

C H A P.
XXVI.

for the creditors of the said Joseph Forrest and Thomas Earle to appear in the chancery to recommend a trustee or trustees on their behalf, and on the appearance of the said creditor or on their neglect to appear on notice as aforesaid, the chancellor shall administer to the said Joseph Forrest and Thomas Earle the following oath, to wit: " We, Joseph Forrest and Thomas Earle, do swear, that we will deliver up, convey and transfer to our creditors, in such manner as the chancellor shall direct, all our property that we have or claim any title to, or interest in, at this time, and all debts, rights, claims and credits, which we have, or are in any way entitled to, in possession, reversion or remainder, as well severally as jointly with any other person or persons, and that we have not, directly or indirectly, at any time sold, conveyed, lessened or disposed of, for the use or benefit of any person or persons, or intrusted, any part of our money, or other property aforesaid, debts, rights or claims, thereby to defraud our creditors, or any of them, or to secure the same to receive or expect any profit, benefit or advantage thereby;" and in case of the neglect of said creditors to appear and recommend a trustee or trustees, the chancellor shall appoint such person or persons to be trustee or trustees as he shall think proper.

J. Forrest, &c.
on executing a
deed, to be dis-
charged, &c.

III. AND BE IT ENACTED, That upon the said Joseph Forrest and Thomas Earle executing and acknowledging a deed to the trustee or trustees to be appointed as aforesaid, conveying all their property, real, personal and mixed, and all debts, rights and claims, agreeably to the oath of the said Joseph Forrest and Thomas Earle, and on the delivery of the possession of the said property of the said Joseph Forrest and Thomas Earle which they have in their own right, and their books, papers, and evidences of every kind relating to the said property, and the said trustee or trustees certifying the same, in writing, to the chancellor, the chancellor shall thereupon order that the said Joseph Forrest and Thomas Earle shall be discharged from all debts, contracts, covenants, promises and agreements, due from, or owing or contracted, made or entered into, by them, before the date of the said deed, either in copartnership with any person or by themselves; provided, that such discharge shall not operate so as to discharge any other person from any debt; and provided also, that any property which the said Joseph Forrest and Thomas Earle shall acquire in their own right by descent, gift, bequest, devise, or in a course of distribution, shall be liable to the payment of their debts.

Trustee to ap-
ply the pro-
ceeds, &c.

IV. AND BE IT ENACTED, That the trustee or trustees appointed in virtue of this act shall, in the first place, apply the proceeds of the property of the said Joseph Forrest and Thomas Earle held in their own right, which shall come to the hands of such trustee or trustees, to the satisfaction and discharge of liens heretofore created thereon, and after the discharge of such liens, the residue amongst their several creditors, in equal proportions to their respective debts; and the interest, share or part, of the said Joseph Forrest and Thomas Earle in any property or debt, held by or due to them in copartnership, shall be applied, in the first place, to the satisfaction and discharge of such copartnership debts.

And give bond,
&c.

V. AND BE IT ENACTED, That any trustee or trustees to be appointed in virtue of this act, before he or they shall proceed to act as such, shall give bond, with security to be approved of by the chancellor, for the faithful execution of the trust reposed in him or them, and pursue in all respects the directions of the chancellor in the performance of the said trust, in the same manner as is provided by the fourth, sixth, tenth and thirteenth sections of the act, entitled, An act for the relief of sundry insolvent debtors, passed at November session, seventeen hundred and ninety-seven; and the chancellor shall have and exercise, with reference to the said Joseph Forrest and Thomas Earle, all and singular the powers and authority vested in him by the said sections with reference to the debtors named in the said act.

When fraud is
alleged, they
may be examin-
ed, &c.

VI. AND BE IT ENACTED, That if any of the creditors of said Joseph Forrest and Thomas Earle shall, on the application of the said Joseph Forrest and Thomas Earle to the chancellor, or within two years thereafter, allege in writing that the said Joseph Forrest and Thomas Earle hath, directly or indirectly, sold, conveyed, lessened, or otherwise disposed of, or purchased in trust for themselves, or any other person or persons, or intrusted or concealed, any part of their property, debts or effects, with intent to injure or defraud their creditors, or any of them, or to expect, secure or receive any benefit or advantage therefrom, the chancellor, at the election of such creditor, may either examine Joseph Forrest and Thomas Earle on oath, on such allegations, or direct an issue or issues in a summary way, without the form of an action, for trying the truth of the same, and if upon the answer of the said Joseph Forrest and Thomas Earle in the trial of the issue or issues, they shall be found guilty of any fraud or deceit of their creditors, they shall for ever be precluded from any benefit of this act; and if the said Joseph Forrest and Thomas Earle shall, at any time thereafter, upon indictment, be convicted of wilfully, falsely and corruptly swearing to any matter or thing to which they shall swear by virtue of this act, they shall suffer as in case of wilful and corrupt perjury.

If arrested, to
be discharged,
&c.

VII. AND BE IT ENACTED, That if the said Joseph Forrest and Thomas Earle shall be arrested or imprisoned on any process sued out on any judgment or decree obtained against them for any debt, damages or costs, due, contracted, owing, or growing due before the passing of this act, the court out of which such process issued shall and may discharge the said Joseph Forrest and Thomas Earle on motion; and if the said Joseph Forrest and Thomas Earle shall be sued, arrested or imprisoned, on any mesne process, for the recovery of any debts or damages contracted, owing, or growing due before the passing of this act, the court before whom such process shall be returned shall and may discharge the said Joseph Forrest and Thomas Earle out of custody, their common appearance being entered, without any special bail.

Not to be enti-
tled, &c.

VIII. AND BE IT ENACTED, That the said Joseph Forrest and Thomas Earle shall not be entitled to the benefit of any of the provisions of this act, unless at the time of presenting their petition as aforesaid they shall produce to the chancellor the assent of two thirds in value of the creditors who are citizens of this state, or of the United States, at the time of passing this act.

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