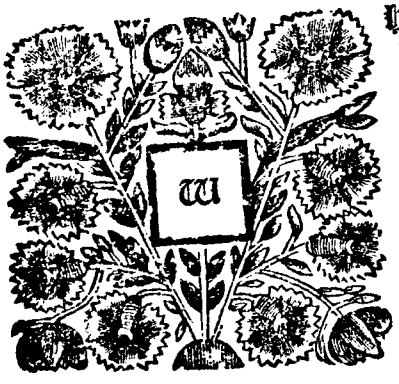
Anno quarto & quinto
ANNÆ REGINÆ.

An Act to Prevent Frauds frequently committed by Bankrupts.



Whereas many Persons have and do daily become Bankrupt, not so much by reason of Losses and Unavoidable Misfortunes, as to the intent to Defraud and Hinder their Creditors of their just Debts and Duties to them Due and Owing: For the Prevention thereof, Be it Enacted by the Queens 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 if any Person or Persons, who from and after the Four and twentieth Day of June, in the Year of our Lord, One thousand seven hundred and six, shall become a Bankrupt within the several Statutes made against Bankrupts, or any of them, and against whom a Commission of Bankrupts, under the Great Seal of England shall be Awarded and Issued out, shall not within Thirty Days next after Notice thereof in Writing shall be left at the Place of the usual Abode of such Person or Persons, and Notice given in the Gazette, That such Commission or Commissions is or are Issued forth, and of the Time and Place of a Meeting of the said Commissioners, Surrender him, her or themselves to the Commissioners named in the said Commission, or some of them, and submit to be Examined from time to time upon Oath, by and before the said Commissioners, or the major part of them, by the said Commission Authorized, and in all things conform to the several Statutes already made concerning Bankrupts, and also upon such Examination fully and truly Disclose and Discover how and in what manner, and to whom, and upon what Consideration, he, she or they hath or have Disposed, Assigned or Transferred any of his, her or their Goods, Wares, Merchandizes, Money or other Effects or Estate, and all Books, Papers and Writings relating thereunto, of which he, she or they were Possessed, or in or to which he, she or they were any way Interested or Entitled, or which any Person or Persons had, or hath, or have had in Trust for him, her or them, or for his, her or their use, at any time before or after the Issuing out of the said Commission, and also deliver up unto the said Commissioners, or the major part of the Commissioners by the said Commission Authorized, all such part of his, her or their the said Bankrupts Goods, Wares, Merchandizes, Effects and Estate, and all Books, Papers and Writings relating thereunto, as at the time of such Examination shall be in his, her or their Possession, Custody or Power, (his, her or their, and his, her and their Wives and Childrens necessary Wearing Apparel only excepted) Then he, she or they the said Bankrupt, in case of any Default or Wilful Omission therein, or in any the Premisses, and being thereof lawfully Convicted by

Indictment or Information, shall suffer as a Felon, without the Benefit of Clergy.

Provided always, and it is hereby Declared and Enacted by the Authority aforesaid, That it shall and may be lawful to and for the Lord Chancellor, or Lord Keeper, or Commissioners of the Great Seal of England for the time being, to Enlarge the time for such Person or Persons Surrendring him, her or themselves, and Disclosing and Discovering his, her or their Estate and Effects, as aforesaid, as the Lord Chancellor, Lord Keeper, or Commissioners, shall think fit, not exceeding Sixty Days, so as such Order for so Enlarging the Time, be made by the said Lord Chancellor, Lord Keeper, or Commissioners, Five Days before the time on which such Person or Persons was or were so to Surrender him, her or themselves, and make such Discovery, as aforesaid.

And be it further Enacted by the Authority aforesaid, That if from and after the said Four and twentieth Day of June, a Commission of Bankrupt, under the Great Seal of England, shall Issue forth against any Person or Persons, That then the Commissioners therein named, or the major part of them Authorized to put the said Commission in Execution, shall by virtue hereof, and of the said Commission, have full Power and Authority to send for and call before them, by such Process, Ways or Means, as they in their Discretions shall think convenient, all and every such Person and Persons as they shall be informed and believe can give any Account or Information of any Act or Acts of Bankrupcy committed by such Person or Persons, against whom such Commission shall Issue forth; and upon their Appearance to Examine them, and every of them, as well upon their Oaths, as otherwise, by such Ways and Means as the said Commissioners, or such major part of them, are by Law Authorized to Examine, touching or concerning such Bankrupts Estate, touching any Act or Acts of Bankrupcy committed by such Person or Persons against whom such Commission shall issue forth; and if any Person or Persons, upon Payment or Tender, and Refusal to Accept of such reasonable Charge, shall Refuse or Neglect to Come and Appear, not having a Lawful Excuse to be made known to the said Commissioners, and by them allowed, or being come before them, shall refuse to be Sworn, or being of the People called Quakers, to take the Solemn Affirmation, by Law appointed for such People, or being Sworn, or having taken such Affirmation, shall refuse to answer all such Questions, as by the said Commissioners shall be put unto him, her or them, relating to any Act of Bankrupcy committed by the Person or Persons against whom such Commission is awarded, according to the true Intent and Meaning of this Act, That then it shall and may be lawful for the said Commissioners, or such major part of them, to commit to such Prison as to them shall be thought meet, all such Person or Persons, and also to direct their Warrant or Warrants to such Person or Persons as the said Commissioners, or greater part of them, shall think meet, to Apprehend and Arrest such Person or Persons as shall so refuse to Appear, and to commit such Person or Persons to such Prison as the said Commissioners, or such major part of them, shall think meet, there to remain without Bail or Mainprize, until such time as such Person or Persons shall submit him or her self to the said Commissioners, and be by them Examined, according to the true Intent and Meaning of this Act. Provided, That no Person shall be obliged to Travel above Twenty Miles to be so Examined.

And

And be it further Enacted by the Authority aforesaid, That upon Certificate Made and Granted under the Hands and Seals of the said Commissioners, or such major part of them, that such Commission is issued forth, and such Person or Persons proved before them to become Bankrupt, That then it shall and may be lawful to and for all or any of the Judges of Her Majesties Courts of Queens Bench, Common Pleas, or Court of Exchequer, and to and for all and every the Justices of the Peace within the Kingdom of England, Dominion of Wales, and Town of Berwick upon Tweed, (and they are hereby Impowered and Required, upon Application to them for that purpose made) to Grant his or their Warrant or Warrants under his or their Hands and Seals, as well for the Taking and Apprehending such Person or Persons, and him, her, or them to Commit to the Common Goal of the County where he, she, or they shall be so Taken and Apprehended, there to remain, until he, she, or they shall be thence Removed by Order of the said Commissioners, or such major part of them, by Warrant under their Hands and Seals; and the Goaler or Keeper, to whose Custody such Person or Persons shall be Committed, is hereby Required forthwith to give Notice to some One of the said Commissioners in the said Commission named of such Person or Persons being in his or their Custody, to the intent the said Commissioners may send their Warrant to the said Goaler or Keeper (which they are hereby Impowered and Required forthwith to send) for the Delivering such Bankrupt or Bankrupts to the Person or Persons named in such Warrant, and thereby Authorized to Convey such Person to the said Commissioners, in Order to such Examination and Discovery, as aforesaid, as also to take and seize any the Wares, Goods, Merchandizes or Effects of such Person or Persons, or any of his, her, or their Books, Papers or Writings, or any other his or their Real or Personal Estate.

Provided always, and be it Enacted by the Authority aforesaid, That if such Person or Persons so Apprehended and Taken within the said Thirty Days, shall submit to be Examined, and in all things Conform, as if he had Surrendred himself, as by this Act such Bankrupt or Bankrupts is or are Required, then such Person or Persons so Submitting and Conforming, shall have the Benefit of this Act, to all intents and purposes, as if he had Voluntarily Come in and Surrendred himself; Any thing herein to the contrary notwithstanding.

Provided always, and be it Enacted by the Authority aforesaid, That if any Person or Persons shall by reason of this Act incurr the Penalty of Felony, that then such Felons Goods and Estate shall go to, and be Divided amongst the Creditors seeking Relief by such Commission; Any Law, Usage or Custom to the contrary in any wise notwithstanding.

And be it further Enacted by the Authority aforesaid, That all and every Person and Persons so becoming Bankrupt, as aforesaid, who shall, within the time Limited by this Act, Surrender him, her, or themselves to the major part of the Commissioners therein named, and in all things Conform as in and by this Act is Directed, shall be allowed the Sum of Five Pounds per Centum out of the Neat Product of all the Estate that shall be Recovered in and Received on such Discovery, which shall be paid unto him by the Assignee or Assignees of the said Commissioners, so as the said Five Pounds per Centum shall not amount in the whole to above the Sum of Two hundred Pounds, and shall be Discharged from all Debts by him, her, or them due and owing at the time that he, she, or they

did become Bankrupt; and in case any such Bankrupt shall afterwards be Arrested, Prosecuted or Impleaded for any Debt due before such time as he, she, or they became Bankrupt, such Bankrupt shall be Discharged upon Common Bail, and shall and may Plead in General, That the Cause of such Action or Suit did accrue before such time as he became Bankrupt, and may give this Act and the Special Matter in Evidence, and if a Verdict pass for the Defendant, or the Plaintiff shall become Non-suited, or Judgment be given against the Plaintiff, the Defendant shall Recover his Costs as in other Cases.

Provided always, and it is hereby Declared and Enacted by the Authority aforesaid, That if the Neat Proceed of such Bankrupts Estate so to be Discovered, Recovered and Received, together with what shall be otherwise Recovered and Received, shall not amount to so much as will Pay all and every the Creditors of such Bankrupt the Sum of Eight Shillings in the Pound, after all Charges first had and deducted, That then, and in such case, such Bankrupt shall not be allowed the said Sum of Five Pounds per Centum, of such Estate as shall be so Recovered in, but shall be Allowed and Paid by the Assignees, so much Money as the said Assignees and the major part of the said Commissioners shall think fit to Allow to such Bankrupt, and no more.

And for the better Discovery of the said Bankrupts Estate, in case he, she or they shall refuse or neglect to Surrender him, her or themselves, and conform to this Act, as aforesaid; Be it Enacted by the Authority aforesaid, That all and every Person and Persons, who shall have accepted of any Trust or Trusts, and Conceal or Protect any Estate, either Real or Personal of any Person becoming Bankrupt, as aforesaid, from his, her or their Creditors, and shall not within Thirty Days next after such Commission shall issue forth, and Notice thereof given to such Person or Persons, Discover and Disclose such Trust and Estate in Writing, to some One of the Commissioners, and submit himself to be Examined by the Commissioners, or such major part of them as by the said Commission shall be Authorized, and truly Discover the same, shall Forfeit the Sum of One hundred Pounds, and double the Value of the Estate, either Real or Personal so Concealed, to and for the Use and Benefit of the said Creditors, to be Recovered by Action of Debt, in any of Her Majesties Courts of Record, in the Name of the Assignees of the said Commissioners, in which Case Costs shall be Allowed to either Party as in other common Cases.

And be it further Enacted by the Authority aforesaid, That all and every Person and Persons, who shall within sixty Days next after the time allowed to such Bankrupt to Surrender himself, and Conform, as aforesaid, voluntarily Come in and make Discovery of any part of such Bankrupts Estate, before the major part of the said Commissioners, shall be allowed the Sum of Three Pounds per Centum, out of the Neat Proceed of all that shall be Recovered on such Discovery, which shall be Paid to the Person or Persons so Discovering the same, by the Assignee or Assignees to whom the same shall be Assigned.

And be it further Enacted by the Authority aforesaid, That where there shall appear to the Commissioners, or the major part of them, that there hath been mutual Credit given between such Person or Persons, against whom such Commission shall issue forth, and any Person or Persons who shall be Debtor or Debtors to such Person or Persons, and due Proof thereof made, and that the Accounts are

open and unbalanced, That then it shall be Lawful for the Commissioners in the said Commission named, or the major part of them, or the Assignee or Assignees of such Commission, to adjust the said Account, and to take the Balance due in full Discharge thereof, and the Person Debtor to such Bankrupt, shall not be compelled or obliged to Pay more than shall appear to be due on such Balance.

Provided always, and be it Enacted by the Authority aforesaid, That nothing in this Act shall be Construed to extend to Grant any Priviledge, Benefit or Advantage to any Bankrupt whatsoever, against whom a Commission under the Great Seal shall issue forth, who hath, for or upon Marriage of any of his or her Children, given, advanced or paid above the Value of One hundred Pounds, unless he or she shall prove, by his or her Books fairly kept, or otherwise, and upon his or her Oath, before the major part of the Commissioners in such Commission named, that he or she had at the time thereof, over and above the Value so given, advanced or paid, remaining in Goods, Wares, Debts, Ready Money, or other Real or Personal Estate sufficient to pay and satisfie unto each and every Person to whom he or she was any way Indebted, their full and intire Debts.

Provided always, and be it Enacted by the Authority aforesaid, That the said Commissioners, or the major part of them, shall appoint within the said Thirty Days, not less than Three several Meetings for the Purposes aforesaid, the last of which shall be on the said Thirtieth Day hereby limited for such Bankrupts Appearance.

Provided always, and be it hereby Enacted by the Authority aforesaid, That if any Person or Persons shall be Sued or Prosecuted by any Action, Bill, Plaint or Information, for any thing done or to be done by him, her or them in Prosecution of this Act, It shall and may be Lawful to and for such Person or Persons to Plead the General Issue, and to give this Act, and the Special Matter in Evidence.

Provided also, and be it Enacted by the Authority aforesaid, That nothing in this Act contained shall extend to Give or Grant any Liberty, Priviledge, Benefit or Advantage in this Act mentioned, to any Person whatsoever, against whom a Commission of Bankrupts shall be Awarded, who shall have Lost in any one Day the Sum or Value of Five Pounds, or in the whole the Sum or Value of One hundred Pounds, within the Space or Term of Twelve Months next preceding his or her becoming a Bankrupt, in playing at or with Cards, Dice, Tables, Tennis, Bowles, Shovel-board, or in or by Cock-Fightings, Horse-Races, Dog-Matches, or Foot-Races, or other Pastimes, Game or Games whatsoever, or in or by bearing a Share or Part in the Stakes, Wagers or Adventures, or in or by Betting on the Sides or Hands of such as do or shall Play, Act, Ride or Run, as aforesaid.

And be it further Enacted by the Authority aforesaid, That this Act shall continue and be in Force for the space of Three Years, and from thence to the End of the next Session of Parliament, and no longer.

And for the better Encouragement of such Persons as already are become Bankrupts, to make a true and just Discovery of their Estates, and to Deliver the same up, for the Use and Benefit of their Creditors; Be it further Enacted by the Authority aforesaid, That all and every Person and Persons who are become Bankrupts, and against whom a Commission of Bankrupt hath Issued, before the Tenth Day of March, One thousand seven hundred and five, who shall Voluntarily on or before the Four and twentieth Day of June,

One thousand seven hundred and six, Surrender him, her or themselves to the Commissioners in such Commission named, or the major part of them, and submit to be Examined from time to time upon Oath by and before the said Commissioners, or the major part of them, and in all things Conform to the several Statutes already made concerning Bankrupts, and to this present Act, shall to all intents and purposes have the Benefit of this Act.

Provided always, and be it further Enacted by the Authority aforesaid, That if such Person or Persons, so Voluntarily Surrendring him, her or themselves, shall afterwards Neglect, or Omit to Discover and Deliver his, her or their Estates and Effects, and in every thing act and do as in this Act is Directed, every such Person or Persons, shall be taken and adjudged to be a Fraudulent Bankrupt within the true intent and meaning of this Act, and thereof being Lawfully Convicted, shall suffer as a Felon without the Benefit of Clergy.

Provided also, and be it further Enacted by the Authority aforesaid, That no Discovery upon Oath to be made by any Bankrupt, of his, or her Estate and Effects pursuant to this Act, shall Entitle such Bankrupt to the Benefits allowed by this Act, unless the Commissioners of Bankrupts, or the greater Part of them that shall be named in the Commission Issued, or to be Issued against him or her, shall in Writing under their Hands and Seals, Certifie to the Lord Chancellor of England, Lord Keeper, or Commissioners for the Custody of the Great Seal of England for the time being, that such Bankrupt hath made Discovery of his Estate and Effects, and in all things Conformed himself according to the Directions of this Act, and that there doth not appear to them any reason to doubt of the Truth of such Discovery, or that the same is not a full Discovery of all such Bankrupts Estate and Effects; and unless such Certificate shall be Allowed and Confirmed by the Lord Chancellor, Lord Keeper, or Commissioners for the Custody of the Great Seal of England for the time being, or by such Two of the Judges of the Courts of Queens-Bench, Common-Pleas and Court of Exchequer at Westminster, to whom the Consideration of such Certificate shall be referred by the Lord Chancellor, Lord Keeper, or Commissioners for the Custody of the Great Seal of England for the time being, and the Creditors of such Bankrupts are to be allowed to be heard, if they shall think fit, before the respective Persons aforesaid, against the making such Certificate, and against the Confirmation thereof.

And whereas Commissions of Bankrupts have been often Executed with great Expence in Eating and Drinking, at the Meetings of the Commissioners, or some of them therein Named, to the great Prejudice of the Bankrupts and their Creditors; Be it further Enacted by the Authority aforesaid, That there shall not be paid or allowed by the Creditors, or out of the Estate of the Bankrupts, any Monies whatsoever for Expences in Eating or Drinking of the Commissioners, or of any other Persons at the times of the Meetings of the said Commissioners, or of any of the Creditors, or others in Order to Execute or prepare Matters for the Execution of such Commissions; And if any Person or Persons named, or to be named, as a Commissioner or Commissioners in any such Commission, shall Order any such Expence to be made, or Eat or Drink at any such Meeting at the Charge of the Creditors, or out of the Estate of such Bankrupt, every such Commissioner so offending, shall be Disabled for ever after to Act as a Commissioner in such, or any other Commission founded on the Statutes made against Bankrupts.

FINIS.