three periods, the first
 of which is the reign of the Britons, the second
 the reign of the Saxons, and the third the reign
 of the Normans. The second part of the history
 is divided into three periods, the first of which
 is the reign of the Saxons, the second the reign
 of the Normans, and the third the reign of the
 Plantagenets. The third part of the history
 is divided into three periods, the first of which
 is the reign of the Plantagenets, the second
 the reign of the Yorkists, and the third the
 reign of the Tudors. The fourth part of the
 history is divided into three periods, the first
 of which is the reign of the Tudors, the second
 the reign of the Stuarts, and the third the
 reign of the Hanoverians. The fifth part of
 the history is divided into three periods, the
 first of which is the reign of the Hanoverians,
 the second the reign of the Georges, and the
 third the reign of the Windsors.

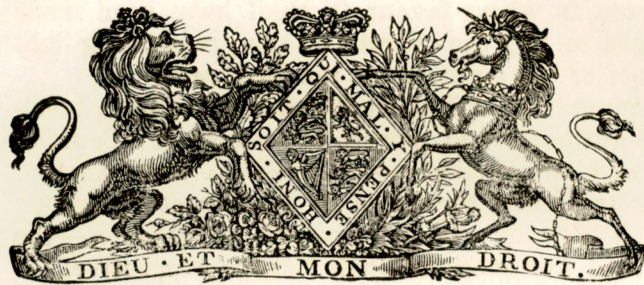
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Legislative Assembly Chamber,
Sydney, 13 November, 1861. }

CHA. TOMPSON,
Clerk of Legislative Assembly.

New South Wales.



ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ.

No. .

(As amended in Committee of the Whole.)

An Act to amend the Laws relating to Insolvency.

WHEREAS it is expedient to amend the Law relating to Insolvency Preamble.
and the administration thereof in manner hereinafter contained
Be it therefore enacted by the Queen's Most Excellent Majesty by and with
the advice and consent of the Legislative Council and Legislative
5 Assembly of New South Wales in Parliament assembled and by the
authority of the same as follows:—

1. Every payment heretofore or hereafter made by any person Certain payments before insolvency protected.
before the sequestration of his estate under the Act fifth Victoria number
seventeen to any creditor for or on account of any just debt due at the
10 time of payment shall except only in the cases hereinafter mentioned be
and be deemed to have been a valid payment anything in the said Act
notwithstanding.

2. Provided that such creditor or the person receiving payment Exceptions.
on his behalf shall not at the time of payment have known that the debtor
15 was then insolvent—or was by such payment rendered insolvent—or
that he then contemplated the surrender of his estate as insolvent—or
that proceedings for causing his estate to be sequestrated had been
commenced—or that the payment was a voluntary preference of such
creditor to other creditors And notice to the creditor or person so
20 receiving payment of any such matter by whomsoever given if in accord-
ance with the fact shall be equivalent to and be deemed knowledge in
such creditor or person.

3.

NOTE.—The words to be omitted are ruled through: the words to be inserted are printed in black letter.

Insolvency Laws Amendment—1861.

3. Provided also that nothing in this Act shall extend to any suit or action already determined or commenced before the first day of September one thousand eight hundred and sixty-one and pending at the passing of this Act or shall affect any matter or question therein.
- 5 4. No alienation transfer gift surrender delivery mortgage or pledge warrant of attorney cognovit actionem or judgment entered up thereon shall be deemed to be wholly void under section eight of the Insolvent Act passed in the fifth year of Her Majesty's Reign by reason only that a pre-existing debt formed a part of the consideration there-
10 for but the same shall be void only in so far as it gives preference to any such debt And in any such case the same shall if in the nature of a mortgage or pledge and otherwise valid be deemed a lawful security for any advance or payment bona fide made in consideration thereof or if the same be in the nature of an absolute alienation and
15 otherwise valid the person in whose favour it shall have been made shall be bound and obliged to pay the amount of the pre-existing debt so preferred for the behoof of the creditors of the Insolvent.
4. 5. The Chief Commissioner of Insolvent Estates sitting in Insolvency shall have all the authority and powers of a Judge of a Court of
20 Record and the powers and jurisdiction now vested in and exercised by the Supreme Court or any Judge thereof in or in respect of certain matters in Insolvency that is to say—the sequestration of Estates—the appointment of the Official Assignees of such Estates respectively—the release of Estates from sequestration—the directing and prosecuting
25 of the examinations of Insolvents and witnesses and ordering and enforcing the production of books and papers—the ordering of the payment of dividends and of other moneys belonging to Insolvent Estates—the ordering of payments by an Insolvent becoming able to satisfy his creditors wholly or in part—the approval of accounts—and the confir-
30 mation of plans of distribution—~~shall be and the same are hereby transferred to and vested in~~ may be exercised by the Chief Commissioner of Insolvent Estates. Subject nevertheless to Appeal to the Supreme Court in such manner and upon such terms as the Judges by any General Rules made by them shall direct.
5. 6. It shall no longer be necessary that the granting suspending or refusing by the Chief Commissioner of a certificate to any Insolvent shall be confirmed by the Supreme Court in the first instance but every
35 such grant suspension or refusal by the said Commissioner shall take effect from the date thereof unless reversed or altered by the Supreme
40 Court upon Appeal And every such Appeal shall be within twenty-one days and shall be subject to any General Rules made as aforesaid.
6. 7. The Official Assignees in Insolvency shall be in all respects as such Assignees under the control and direction of the Chief Commissioner
45 And if at any time it shall appear to such Commissioner that any Official Assignee has improperly or unnecessarily incurred costs charges or expenses in any matter affecting an Insolvent Estate or its administration he may disallow the same as against the estate Subject nevertheless to Appeal to the Supreme Court by the Official Assignee or any other person interested in the question in such manner and upon
50 such terms as may be provided by any General Rules made as aforesaid.
7. 8. All Sales in Insolvency effected by or by the order of any Official Assignee shall unless the Chief Commissioner shall in any case otherwise direct be by public auction of which six days public notice at the least shall be given And no sale by private contract shall be
55 complete until approved under the hand of the Chief Commissioner.
8. 9. The Governor shall with the advice of the Executive Council appoint a fit person to be "Registrar in Insolvency" who shall also be the Accountant of the Court and shall be under the control and

Retrospective operation of Act.

Amending section 8 of Insolvent Act.

Transfer of certain jurisdiction to Chief Commissioner.

Certificates of Insolvents need not be confirmed &c. by Supreme Court.

Power to disallow improper charges.

Sales in Insolvency.

Registrar in Insolvency.

Insolvency Laws Amendment—1861.

and direction of the Chief Commissioner And it shall be the duty of such Registrar to preserve the records and keep the books and accounts of the Insolvency Department—to tax all costs incurred in Insolvency proceedings—to audit and report to the Chief Commissioner upon the accounts and plans of distribution of the Official Assignees and to attend to such other matters relating to Insolvency as may be required of him by the Chief Commissioner subject in all cases of taxation to review by the Chief Commissioner upon application for that purpose.

9. 10. The Chief Commissioner in any Insolvent Estate in which he shall see fit may order meetings of creditors to be held and the proof of debts thereat to take place before the Registrar subject to review by himself as aforesaid And the Chief Commissioner may authorize the calling and holding of any meeting of creditors in any estate for any purpose at the instance of the Assignee therein or of any three creditors upon such day or after the expiration of such time as he may think fit.

Commissioner may authorize meetings and proof of debts before Registrar.

10. 11. The Chief Commissioner may cause the Insolvent in any estate and also all persons required as witnesses therein from time to time to be summoned and examined either before himself or some other Commissioner in Insolvency and may issue Summonses for that purpose on the application of the Official Assignee or of any creditor or without any such application And obedience to any such summons may be enforced and non-compliance therewith be punished by him in like manner as provided by the sixty-eighth and two following sections of the Act fifth Victoria number seventeen with respect to parties summoned by the Supreme Court or a Judge.

Examination of Insolvent and witnesses.

11. 12. Whenever an Insolvent shall have been required by or in pursuance of any General Rule made by the Judges to file or deliver a Schedule of his Assets and Liabilities or a Statement of property disposed of by him within sixty days before sequestration or a Supplementary Schedule shewing his transactions for six or twelve months before sequestration he may be proceeded against for not complying with any such requisition by attachment as for contempt of a Rule of Court.

Insolvents not filing Schedule &c. when required.

12. 13. The person who may be elected Assignee by the creditors in any Insolvent Estate need not be a creditor.

Creditors Assignee.

13. 14. This Act shall be styled and may be cited as the “ Insolvency Laws Amendment Act of 1861.”

Short Title.

INSOLVENCY LAWS AMENDMENT BILL.

*SCHEDULE of the Amendments made by the Legislative Council in the Bill, intituled,
"An Act to amend the Laws relating to Insolvency," returned to the Legislative
Assembly with Message of 28 November, 1861.*

R. O'CONNOR,
Clerk of the Legislative Council.

- Page 2. *After clause 3 insert new clause 4.*
" Clause 4 **5**, line 18. *At the commencement of the clause insert "The Chief Com-
missioner of Insolvent Estates sitting in Insolvency shall
" have all the authority and powers of a Judge of a Court
" of Record and "*
" " line 22. *After "Estates—" insert "the appointment of the Official
" Assignees of such Estates respectively—"*
" " line 26. *After "ordering of" insert "the payment of dividends and
" of other moneys belonging to Insolvent Estates—the
" ordering of "*
" " lines 30 and 31. *Omit "shall be and the same are hereby transferred
" to and vested in"; insert "may be exercised by "*
Page 3, clause ~~11~~ **12**, line 28. *Omit "made by the Judges"*
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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL, for its concurrence.

*Legislative Assembly Chamber,
Sydney, 13 November, 1861.* }

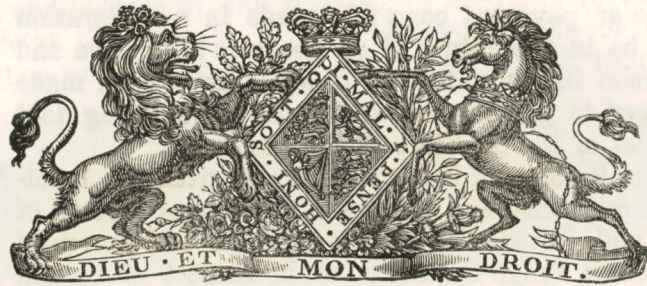
CHA. TOMPSON,
Clerk of Legislative Assembly.

The LEGISLATIVE COUNCIL has this day agreed to this Bill, with Amendments.

*Legislative Council Chamber,
Sydney, 28th November, 1861.* }

R. O'CONNOR,
Clerk of the Legislative Council.

New South Wales.



ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ.

No. .

An Act to amend the Laws relating to Insolvency.

WHEREAS it is expedient to amend the Law relating to Insolvency Preamble.
and the administration thereof in manner hereinafter contained
Be it therefore enacted by the Queen's Most Excellent Majesty by and with
the advice and consent of the Legislative Council and Legislative
5 Assembly of New South Wales in Parliament assembled and by the
authority of the same as follows:—

1. Every payment heretofore or hereafter made by any person Certain payments before insolvency protected.
before the sequestration of his estate under the Act fifth Victoria number
seventeen to any creditor for or on account of any just debt due at the
10 time of payment shall except only in the cases hereinafter mentioned be
and be deemed to have been a valid payment anything in the said Act
notwithstanding.

2. Provided that such creditor or the person receiving payment Exceptions.
on his behalf shall not at the time of payment have known that the debtor
15 was then insolvent—or was by such payment rendered insolvent—or
that he then contemplated the surrender of his estate as insolvent—or
that proceedings for causing his estate to be sequestrated had been
commenced—or that the payment was a voluntary preference of such
creditor to other creditors And notice to the creditor or person so
20 receiving payment of any such matter by whomsoever given if in accord-
ance with the fact shall be equivalent to and be deemed knowledge in
such creditor or person.

3.

NOTE.—The words to be omitted are ruled through: the words to be inserted are printed in black letter.

Insolvency Laws, Amendment—1861.

3. Provided also that nothing in this Act shall extend to any suit or action already determined or commenced before the first day of September one thousand eight hundred and sixty-one and pending at the passing of this Act or shall affect any matter or question therein.

Retrospective operation of Act.

5 4. No alienation transfer gift surrender delivery mortgage or pledge warrant of attorney cognovit actionem or judgment entered up thereon shall be deemed to be wholly void under section eight of the Insolvent Act passed in the fifth year of Her Majesty's Reign by reason only that a pre-existing debt formed a part of the consideration there-
10 for but the same shall be void only in so far as it gives preference to any such debt And in any such case the same shall if in the nature of a mortgage or pledge and otherwise valid be deemed a lawful security for any advance or payment bona fide made in consideration thereof or if the same be in the nature of an absolute alienation and
15 otherwise valid the person in whose favour it shall have been made shall be bound and obliged to pay the amount of the pre-existing debt so preferred for the behoof of the creditors of the Insolvent.

Amending section 8 of Insolvent Act.

4. 5. The Chief Commissioner of Insolvent Estates sitting in Insol-
20 vency shall have all the authority and powers of a Judge of a Court of Record and the powers and jurisdiction now vested in and exercised by the Supreme Court or any Judge thereof in or in respect of certain matters in Insolvency that is to say—the sequestration of Estates—the appointment of the Official Assignees of such Estates respectively—the release of Estates from sequestration—the directing and prosecuting
25 of the examinations of Insolvents and witnesses and ordering and enforcing the production of books and papers—the ordering of the payment of dividends and of other moneys belonging to Insolvent Estates—the ordering of payments by an Insolvent becoming able to satisfy his creditors wholly or in part—the approval of accounts—and the confir-
30 mation of plans of distribution—shall be and the same are hereby transferred to and vested in may be exercised by the Chief Commissioner of Insolvent Estates Subject nevertheless to Appeal to the Supreme Court in such manner and upon such terms as the Judges by any General Rules made by them shall direct.

Transfer of certain jurisdiction to Chief Commissioner.

35 5. 6. It shall no longer be necessary that the granting suspending or refusing by the Chief Commissioner of a certificate to any Insolvent shall be confirmed by the Supreme Court in the first instance but every such grant suspension or refusal by the said Commissioner shall take effect from the date thereof unless reversed or altered by the Supreme
40 Court upon Appeal And every such Appeal shall be within twenty-one days and shall be subject to any General Rules made as aforesaid.

Certificates of Insolvents need not be confirmed &c. by Supreme Court.

6. 7. The Official Assignees in Insolvency shall be in all respects as such Assignees under the control and direction of the Chief Commissioner And if at any time it shall appear to such Commissioner that any Official
45 Assignee has improperly or unnecessarily incurred costs charges or expenses in any matter affecting an Insolvent Estate or its administration he may disallow the same as against the estate Subject nevertheless to Appeal to the Supreme Court by the Official Assignee or any other person interested in the question in such manner and upon
50 such terms as may be provided by any General Rules made as aforesaid.

Power to disallow improper charges.

7. 8. All Sales in Insolvency effected by or by the order of any Official Assignee shall unless the Chief Commissioner shall in any case otherwise direct be by public auction of which six days public notice at the least shall be given And no sale by private contract shall be
55 complete until approved under the hand of the Chief Commissioner.

Sales in Insolvency.

8. 9. The Governor shall with the advice of the Executive Council appoint a fit person to be "Registrar in Insolvency" who shall also be the Accountant of the Court and shall be under the control and

Registrar in Insolvency.

Insolvency Laws Amendment—1861.

and direction of the Chief Commissioner And it shall be the duty of such Registrar to preserve the records and keep the books and accounts of the Insolvency Department—to tax all costs incurred in Insolvency proceedings—to audit and report to the Chief Commissioner upon the accounts and plans of distribution of the Official Assignees and to attend to such other matters relating to Insolvency as may be required of him by the Chief Commissioner subject in all cases of taxation to review by the Chief Commissioner upon application for that purpose.

9. 10. The Chief Commissioner in any Insolvent Estate in which he shall see fit may order meetings of creditors to be held and the proof of debts thereat to take place before the Registrar subject to review by himself as aforesaid And the Chief Commissioner may authorize the calling and holding of any meeting of creditors in any estate for any purpose at the instance of the Assignee therein or of any three creditors upon such day or after the expiration of such time as he may think fit.

Commissioner may authorize meetings and proof of debts before Registrar.

10. 11. The Chief Commissioner may cause the Insolvent in any estate and also all persons required as witnesses therein from time to time to be summoned and examined either before himself or some other Commissioner in Insolvency and may issue Summonses for that purpose on the application of the Official Assignee or of any creditor or without any such application And obedience to any such summons may be enforced and non-compliance therewith be punished by him in like manner as provided by the sixty-eighth and two following sections of the Act fifth Victoria number seventeen with respect to parties summoned by the Supreme Court or a Judge.

Examination of Insolvent and witnesses.

11. 12. Whenever an Insolvent shall have been required by or in pursuance of any General Rule made by the Judges to file or deliver a Schedule of his Assets and Liabilities or a Statement of property disposed of by him within sixty days before sequestration or a Supplementary Schedule shewing his transactions for six or twelve months before sequestration he may be proceeded against for not complying with any such requisition by attachment as for contempt of a Rule of Court.

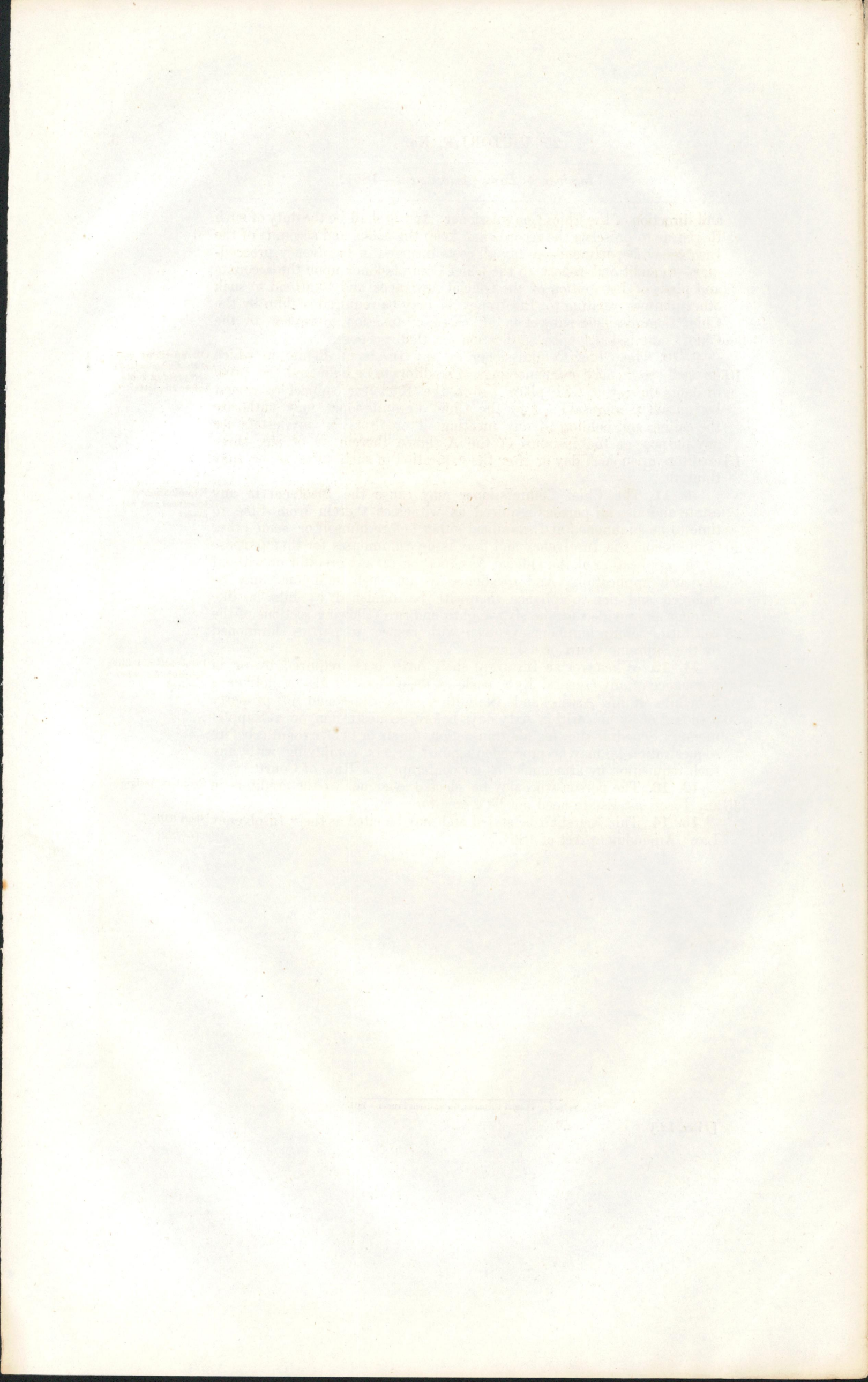
Insolvents not filing Schedule &c. when required.

12. 13. The person who may be elected Assignee by the creditors in any Insolvent Estate need not be a creditor.

Creditors Assignee.

13. 14. This Act shall be styled and may be cited as the "Insolvency Laws Amendment Act of 1861."

Short Title.



INSOLVENCY LAWS AMENDMENT BILL.

SCHEDULE of Disagreements from Legislative Council's Amendments.—Message, 4th
December, 1861.

- Page 2. After clause 3 omit new clause 4.
" clause 4 5 line 22. After "Estates" omit "the appointment of the Official
" " " " " Assignees of such Estates respectively"
" " " lines 30 and 31. Re-insert "shall be and the same are hereby transferred
" " " " to and vested in"; omit "may be exercised by"
-

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL, for its concurrence.

*Legislative Assembly Chamber,
Sydney, 13 November, 1861.* }

CHA. TOMPSON,
Clerk of Legislative Assembly.

The LEGISLATIVE COUNCIL has this day agreed to this Bill, with Amendments.

*Legislative Council Chamber,
Sydney, 28th November, 1861.* }

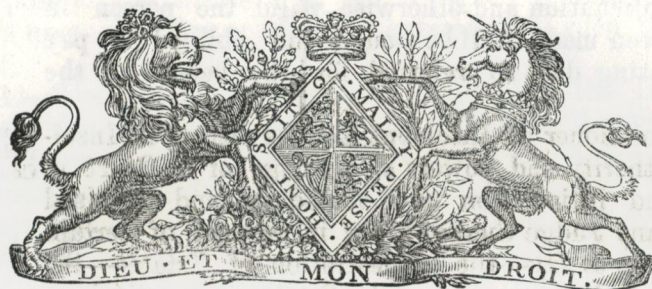
R. O'CONNOR,
Clerk of the Legislative Council.

The LEGISLATIVE ASSEMBLY has this day disagreed from some, and agreed to all other of the Amendments made by the LEGISLATIVE COUNCIL in this Bill.

*Legislative Assembly Chamber,
Sydney, 4 December, 1861.* }

CHA. TOMPSON,
Clerk of Legislative Assembly.

New South Wales.



ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ.

No.

An Act to amend the Laws relating to Insolvency.

WHEREAS it is expedient to amend the Law relating to Insolvency Preamble.
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Be it therefore enacted by the Queen's Most Excellent Majesty by and with
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commenced—or that the payment was a voluntary preference of such
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such creditor or person.

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Insolvency Laws Amendment—1861.

3. Provided also that nothing in this Act shall extend to any suit or action already determined or commenced before the first day of September one thousand eight hundred and sixty-one and pending at the passing of this Act or shall affect any matter or question therein.

Retrospective operation of Act.

4. No alienation transfer gift surrender delivery mortgage or pledge warrant of attorney *cognovit actionem* or judgment entered up thereon shall be deemed to be wholly void under section eight of the Insolvent Act passed in the fifth year of Her Majesty's Reign by reason only that a pre-existing debt formed a part of the consideration therefor but the same shall be void only in so far as it gives preference to any such debt And in any such case the same shall if in the nature of a mortgage or pledge and otherwise valid be deemed a lawful security for any advance or payment *bonâ fide* made in consideration thereof or if the same be in the nature of an absolute alienation and otherwise valid the person in whose favor it shall have been made shall be bound and obliged to pay the amount of the pre-existing debt so preferred for the behoof of the creditors of the Insolvent.

Amending section 8 of Insolvent Act.

4. 5. The Chief Commissioner of Insolvent Estates sitting in Insolvency shall have all the authority and powers of a Judge of a Court of Record and the powers and jurisdiction now vested in and exercised by the Supreme Court or any Judge thereof in or in respect of certain matters in Insolvency that is to say—the sequestration of Estates—the appointment of the Official Assignees of such Estates—respectively—the release of Estates from sequestration—the directing and prosecuting of the examinations of Insolvents and witnesses and ordering and enforcing the production of books and papers—the ordering of the payment of dividends and of other moneys belonging to Insolvent Estates—the ordering of payments by an Insolvent becoming able to satisfy his creditors wholly or in part—the approval of accounts—and the confirmation of plans of distribution—shall be and the same are hereby transferred to and vested in may be exercised by the Chief Commissioner of Insolvent Estates Subject nevertheless to Appeal to the Supreme Court in such manner and upon such terms as the Judges by any General Rules made by them shall direct.

Transfer of certain jurisdiction to Chief Commissioner.

5. 6. It shall no longer be necessary that the granting suspending or refusing by the Chief Commissioner of a certificate to any Insolvent shall be confirmed by the Supreme Court in the first instance but every such grant suspension or refusal by the said Commissioner shall take effect from the date thereof unless reversed or altered by the Supreme Court upon Appeal And every such Appeal shall be within twenty-one days and shall be subject to any General Rules made as aforesaid.

Certificates of Insolvents need not be confirmed &c. by Supreme Court.

6. 7. The Official Assignees in Insolvency shall be in all respects as such Assignees under the control and direction of the Chief Commissioner And if at any time it shall appear to such Commissioner that any Official Assignee has improperly or unnecessarily incurred costs charges or expenses in any matter affecting an Insolvent Estate or its administration he may disallow the same as against the estate Subject nevertheless to Appeal to the Supreme Court by the Official Assignee or any other person interested in the question in such manner and upon such terms as may be provided by any General Rules made as aforesaid.

Power to disallow improper charges.

7. 8. All Sales in Insolvency effected by or by the order of any Official Assignee shall unless the Chief Commissioner shall in any case otherwise direct be by public auction of which six days public notice at the least shall be given And no sale by private contract shall be complete until approved under the hand of the Chief Commissioner.

Sales in Insolvency.

8. 9. The Governor shall with the advice of the Executive Council appoint a fit person to be "Registrar in Insolvency" who shall also be the Accountant of the Court and shall be under the control and

Registrar in Insolvency.

Insolvency Laws Amendment—1861.

and direction of the Chief Commissioner And it shall be the duty of such Registrar to preserve the records and keep the books and accounts of the Insolvency Department—to tax all costs incurred in Insolvency proceedings—to audit and report to the Chief Commissioner upon the accounts
5 and plans of distribution of the Official Assignees and to attend to such other matters relating to Insolvency as may be required of him by the Chief Commissioner subject in all cases of taxation to review by the Chief Commissioner upon application for that purpose.

9. 10. The Chief Commissioner in any Insolvent Estate in which
10 he shall see fit may order meetings of creditors to be held and the proof of debts thereat to take place before the Registrar subject to review by himself as aforesaid And the Chief Commissioner may authorize the calling and holding of any meeting of creditors in any estate for any purpose at the instance of the Assignee therein or of any three
15 creditors upon such day or after the expiration of such time as he may think fit.

Commissioner may authorize meetings and proof of debts before Registrar.

10. 11. The Chief Commissioner may cause the Insolvent in any estate and also all persons required as witnesses therein from time to time to be summoned and examined either before himself or some other
20 Commissioner in Insolvency and may issue Summonses for that purpose on the application of the Official Assignee or of any creditor or without any such application And obedience to any such summons may be enforced and non-compliance therewith be punished by him in like manner as provided by the sixty-eighth and two following sections of the
25 Act fifth Victoria number seventeen with respect to parties summoned by the Supreme Court or a Judge.

Examination of Insolvent and witnesses.

11. 12. Whenever an Insolvent shall have been required by or in
pursuance of any General Rule to file or deliver a Schedule of his Assets and Liabilities or a Statement of property disposed of by him
30 within sixty days before sequestration or a Supplementary Schedule shewing his transactions for six or twelve months before sequestration he may be proceeded against for not complying with any such requisition by attachment as for contempt of a Rule of Court.

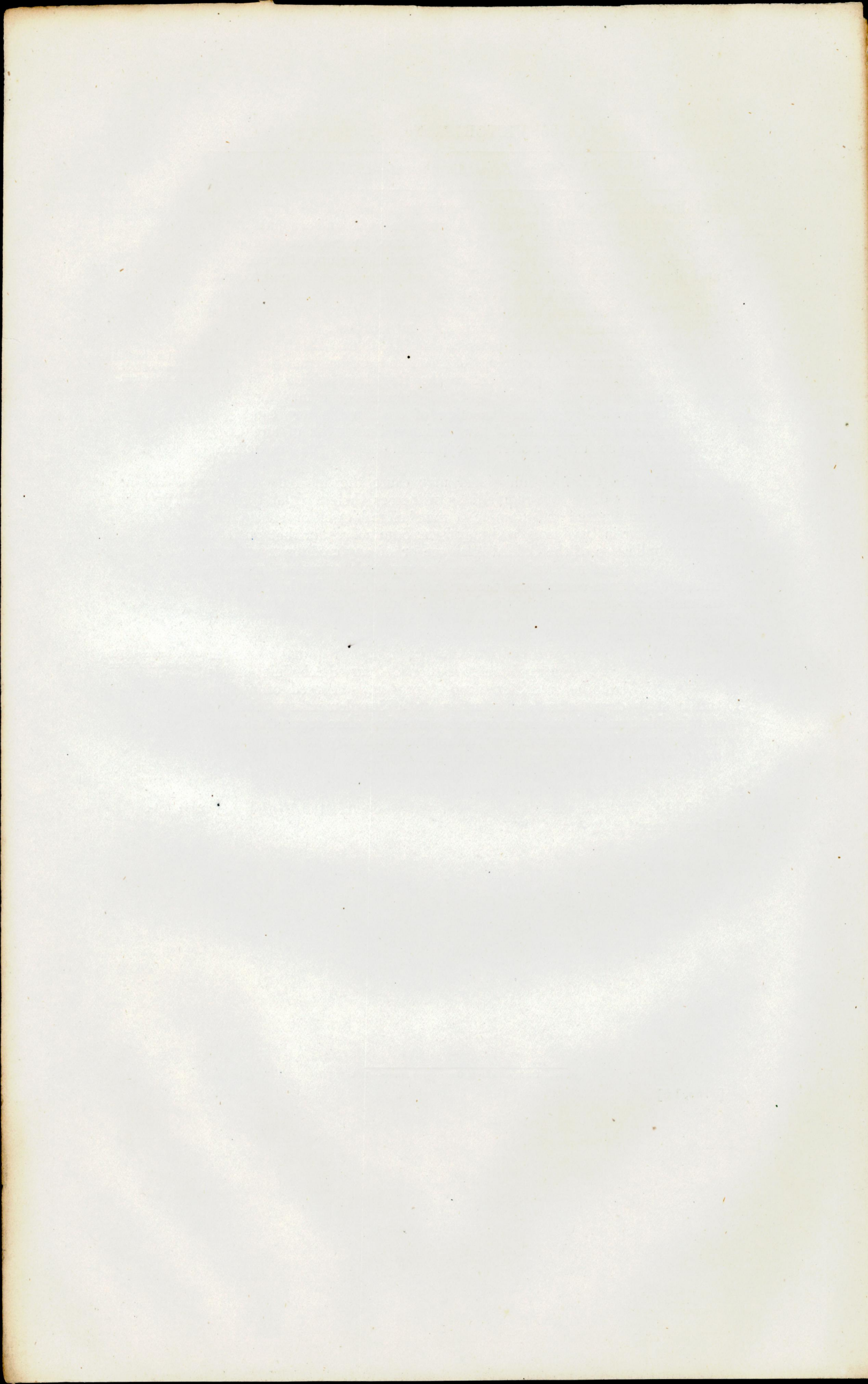
Insolvents not filing Schedule &c. when required.

12. 13. The person who may be elected Assignee by the creditors in
35 any Insolvent Estate need not be a creditor.

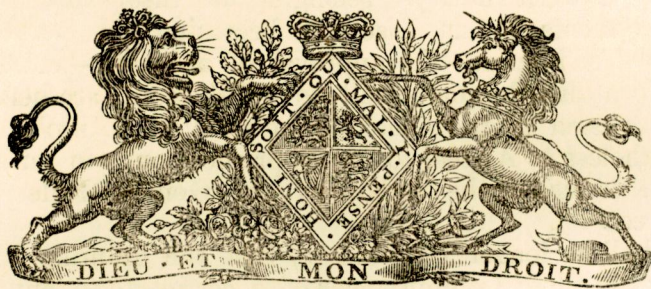
Creditors Assignee.

13. 14. This Act shall be styled and may be cited as the “ Insolvency
Laws Amendment Act of 1861.”

Short Title.



New South Wales.



ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ.

No. VIII.

An Act to amend the Laws relating to Insolvency. [Assented to, 26th December, 1861.]

WHEREAS it is expedient to amend the Law relating to Insolvency Preamble. and the administration thereof in manner hereinafter contained Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. Every payment heretofore or hereafter made by any person before the sequestration of his estate under the Act fifth Victoria number seventeen to any creditor for or on account of any just debt due at the time of payment shall except only in the cases hereinafter mentioned be and be deemed to have been a valid payment anything in the said Act notwithstanding. Certain payments before insolvency protected.

2. Provided that such creditor or the person receiving payment Exceptions. on his behalf shall not at the time of payment have known that the debtor was then insolvent—or was by such payment rendered insolvent—or that he then contemplated the surrender of his estate as insolvent—or that proceedings for causing his estate to be sequestrated had been commenced—or that the payment was a voluntary preference of such creditor to other creditors And notice to the creditor or person so receiving payment of any such matter by whomsoever given if in accordance with the fact shall be equivalent to and be deemed knowledge in such creditor or person.

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Retrospective operation of Act.

3. Provided also that nothing in this Act shall extend to any suit or action already determined or commenced before the first day of September one thousand eight hundred and sixty-one and pending at the passing of this Act or shall affect any matter or question therein.

Transfer of certain jurisdiction to Chief Commissioner.

4. The Chief Commissioner of Insolvent Estates sitting in Insolvency shall have all the authority and powers of a Judge of a Court of Record and the powers and jurisdiction now vested in and exercised by the Supreme Court or any Judge thereof in or in respect of certain matters in Insolvency that is to say—the sequestration of Estates—the release of Estates from sequestration—the directing and prosecuting of the examinations of Insolvents and witnesses and ordering and enforcing the production of books and papers—the ordering of the payment of dividends and of other moneys belonging to Insolvent Estates—the ordering of payments by an Insolvent becoming able to satisfy his creditors wholly or in part—the approval of accounts—and the confirmation of plans of distribution—shall be and the same are hereby transferred to and vested in the Chief Commissioner of Insolvent Estates Subject nevertheless to Appeal to the Supreme Court in such manner and upon such terms as the Judges by any General Rules made by them shall direct.

Certificates of Insolvents need not be confirmed &c. by Supreme Court.

5. It shall no longer be necessary that the granting suspending or refusing by the Chief Commissioner of a certificate to any Insolvent shall be confirmed by the Supreme Court in the first instance but every such grant suspension or refusal by the said Commissioner shall take effect from the date thereof unless reversed or altered by the Supreme Court upon Appeal And every such Appeal shall be within twenty-one days and shall be subject to any General Rules made as aforesaid.

Power to disallow improper charges.

6. The Official Assignees in Insolvency shall be in all respects as such Assignees under the control and direction of the Chief Commissioner And if at any time it shall appear to such Commissioner that any Official Assignee has improperly or unnecessarily incurred costs charges or expenses in any matter affecting an Insolvent Estate or its administration he may disallow the same as against the estate Subject nevertheless to Appeal to the Supreme Court by the Official Assignee or any other person interested in the question in such manner and upon such terms as may be provided by any General Rules made as aforesaid.

Sales in Insolvency.

7. All Sales in Insolvency effected by or by the order of any Official Assignee shall unless the Chief Commissioner shall in any case otherwise direct be by public auction of which six days public notice at the least shall be given And no sale by private contract shall be complete until approved under the hand of the Chief Commissioner.

Registrar in Insolvency.

8. The Governor shall with the advice of the Executive Council appoint a fit person to be "Registrar in Insolvency" who shall also be the Accountant of the Court and shall be under the control and direction of the Chief Commissioner And it shall be the duty of such Registrar to preserve the records and keep the books and accounts of the Insolvency Department—to tax all costs incurred in Insolvency proceedings—to audit and report to the Chief Commissioner upon the accounts and plans of distribution of the Official Assignees and to attend to such other matters relating to Insolvency as may be required of him by the Chief Commissioner subject in all cases of taxation to review by the Chief Commissioner upon application for that purpose.

Commissioner may authorize meetings and proof of debts before Registrar.

9. The Chief Commissioner in any Insolvent Estate in which he shall see fit may order meetings of creditors to be held and the proof of debts thereat to take place before the Registrar subject to review by himself as aforesaid And the Chief Commissioner may authorize the calling and holding of any meeting of creditors in any estate for any

Insolvency Laws Amendment—1861.

any purpose at the instance of the Assignee therein or of any three creditors upon such day or after the expiration of such time as he may think fit.

10. The Chief Commissioner may cause the Insolvent in any estate and also all persons required as witnesses therein from time to time to be summoned and examined either before himself or some other Commissioner in Insolvency and may issue Summonses for that purpose on the application of the Official Assignee or of any creditor or without any such application. And obedience to any such summons may be enforced and non-compliance therewith be punished by him in like manner as provided by the sixty-eighth and two following sections of the Act fifth Victoria number seventeen with respect to parties summoned by the Supreme Court or a Judge.

Examination of Insolvent and witnesses.

11. Whenever an Insolvent shall have been required by or in pursuance of any General Rule to file or deliver a Schedule of his Assets and Liabilities or a Statement of property disposed of by him within sixty days before sequestration or a Supplementary Schedule shewing his transactions for six or twelve months before sequestration he may be proceeded against for not complying with any such requisition by attachment as for contempt of a Rule of Court.

Insolvents not filing Schedule &c. when required.

12. The person who may be elected Assignee by the creditors in any Insolvent Estate need not be a creditor.

Creditors Assignee.

13. This Act shall be styled and may be cited as the "Insolvency Laws Amendment Act of 1861."

Short Title.

By Authority: THOMAS RICHARDS, Government Printer, Sydney, 1861.

[Price, 1d.]

