

as thereby to have his property taken from him and transferred to assignees for the benefit of his creditors; and consequently, so long as the commission of bankruptcy, sued out against him, remains in force, as he has been thereby totally divested of all property then held by him, not as trustee or in right of another, and which might be made liable to the payment of his debts, he cannot nor ought not to be allowed to sue or be made a party to any suit at law or in equity in regard to any such property; unless under peculiar circumstances. *Copeman v. Gallant*, 1 P. Will. 314; *Bennet v. Davis*, 2 P. Will. 316; *Griffin v. Archer*, 2 Anst. 478; *Benfield v. Solomons*, 9 Ves. 83; *Whitworth v. Davis*, 1 Ves. & B. 545; *Wilkins v. Fry*, 1 Meriv. 245; *Hammond v. Attwood*, 3 Mad. 158; *Bailey v. Vincent*, 5 Mad. 48; *Lloyd v. Lander*, 5 Mad. 282; *Piercy v. Roberts*, 6 Cond. Cha. Rep. 469; *Casborne v. Barsham*, 9 Cond. Cha. Rep. 289; *Winch v. Keeley*, 1 T. R. 619; *Worthington v. Lee*, 2 Bland, 622.

Here, to enable a debtor to obtain the benefit of the insolvent law he must be then, at the time of his application, in actual confinement, 1805, ch. 110, s. 2; 1808, ch. 71; or he must give two months notice of his application in the manner prescribed. 1805, ch. 110, s. 21; 1834, ch. 309. And it is declared, that, on the applicant having taken the prescribed oath, the Court, upon the recommendation of the creditors, if they make any, shall appoint a trustee for their benefit; which appointment shall operate as an assignment of all the insolvent's property so as to vest the title to the same in such trustee, who shall manage, sell, and distribute the same in the manner prescribed, and under the control of the Court to which the application has been made. 1805, ch. 110, s. 2, 4, 7 and 10; 1812, ch. 77, s. 6; 1820, ch. 194; 1827, ch. 70, s. 3; 1832, ch. 203, s. 3; 1835, ch. 235. And after the trustee has given bond, and the applicant has conveyed to him all his estate for the benefit of his creditors, and the trustee has certified, that he is in possession of all the estate of the applicant mentioned in his schedule, 1805, ch. 110, s. 5; 1827, ch. 70, s. 1; 1829, ch. 208, s. 3; the Court may order that such applicant shall be discharged, as

**536** well from all debts, covenants, promises, and agreements \*due from, or owing or contracted in his individual, as also in his partnership capacity, before the time of his application; provided, that no person who has been guilty of a breach of the law, and has been or is liable to be fined shall be discharged from any such fine; 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 such debts; and provided also, that the discharge of such applicant shall not operate so as to discharge any other person from any debt. 1805, ch. 110, s. 5; 1827, ch. 70, s. 6; 1830, ch. 125; 1831, ch. 316, s. 7; *Buxton v. Mardin*, 1 T. R. 80; *Spalton v. Moor-*