ANNO SEPTIMO & OCTAVO

VICTORIÆ REGINÆ.

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C A P. LXX.

An Act for facilitating Arrangements between Debtors and Creditors. [6th *August* 1844.]

WHEREAS it is expedient that Trust Deeds and other amicable Modes of Arrangement between Debtors and their Creditors should be facilitated, and that better Means should be provided for carrying the same into effect: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the First Day of *September* next **Petition.** after the passing of this Act it shall be lawful for any Debtor who is unable to meet his Engagements with his Creditors, such Debtor not being a Trader within the Meaning of the Statutes now in force relating to Bankrupts, with the Concurrence of One Third in Number and Value of his Creditors (testified by their signing his Petition), to present a Petition to the Court of Bankruptcy, setting forth a full Account of his Debts, and the Consideration thereof, and the Names, Residences, and Occupations of his Creditors, and also a full Account of his Estate and Effects, whether in possession,

reversion, or expectancy, and of all Debts and Rights due to or claimed by him, and of all Property of what Kind soever held in Trust for him; and also setting forth that he is unable to meet his Engagements with his Creditors, and the true Cause of such Inability; and also setting forth such Proposal as he is able to make for the future Payment or the Compromise of such Debts or Engagements; and that One Third in Number and Value of his Creditors have assented to such Proposal; and praying that such Proposal (or such Modification thereof as by the Majority of his Creditors should be determined) should be carried into effect under the Superintendence and Control of the said Court; and that he the said Petitioning Debtor should in the meantime be protected from Arrest, by Order of the said Court.

Preliminary Examination.

II. And be it enacted, That, upon the Presentation of such Petition, One of the Commissioners of the said Court, in such Rotation as by Order of the said Court shall be appointed, shall privately examine into the Matter of the said Petition, and for that Purpose shall have Power to examine upon Oath such Petitioning Debtor, and any Creditor concurring in his Petition, and any Witness produced by such Petitioning Debtor; and if such Commissioner shall be satisfied of the Truth of the several Matters alleged in such Petition, and that the Debts of such Petitioning Debtor have not been contracted by reason of any Manner of Fraud or Breach of Trust, or without reasonable Probability at the Time of Contract of being able to pay the same, or by reason of any Judgment in any Prosecution for Breach of the Revenue Laws, or in any Action for Breach of Promise of Marriage, Seduction, Criminal Conversation, Libel, Slander, Assault, Battery, malicious Arrest, malicious suing out a Fiat in Bankruptcy, or malicious Trespass, and that such Petitioning Debtor has made a full Disclosure of his Debts and Credits, Estate and Effects, and is desirous of making a *bonâ fide* Arrangement with all his Creditors, and that his Prosposal to that Effect is reasonable, and proper to be executed under the Direction of the said Court, it shall be lawful for such Commissioner to direct that a Meeting of all the Creditors of such Petitioning Debtor should be convened at such Time and Place as the said Commissioner shall appoint, Notice of which Meeting shall be given in Writing to every such Creditor not less than Seven or more than Twenty-eight Days before the same is held.

Disqualifications.

Meeting of Creditors.

President.

III. And be it enacted, That the said Commissioner shall appoint a fit and proper Person, being a Registrar or Official Assignee of the said Court, or One of the principal Creditors of the said Petitioning Debtor, to preside at such Meeting of Creditors, and to report the Resolutions thereof to the said Commissioner.

First Meeting of Creditors.

IV. And be it enacted, That if at such Meeting of Creditors the major Part in Number and Value, or Nine Tenths in Value, or

Nine Tenths in Number whose Debts exceed Twenty Pounds, shall assent to the Proposal of such Petitioning Debtor, or to any Modification thereof, the President of such Meeting shall appoint another Meeting of the Creditors of such Petitioning Debtor to be held not earlier than Seven or later than Twenty-eight Days from such First Meeting, of which Second Meeting, and of the Purpose thereof, Notice in Writing shall be personally served on every Creditor who was not present by himself or his appointed Agent at such First Meeting, Three clear Days at least before the Day appointed for such Second Meeting; provided, however, that the Commissioner to whom such Petition as aforesaid is referred may, if he shall think fit, make an Order, in any special Case, that Service of such Notice at the last Place of Abode or Business of any Creditor shall be deemed good Service.

Second Meeting of Creditors.

V. And be it enacted, That if at such Second Meeting of Creditors Three Fifths in Number and Value of all the Creditors present, or Nine Tenths in Value, or Nine Tenths in Number whose Debts exceed Twenty Pounds, shall agree to accept such Arrangement or Composition as was assented to at the said First Meeting of Creditors, and shall reduce the Terms thereof into Writing, and sign the same, such Resolution or Agreement (subject to such Confirmation as is herein-after enacted) shall thenceforth be binding and of full Force, as well against the said Petitioning Debtor as against all Persons who were Creditors of the said Petitioning Debtor at the Date of his said Petition, and who had Notice of the said several Meetings of Creditors; provided, however, that such Resolution or Agreement shall not be valid unless One full Third in Number and Value of all the Creditors of such Petitioning Debtor were present at such Second Meeting, either in Person or by an authorized Agent.

Confirmation.

Certificate.

Protection.

VI. And be it enacted, That within Fifteen Days next after the passing of such Resolution or Agreement the same shall be submitted to the Commissioner acting in the Matter of the said Petition, who, if he shall think the same reasonable, and proper to be executed under the Direction of the said Court, shall cause the same to be filed and entered of Record therein, and shall grant to the said Petitioning Debtor a Certificate of such filing, and shall from Time to Time endorse on such Certificate his Protection of such Petitioning Debtor from Arrest; and such Petitioning Debtor shall be free from Arrest at the Suit of any Person being a Creditor at the Date of his said Petition, and having had such several Notice or Notices as aforesaid; and any Officer arresting such Petitioning Debtor at the Suit of any such Creditor, and on Sight of such Certificate and Protection not releasing such Petitioning Debtor, shall be liable to such Penalty as is provided respecting Bankrupts in the like Case by the Statutes now in force concerning Bankrupts; provided, however, that no such Protection shall be valid in favour of any Petitioning Debtor who shall be proved to have been about to abscond beyond

beyond the Jurisdiction of the said Court of Bankruptcy, or who has concealed or is concealing any Part of his Estate or Effects, nor against any Creditor whose Debt is not truly specified in the said Petition, nor against any Creditor whose Debt has been contracted by reason of any Manner of Fraud or Breach of Trust.

Temporary Protection.

VII. And be it enacted, That it shall be lawful for such Commissioner as aforesaid, upon the Examination of such Petition as aforesaid, to grant to such Petitioning Debtor a temporary and limited Protection from Arrest, and such Petitioning Debtor shall be accordingly free from Arrest for such Time and within such Limits and Conditions as shall be specified in the said Protection, with the like Penalties on any Officer arresting him as aforesaid; and it shall be lawful for such Commissioner to require such Petitioning Debtor to give Bail for his Appearance at the said several Meetings of his Creditors; and every Petitioning Debtor shall have such Protection from Arrest when going to, remaining in, and returning from his necessary Attendance on the said Commissioner, or the said Meetings of Creditors, as is enjoyed by any Party or Witness attending any Court of Record.

Vesting of Estate.

VIII. And be it enacted, That from and after the Date of the filing of such Resolution and Agreement as aforesaid all the Estate and Effects of such Petitioning Debtor shall vest in the Trustee (if any such shall be appointed) by virtue of such Resolutions, and without any Deed, as fully as if such Trustee were an Assignee under the Statutes relating to Bankrupts; and every such Trustee may sue and be sued as if he were such Assignee in Bankruptcy.

Audits.

IX. And be it enacted, That every such Trustee as aforesaid shall, once at least in every Six Months, or oftener if the said Commissioner or any Two or more of the Creditors of such Petitioning Debtor whose Debts amount to One Tenth of the Amount of the Debts of such Debtor require it, produce to the said Commissioner, on Oath or solemn Declaration, a full and true Account of all Monies, Property, and Effects of such Petitioning Debtor which have come to his Hands, and of the Disposal thereof; and the said Commissioner shall examine the same, and shall certify the Result of such Examination, and shall, if need be, order Payment to the Creditors of such Petitioning Creditor, according to the Terms of such Resolution or Agreement as aforesaid.

Examinations.

X. And be it enacted, That if it shall at any Time appear to the said Commissioner, on the Representation of such Trustee as aforesaid, or of any Two Creditors as aforesaid, that such Petitioning Debtor has not made a true Discovery of his Estate and Effects, or has not duly accounted for any subsequently acquired Property (if required by the true Intent and Meaning of the said Resolution or Agreement),

Agreement), or has wilfully made any false Return of Creditors, it shall be lawful for the said Commissioner to summon such Petitioning Debtor to be examined before him upon Oath touching such Matters; and such Summons and Examination shall be enforced in such Manner as is now practised in the summoning and Examination of Bankrupts.

Special Meetings

XI. And be it enacted, That in case any Difficulty shall arise in the Execution of the said Resolution or Agreement it shall be lawful for the said Commissioner to cause a Special Meeting of the Creditors of such Petitioning Debtor to be assembled; and the Resolution of the Majority of the said Creditors at such Meeting, to confirm, alter, or annul the Whole or any Part of the said Resolution or Agreement, shall be as valid as if it had been Part of the original Resolution or Agreement: Provided, however, that if One Third in Number and Value of the Creditors of such Petitioning Debtor do not attend such Meeting in manner aforesaid the Resolution thereof shall not be valid unless the same is approved and confirmed by the said Commissioner.

Meeting of Creditors.

XII. And be it enacted, That so soon as the said Resolution or Agreement shall have been carried into effect, and the Creditors of the said Petitioning Debtor shall have been satisfied, according to the Tenor of the same, the said Commissioner shall cause a Meeting of the said Creditors to be held before him, and, on being satisfied that the Trustee has fully performed his Trust, shall give to such Trustee a Certificate thereof under his Hand and Seal; and such Certificate shall be a full Release and Acquittance to the said Trustee, both in Law and Equity, for all Matters done by him as such Trustee: Provided always, that it shall be lawful for such Trustee to receive for his Services in the Execution of his said Trust such Sum of Money as the major Part in Number and Value of the Creditors assembled at such last-mentioned Meeting shall appoint, subject to the Approval and Allowance of the said Commissioner.

Certificate.

XIII. And be it enacted, That at such last-mentioned Meeting the said Commissioner shall give to the said Petitioning Debtor a Certificate, under the Hand and Seal of the said Commissioner, of the filing of the said Petition, and of the Resolution or Agreement of the Creditors of the said Petitioning Debtor, and that the said Resolution or Agreement has been fully carried into effect; and such Certificate shall thenceforth operate to all Intents and Purposes as fully as if the same were a Certificate of Conformity under the Statutes relating to Bankrupts, excepting only that no Debt herein excepted from the Operation of this Act shall be barred by the said Certificate.

Rules and Orders.

XIV. And be it enacted, That for the better carrying into effect the several Purposes of this Act it shall be lawful for the said Court

of Bankruptcy from Time to Time to make such Rules, Regulations, and Orders as the said Court shall think fit: Provided, however, that such Rules, Regulations, and Orders shall be laid before both Houses of Parliament within Twenty-one Days from the making the same, if Parliament be then sitting, or if not, Twenty-one Days from the Commencement of the Session next after the making of such Rules, Regulations, or Orders.

Interpretation of Act.

XV. And be it enacted, That this Act shall extend to Aliens, Denizens, and Women; and that all Words in the Singular Number may be interpreted in the Plural Number, and *vice versâ;* and that all Words in the Masculine Gender may be interpreted to include the Feminine Gender; and that this Act be construed beneficially to Creditors; and, if any Doubts should arise in the Construction thereof, that it be construed by Analogy to the Laws now in force relating to Bankrupts and the Practice thereof.

Act not to extend to Scotland or Ireland.

XVI. And be it enacted, That this Act shall not extend to *Scotland* or *Ireland*.

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