

ANNO TRICESIMO OCTAVO

VICTORIÆ REGINÆ.

No. I.

An Act to expedite and lessen the expense of INSOLVENCY LAWS
AMENDMENT.
proceedings in Insolvency. [25th June,
1874.]

WHEREAS it is desirable to expedite and lessen the Expense Preamble. of proceedings in Insolvency 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. The Insolvency Jurisdiction of the Supreme Court or of a Judge thereof shall continue to be exercised as a superior Court of Record of Law and Equity and the orders in such jurisdiction shall have the same force as if they were judgments at law or decrees in Equity of the said Supreme Court and such Insolvency Jurisdiction as conferred by the enactments specified in the Schedule hereto and to the extent therein expressed shall be exercised for and on behalf of the Supreme Court or a Judge thereof in the first instance by the Chief Commissioner of Insolvent Estates subject to appeal as hereinafter provided. And such Chief Commissioner shall for the purposes of such jurisdiction and of this Act have and may exercise cumulatively with any powers now by law vested in him all the powers and authority possessed and exercisable from time to time by the Supreme Court or a Judge thereof and when sitting in Chambers such Chief Commissioner shall (in respect to matters cognizable by him in Chambers) have the same jurisdiction powers and authority as if he were sitting in open Court. Provided nevertheless that all appeals and applications in Insolvency to the Supreme Court or to a Judge thereof commenced or in part heard at the time of the commencement of this Act shall be proceeded with and determined as if this Act had not been passed.

2. Any person aggrieved by any decision of a Commissioner of Insolvent Estates may appeal therefrom to the Chief Commissioner and it shall be lawful for such Chief Commissioner to alter reverse or confirm such decision as if originally heard before him. Any order or decision made by the Chief Commissioner whether in respect of a matter brought before him on appeal or not shall be subject to an appeal to the Supreme Court (such Court for the purposes of this Act consisting of two or more Judges thereof) on such terms and within such times as may be now or from time to time provided

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provided by Law or General Rules of Court And the said Supreme Court shall thereupon exercise the powers vested in it as originally exercisable by law as well as on appeal and shall have all authorities of the Supreme Court relative to the trial of questions of fact by jury issue or otherwise.

Rules of Court.

3. The General Rules of Court as to appeals in insolvency to the Supreme Court shall be and are hereby required to be made by the Judges of the Supreme Court or any three of them and the other General Rules of Court in insolvency shall be made by any two Judges of the Supreme Court together with the Chief Commissioner of Insolvent Estates and all such General Rules whether as to appeals or otherwise shall be laid before both Houses of Parliament within fourteen days if Parliament be then sitting and if not then within fourteen days after the next meeting thereof and if either of the said Houses shall by resolution passed within twenty-eight days after such Rules have been laid before the said Houses respectively resolve that the whole or any part of such Rules ought not to continue in force in such case the whole or such part thereof as shall be included in such resolution shall from and after such resolution cease to be binding.

Power to award costs.

4. The Supreme Court or the Chief Commissioner sitting in Court or Chambers may in all matters before it or him respectively whether original or on appeal award either out of the insolvent estate or against any person or persons such costs as shall be just.

Repeal.

5. The one hundred and fourth section of the Act fifth Victoria number seventeen and the fourth and fifth sections of the Act twenty-second Victoria number fourteen are hereby repealed.

Proceedings during winding up directed under "Companies Act" to be laid before Chief Commissioner.

6. When under the provisions of the one hundred and thirty-third section of the "Companies Act" the Court (as in the said section defined) makes an order for winding up a Company and directs that all subsequent proceedings for winding up the same be had and taken before the Chief Commissioner of Insolvent Estates thereupon such Chief Commissioner shall subject to appeal as in the said section provided for the purposes of winding up such Company be deemed to be "the Court" within the meaning of Part IV of that Act and shall have for the purposes of such winding up all the powers of the Supreme Court in its Equitable Jurisdiction.

Power of proceedings instituted under Act 11 Vict. No. 19.

7. If any person having any right or privilege acquired under the second sub-section of section two hundred and forty-nine of the said Companies Act should be entitled to and shall hereafter institute proceedings and prosecute matters under the eleventh Victoria number nineteen the Chief Commissioner of Insolvent Estates shall subject to appeal as in Insolvency have and exercise the powers of the Supreme Court or a Judge thereof cumulatively with the powers and duties vested in him by law for the purpose of winding up and generally determining all such proceedings and matters under the said last-mentioned Act.

Attorney or Solicitor may be heard.

8. Every Attorney and Solicitor of the Supreme Court may appear and be heard in all matters and proceedings before the Chief Commissioner of Insolvent Estates in Court or Chambers and before the Registrar in Insolvency without being required to employ counsel And if any person not being such Attorney or Solicitor shall practise in the Insolvency Jurisdiction of the said Court as Attorney or Solicitor he shall be deemed guilty of a contempt of Court.

Title.

9. This Act shall be styled and may be cited as the "Insolvency Laws Amendment Act 1874."

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SCHEDULE.

No. of Act.	Title of Act.	The jurisdiction powers and authority conferred by—
5 Vic. No. 17	An Act for giving relief to insolvent persons and providing for the due collection administration and distribution of Insolvent Estates within the Colony of New South Wales and for the prevention of frauds affecting the same.	All the unrepealed sections of the Act except section 7.
7 Vic. No. 19	An Act to amend an Act intituled " <i>An Act for giving relief to insolvent persons and providing for the administration of Insolvent Estates and to abolish imprisonment for debt.</i> "	The unrepealed sections except proviso to 8th section and sections 9 10 11 and 12 thereof.
8 Vic. No. 15	An Act to amend an Act passed in the fifth year of Her Majesty's reign for the relief of insolvent debtors and also the Act lately passed for amending the same and abolishing imprisonment for debt.	The unrepealed sections.
10 Vic. No. 14	An Act to remove difficulties in the disposal administration and distribution of Insolvent Estates—and rider thereto.	The whole Act.
11 Vic. No. 19	An Act for facilitating the winding up of Joint Stock Companies unable to meet their pecuniary engagements.	The whole Act.
17 Vic. No. 17	An Act for the appropriation of unclaimed balances in Intestate and Insolvent Estates and for other purposes therein mentioned.	The whole Act except sections 1 and 6.
17 Vic. No. 32	An Act to authorize the Chief Commissioner of Insolvent Estates to issue certificates to insolvents in certain cases.	The whole Act.
19 Vic. No. 33	An Act to amend the Insolvent Law of New South Wales.	The whole Act.
20 Vic. No. 11	An Act to provide for the deposit in the Colonial Treasury of moneys in charge of Officers of the Supreme Court.	The whole Act so far as relates to Official Assignees.
20 Vic. No. 24	An Act to amend so much of the Insolvent Acts now in force as relates to directions of creditors.	The whole Act.
25 Vic. No. 8	An Act to amend the laws relating to Insolvency.	The whole Act.
31 Vic. No. 9	An Act to facilitate proceedings in Insolvency.	The whole Act.