

(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. 554.)

**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.

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**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) com-

petent 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 subpoenaed, 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 an-

other 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 referee's 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 (c), of this title, have been made or given, shall not be allowed unless such