

C H A P.

XLIV.

No person to be entitled to the benefit of this act but a citizen, &c.

III. AND BE IT ENACTED, That no person herein before mentioned shall be entitled to the benefit of any of the provisions of this act, unless the chancellor shall be satisfied, by competent testimony, that he is, and at the time of passing this act was, a citizen of the United States, and of this state, or has been actually residing within this state two years, using the trade of merchandise, by buying and selling in gross or by retail, and unless, at the time of presenting his petition as aforesaid, he shall produce to the chancellor the assent, in writing, of so many of his creditors as have due to them the amount of two thirds of the debts due by him at the time of the passing of this act; provided, that foreign creditors, not residing in the United States, and not having agents or attorneys residing therein duly empowered to act in their behalf, and the executors and administrators of deceased creditors, shall not be considered within the intent and meaning of this clause; and provided also, that the chancellor may, without the assent of the creditors as aforesaid, from time to time order to be discharged from custody any of the said petitioners who may be in actual confinement in virtue of any process issued, or that may be issued, in pursuance of any debt at this time due and owing by him, which discharge is hereby declared to be a release only of the person of such debtor, but not of his property, unless the assent in writing of two thirds in value of the creditors as aforesaid be obtained.

Trustee to give bond, &c.

IV. AND BE IT ENACTED, That before such trustee proceeds to act, he shall give bond for the faithful performance of his duty, to such person, in trust for the creditors of said petitioning debtor, and in such penalty as the chancellor shall direct, which shall be recorded in the office of the register of the court of chancery, and a copy thereof, certified under the hand of the said register, shall be good evidence in any court of law or equity of this state; and if any trustee, appointed by virtue of this act, shall refuse to act, or die, or neglect to give bond as aforesaid, in a reasonable time to be judged of by the chancellor, or be removed by the chancellor for his misbehaviour, he shall appoint such other person as he shall think proper in his place, who shall give bond as aforesaid, and on giving such bond, (in case the said debtor had conveyed his property to the former trustee,) he shall immediately be vested with all the property of every kind, and all the debts, rights and credits, of the said debtor, as completely as the former trustee was vested with same.

On executing a deed, debtor to be discharged, &c.

V. AND BE IT ENACTED, That upon the said petitioning debtor's executing and acknowledging a deed to the trustee to be appointed as aforesaid, conveying all his property, real, personal and mixed, and all debts, rights and claims, agreeably to the oath, or affirmation, of such debtor as aforesaid, and on his delivery to the said trustee of all his said property which he shall have in possession, and of his books, papers, and evidence of debts of every kind, and the said trustee's certifying the same, in writing, to the chancellor, it shall be lawful for the chancellor to order that the said debtor shall be discharged from all debts, covenants, contracts, promises and agreements, due from, or owing or contracted by, him, before the date of the said deed, and by virtue of such order the said debtor shall be discharged as aforesaid; provided, that no person who has been guilty of a breach of the laws, and hath been fined, or is liable to be fined, for such breach, shall be discharged from the payment of any fine incurred for any breach of the laws of this state; and provided, that any property which he shall thereafter acquire by gift, descent, or in his own right by bequest, devise, or in any course of distribution, shall be liable to the payment of the said debt; and provided, that the discharge of such debtor shall not operate so as to discharge any other person from any debt.

May retain his apparel.

VI. AND BE IT ENACTED, That the chancellor may allow such petitioning debtor to retain the necessary wearing apparel, beds and bedding, of himself and family.

Trustee may be directed to sell, &c.

VII. AND BE IT ENACTED, That the chancellor may direct any trustee to be appointed by virtue of this act to sell and convey the property conveyed to him by the petitioning debtor, at such time, and on such terms and conditions, as he shall think most for the advantage of the creditors, and the produce thereof, after satisfying all incumbrances and liens, shall be divided among the said creditors, agreeably to the several and respective claims; but no judgment to be entered after the passage of this act against any of the said debtors who shall take advantage of this act, shall be a lien on his real property, nor shall any process against his real or personal property have any effect thereon, except writs of *fieri facias* actually and *bonâ fide* laid before the passing of this act.

And may sue.

VIII. AND BE IT ENACTED, That any trustee may sue for, in his own name, and recover, any property or debts assigned to him by any debtor in virtue of this act.

Debtor may be examined, &c.

IX. AND BE IT ENACTED, That if any creditor, on the application of any such debtor to the chancellor, or within two years thereafter, shall allege, in writing, to the chancellor, or to the general