ANNO QUARTO & QUINTO

GULIELMI IV. REGIS.

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C A P. LXXIX.

An Act to amend the Law relating to Insolvent Debtors in *India*. [14th *August* 1834.]

WHEREAS an Act was passed in the Ninth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to provide for the Relief of Insolvent Debtors* 9 G. 4. c. 73.
in the East Indies *until the First Day of* March *One thousand eight hundred and thirty-three;* and by another Act passed in the Second 2 W. 4. c. 43.
Year of the Reign of His present Majesty King *William* the Fourth the said Act was continued in force until the First Day of *March* One thousand eight hundred and thirty-six: And whereas, in and by the said Act to provide for the Relief of Insolvent Debtors in the *East Indies*, certain Provisions were enacted as to a Commission of Bankruptcy issuing against any such Insolvent Debtor as therein mentioned, and as to the Proceedings consequent thereon; and amongst other Things it was enacted, that a Certificate obtained under such Commission as therein provided should have the same Force and Effect in all Places situate without the Limits of the *East India* Company's Charter as if the same had been duly signed in the usual Way after such Bankrupt had duly surrendered and passed his last Examination; and it was also by the said Act amongst other Things provided and enacted, that whenever it shall be made to appear to the Satisfaction of any Court for Relief of Insolvent Debtors, upon the Application of any Insolvent, his Assignee or Assignees, or any of his or her Creditors, that the Estate of such Insolvent Debtor which shall have come to the Hands of the Assignee or

Assignees shall have produced sufficient to pay and discharge Three Fourths of the Amount of the Debts which shall have been established in such Court, or that Creditors to the Amount of more than One Half in Number and Value of the Debts which shall have been so established shall signify their Consent in Writing thereto, it shall be lawful for such Court to inquire into the Conduct of the said Insolvent, and if it shall appear to such Court that the said Insolvent has acted fairly and honestly towards his or her Creditors, such Court shall be fully authorized and empowered thereupon to order that the said Insolvent shall be for ever discharged from all Liability whatsoever for or in respect of such Debts so established as aforesaid, and such Court shall, in the Order to be drawn up, specify and set forth the Names of such Creditors; and after any such Order shall have been so made no further Proceedings shall be had in the Matter of the Petition before the Court, unless upon Appeal made to the Supreme Court of Judicature of the Presidency where such Court for the Relief of Insolvent Debtors shall be holden as thereby authorized; and it was by the said recited Act also provided, that no such Order as last aforesaid shall prevent any Creditor who shall not have been resident within the Limits of the Charter of the said United Company at any Time between the filing of such Petition and the making of such Order as last mentioned, and who shall not have taken Part in any of the Proceedings under the said Petition, from bringing any Suit or Action in the *East Indies* for the Purpose of obtaining Execution against the Goods, Estate, or Effects of such Insolvent for any unsatisfied Claim of such Creditor, nor from bringing any Suit or Action for such Claim in any Court of the United Kingdom of *Great Britain* and *Ireland*, or elsewhere without the Limits of the said United Company's Charter, against such Insolvent, in the same Manner and with the like Consequences and Effects as if such Order as last mentioned had not been made: And whereas it is expedient to extend and add to the Provisions of the said Acts, so as to give to Insolvent Debtors, being Traders, who shall have acted fairly and honestly towards their Creditors, an additional and more complete Discharge, and also to render more effectual the Means of obtaining such Discharge, and at the same Time to preserve to such Insolvent Debtors such Relief as is already afforded by the said recited Acts: And whereas under the Provisions of the Act passed in the First and Second Years of His present Majesty King *William* the Fourth, intituled *An Act to establish a Court in Bankruptcy*, a Fiat is issued in Bankruptcy in lieu of a Commission of Bankrupt in every Case where the Lord Chancellor, by virtue of any former Act had heretofore Power to issue a Commission of Bankrupt: Be it therefore enacted by the King'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 any Person who now is or who shall hereafter become an Insolvent Debtor within the Intent and Meaning of the said Act of the Ninth Year of the Reign of His Majesty King *George* the Fourth, either upon Petition filed, or by Adjudication on an Act of Insolvency as therein provided, and who at

1 & 2 W. 4. c. 56.

Any Insolvent within the Meaning of the Act of 9 G. 4. may petition the Court for his Discharge after Three Months.

at the Time of such Petition being filed or Adjudication made as aforesaid shall have been or shall be a Person who, by an Act passed in the Sixth Year of the Reign of His late Majesty, intituled *An Act to amend the Laws relating to Bankrupts*, or by any Act hereafter to be passed, would be deemed a Trader liable to become Bankrupt, shall be at liberty, at any Time not earlier than Three Months from the making of such Assignment as in the said Act, intituled *An Act for the Relief of Insolvent Debtors in the* East Indies, directed, or from any such Adjudication of Insolvency as therein mentioned (as the Case may be), to apply by Petition for his Discharge to any one of the said Courts in the *East Indies* for the Relief of Insolvent Debtors, in the said last-mentioned Act mentioned, as shall have already Jurisdiction over the Matter of his Insolvency; and the Principal Officer of such Court shall cause a Notice of such Petition to be forthwith inserted in the Gazette of the Presidency within which such Court shall be holden; and the Chief Secretary of the Government of such Presidency shall, without Delay, transmit to the Court of Directors of the said United Company, by different Ships, Two at least of every such Gazette which shall contain such Notice as aforesaid, who shall, without Delay, cause such Notice to be inserted in the *London Gazette;* and all Creditors of the said Insolvent, either alone or as a Partner with any other Person or Persons, and either within the Limits of the said Charter of the said United Company, or elsewhere, who shall not, within Fourteen Calendar Months from the filing of such Petition for a Discharge as aforesaid, have given Notice to the said Court of his Dissent from such Insolvent having his Discharge, shall be taken to have assented thereto; and thereupon, and at the Expiration of the said Fourteen Calendar Months from the filing of such Petition for Discharge as aforesaid, if it shall appear to such Court that the said Insolvent has acted fairly and honestly towards his Creditors, and unless Creditors to the Amount of One Sixth in Number and Value of the Debts that shall have been established in such Court shall have given Notice of their Dissent as aforesaid, or unless a Fiat in Bankruptcy (not being a Fiat issued under the Provisions of the said recited Acts "to provide for the Relief of Insolvent Debtors in the *East Indies*,") shall have been sued out in *England* against such Insolvent within the Time hereinafter provided, such Court shall be authorized and empowered to order the Discharge of the said Insolvent from Liability for Debts, Claims, and Demands of and against such Insolvent; and such Order shall operate (save as herein-after provided) as a Release and Discharge from all Debts, Claims, and Demands for which such Insolvent was liable at the Time of his Petition for Relief being filed, or of any such Act of Insolvency committed as aforesaid (as the Case may be), and whether within the Limits of the Charter of the said United Company, or elsewhere, and whether such Debts, Claims, and Demands shall or shall not have been established in such Court as aforesaid: Provided nevertheless, that such Order shall not operate as a Release or Discharge of any Person who was Partner with such Insolvent, or jointly bound or liable with him.

6 G. 4. c. 16.

9 G. 4. c. 73.

Notice of such Petition to be inserted in the Gazette of the Presidency, and in the London Gazette.

Creditors who shall not dissent within 14 Months to be deemed to assent.

Court may then order Discharge, unless 1-6th dissent, or a Fiat in Bankruptcy issue under the General Bankrupt Acts.

Order of Court to discharge all Debts both in India and elsewhere.

But not to discharge Partners.

II. Provided always, and be it further enacted, That in case any Fiat in Bankruptcy shall be issued in *England* against any such Insolvent

If any Fiat of Bankruptcy shall be issued

under the Acts for Relief of Insolvent Debtors in India, then the Discharge to be confined to India;

Insolvent Trader as aforesaid, under the Provisions of the said Act, intituled *An Act to provide for the Relief of Insolvent Debtors in the* East Indies, or under the Provisions of any other Act passed or to be hereafter passed respecting Insolvent Debtors in the *East Indies*, then and in such Case such Order for Discharge as aforesaid shall not operate as a Discharge of the Debt, Claim, and Demand of any Creditor who shall not have been resident within the Limits of the Charter of the said United Company at any Time between the filing of such Petition and the making of such Order as last-mentioned, nor shall any such Creditor be debarred from bringing any Suit or Action for such Debt, Claim, or Demand in any Court of the United Kingdom of *Great Britain* and *Ireland*, or elsewhere without the Limits of the said United Company's Charter, against such Insolvent, in the same Manner and with the like Consequences and Effects as if such Order as last mentioned had not been made.

but on the Order for Discharge being proved to the Commissioner, and on his signing the Bankrupt's Certificate, such Certificate is to be a general Discharge from all Debts.

III. Provided nevertheless, and be it further enacted, That in such last-mentioned Case, upon any Application made to the Commissioner acting in such Fiat as aforesaid, to sign the Certificate of such Insolvent, and after the same shall have been signed by the requisite Number of Creditors under the Provisions of the said Act, intituled *An Act to provide for the Relief of Insolvent Debtors in the* East Indies, or any other Act passed or hereafter to be passed respecting Insolvent Debtors in the *East Indies*, then if it shall be made to appear to such Commissioner that such Order for a Discharge has been made by the Court in the *East Indies* as aforesaid, and if such Commissioner shall sign such Certificate, he shall also certify in Writing upon such Certificate that such Insolvent has obtained such Order for Discharge in the *East Indies* as aforesaid, and thereupon such Certificate shall have the same Force and Effect, as well within as without the Limits aforesaid, as a Certificate duly obtained under the said Act of the Sixth Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act to amend the Laws relating to Bankrupts*, or in any other Act passed or to be hereafter passed respecting Bankrupts.

6 G. 4. c. 16.

In case there is no Bankruptcy, the Order of Discharge to have effect every where.

IV. And be it enacted, That any such Insolvent Trader who shall not be made a Bankrupt under the Provisions of the said Act for the Relief of Insolvent Debtors in the *East Indies*, or of any other Act passed or hereafter to be passed respecting Insolvent Debtors in the *East Indies*, if he shall, after such Order for his Discharge shall have been made as aforesaid, be arrested, or have any Action brought against him for any Debt, Claim, or Demand for which he was so liable as aforesaid, either within the Limits of the Charter of the said United Company or elsewhere, shall be discharged upon Common Bail, and may plead in general that the Cause of Action accrued before he became insolvent, and may give this Act and the special Matter in Evidence; and such Order as aforesaid, duly sealed with the Seal of the said Court, shall be sufficient Evidence in all Courts and Places whatsoever of all the Proceedings precedent to such Order being made, and of the same being duly obtained; and if any such Insolvent Trader shall be taken in Execution or detained in Prison for such Debt, Claim, or Demand, where Judgment has been

been obtained before such Order of the Court for his Discharge as aforesaid, it shall be lawful for any Judge of the Court wherein such Judgment has been obtained, on such Insolvent producing such Order as aforesaid, to order any Officer who shall have such Insolvent in Custody by virtue of such Execution to discharge such Insolvent without exacting any Fee, and such Officer shall be hereby indemnified for so doing; and any such Insolvent Trader who shall be a Bankrupt under the Provisions of the said last-mentioned Act, and who shall be arrested within the Limits of the Charter of the said Company, shall be so discharged, and may so plead, and shall have otherwise such Relief, within the said Limits, as herein-before mentioned; and if he shall also obtain such Certificate as herein-before provided, he may be at liberty to avail himself either of such Certificate, or of such Order of Discharge as aforesaid, for the Purposes of his Discharge within the Limits aforesaid.

If there be a Bankruptcy, Discharge to be confined to India.

If Certificate obtained, it may be pleaded in India.

V. And be it further enacted, That in case any Fiat in Bankruptcy (other than a Fiat under the Provisions of the said Act, intituled *An Act to provide for the Relief of Insolvent Debtors in the* East Indies, or any other Act relating to the Insolvent Debtors in the *East Indies*,) be issued against any such Insolvent Trader within the Period of Eight Calendar Months from the Time of such Petition for Relief being filed, or of such Adjudication of Insolvency being made, as the Case may be, and such Insolvent Trader shall be duly adjudged a Bankrupt under such Fiat, then and in such Case such Court as aforesaid shall not be authorized and empowered to make any such Order for Discharge as aforesaid.

If a Fiat under the Bankrupt Act within Eight Months after Petition for Discharge, the Court to make no Order.

VI. And be it further enacted, That after the Expiration of such Eight Calendar Months as aforesaid no Fiat shall issue against any such Insolvent, upon any petitioning Creditor's Debt due before the filing of such Petition for Relief, or such Adjudication of Insolvency (as the Case may be); and in case any Fiat shall issue against such Insolvent Trader as aforesaid upon a petitioning Creditor's Debt incurred subsequently to such filing of the Petition for Relief or to such Adjudication of Insolvency as aforesaid, such Fiat shall not in any Manner affect, invalidate, or interfere with the Proceedings under the Insolvency previously existing in the *East Indies*, nor shall the Assignees under such Fiat acquire any Right or Title to take possession of, demand, sue for, or recover any Property or Interest, Real or Personal, wheresoever situated, which belonged to such Insolvent at the Time of such Petition for Relief being filed, or of such Adjudication of Insolvency as aforesaid, but the Assignee or Assignees appointed by such Court for the Relief of Insolvent Debtors shall have the sole and exclusive Right and Title thereto; and all Debts, Claims, and Demands due and payable to such Insolvent at the Time of such Petition for Relief being filed, or of such Adjudication of Insolvency as aforesaid, shall be established under such Insolvency, and shall not be provable under such last-mentioned Fiat.

But no Fiat to issue against a Trader who is already before the Insolvent Court, after the Eight Months from the Petition for Discharge.

VII. And whereas by the said recited Act of the Ninth Year of the Reign of His late Majesty King *George* the Fourth it is enacted, that all such Insolvent Debtors as therein mentioned shall, within

Schedules of Debtors in India to be transmitted

to Court of Directors in England, and to be open to Inspection of Creditors.

within the Time also therein mentioned, deliver into the Court a Schedule containing a full and true Account of their Debts, Estates, and Effects as therein mentioned, and which Schedule is thereby directed to be forthwith filed in the said Court: And whereas it is expedient that the Creditors of such Insolvent Debtors residing out of the Limits of the said Company's Charter should have the Means of inspecting such Schedule with equal Facility with Creditors of such Insolvent Debtors residing within the Limits of the said Charter; be it therefore further enacted, That the principal Officer of the said respective Courts for the Relief of Insolvent Debtors shall, without Delay, transmit to the Court of Directors of the said Company, by different Ships, Two or more Copies of each such Schedule, and the said Court shall retain the same, and permit any Person or Persons being a Creditor or Creditors of any such Insolvent Debtor to inspect and examine at all seasonable Times such Schedule, and shall, upon the Request and at the reasonable Costs and Charges of any such Creditor or Creditors (such Costs and Charges to be regulated by the said Court), provide for him or them a Copy or Copies of any such Schedule.

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