

BANKRUPTCY.

No. 66 of 1933.

An Act to amend section ninety-one of, and to insert new sections fifty-seven A and one hundred and thirty A in, the *Bankruptcy Act* 1924-1932.

[Assented to 15th December, 1933.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title
and citation.

1.—(1.) This Act may be cited as the *Bankruptcy Act* 1933.

(2.) The *Bankruptcy Act* 1924-1932* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Bankruptcy Act* 1924-1933.

2. After section fifty-seven of the Principal Act the following section is inserted :—

Stay of
proceedings in
respect of
State Acts.

“ 57A.—(1.) Every affidavit verifying a creditor's petition and every statement of affairs filed at the time of the presentation of a debtor's petition shall state whether the debtor is or is not a person in respect of whose business, property or affairs proceedings have been instituted under any State Act or law of a Territory, to which this section applies, providing for the management, administration or control of the business, property or affairs of the debtor.

“(2.) If the affidavit or statement of affairs discloses that the debtor is a person in respect of whose business, property or affairs proceedings have been so instituted, the Registrar shall forthwith notify, by telegram, the person or authority charged with the administration of the State Act or law of the Territory, or a person nominated by the Attorney-General of the State for the purpose, of the presentation of the petition and of the date fixed by him for the hearing thereof.

“(3.) The person or authority charged with the administration of any such State Act or law of the Territory, or a person authorized by the Attorney-General of the State to make the application, may, whether or not proceedings under the State Act or law of the Territory

* Act No. 37, 1924, as amended by Acts No. 3 1927; No. 89, 1928; No. 28, 1929; No. 17, 1930; and by No. 81, 1932.

were instituted prior or subsequent to the presentation of the petition, on or before the date of hearing, apply to the Court for an order staying the proceedings under the petition, and the Court may, if it thinks fit, make an order staying the proceedings under the petition, either altogether or for a limited time, on such terms and subject to such conditions as it thinks just.

“(4.) This section shall apply in relation to any State Act or law of a Territory which Act or law is specified by the Governor-General by proclamation as being an Act or law in relation to which this section applies.

“(5.) Where an order is made under this section any deed of arrangement made or given under or in pursuance of the provisions of the State Act or law of the Territory shall not be void by reason of any provisions contained in Part XII. of this Act.”.

3.—(1.) Section ninety-one of the Principal Act is amended—

- (a) by inserting in paragraph (e), after the words “except as provided in”, the words “paragraph (iv) of”;
- (b) by inserting in that paragraph, before the words “bill of sale”, the word “valid”; and
- (c) by omitting from that paragraph the words “an assignment” and inserting in their stead the words “a valid assignment”.

Description
of bankrupt's
property
divisible
amongst
creditors.

(2.) Paragraph (a) of the last preceding sub-section shall be deemed to have commenced on the date of the commencement of the *Bankruptcy Act 1932* :

Provided that nothing in this section shall affect the rights or liabilities of any person under a judgment or order of the Court, given or made prior to the commencement of this sub-section, as to whether any goods are the property of the bankrupt within the meaning of paragraph (iii) of section ninety-one of the Principal Act.

4. After section one hundred and thirty of the Principal Act the following section is inserted :—

“130A.—(1.) Notwithstanding anything contained in this Act, where a trustee or one of the trustees, upon application to the Court, satisfies the Court—

Transfer of
trusteeship.

- (a) that he is the trustee of at least fifty estates which are being administered under sequestration orders, under compositions, schemes of arrangement or deeds of assignment under Part XI. of this Act, or under deeds of arrangement under Part XII. of this Act ;

- (b) that, on the several dates upon which he became the trustee or one of the trustees of those estates, he was a partner in a firm or business with a person who was on those several dates and is at the date of the application registered as qualified to act as a trustee under this Part ;
- (c) that that person is at the date of the application in partnership with other persons some of whom are registered as qualified to act as trustees under this Part ; and
- (d) that he is desirous of retiring from the trusteeship of all those estates on account of pressing necessity,

the Court shall transfer to one or more of the persons specified in paragraph (b) or (c) of this sub-section as being registered as qualified to act as a trustee or as trustees under this Part the office of trustee of all or any of those estates.

“(2.) The Court shall not, in pursuance of an application under this section, transfer the office of trustee in respect of the estate of any bankrupt—

- (a) unless fourteen days’ notice of the proposal to make the application has been published in the *Gazette* ; and
- (b) if, prior to the transfer being made, one-sixth in value of the creditors of that bankrupt or the Registrar lodges with the Court an objection to the transfer.

“(3.) Any person to whom the office of trustee of any estate is so transferred shall, for all the purposes of this Act, become and be deemed to be the trustee of the estate in lieu of the person from whom the office was transferred, who shall be deemed to have resigned that office.”.
