

ANNO TRICESIMO PRIMO & TRICESIMO SECUNDO

VICTORIÆ REGINÆ.

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CAP. CIV.

An Act to amend the Bankruptcy Act, 1861.

[31st *July* 1868.]

WHEREAS it is expedient to amend the Bankruptcy Act, 1861: 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, as follows:

No Deed, &c. entered into between a Debtor and his Creditors relating to Debts, &c. shall be as valid, &c. as if they were Parties to the same unless Conditions herein named shall be observed.

1. No Deed or Instrument made or entered into between a Debtor and his Creditors, or any of them, or a Trustee on their Behalf, relating to the Debts or Liabilities of the Debtor and his Release therefrom, or the Distribution, Inspection, Management, and Winding-up of his Estate, or any of such Matters, shall be as valid, effectual, and binding on all the Creditors of such Debtor as if they were Parties to and had duly executed the same, unless, in addition to the Conditions to be observed in accordance with the Provisions of the Bankruptcy Act, 1861, the following Conditions shall be observed; that is to say,

(1.) Together with such Deed or Instrument there shall be delivered to the Chief Registrar a List showing, to the best

best of the Knowledge, Information, and Belief of the Debtor or other Person by whom the List is made, the Debts and Liabilities of every kind of the Debtor, and the Times when such Debts and Liabilities were contracted or incurred, and the Considerations for the same, the Names, Residences, and Occupations of his Creditors, and the respective Amounts due to them, and the Securities held by them, and the estimated Value of such Securities:

(2.) A Statement showing, to the best of the Knowledge, Information, and Belief of the Debtor or other Person by whom the Statement is made, the Debtor's Property and Credits, and the estimated Value thereof.

The Debtor or other Person as aforesaid may from Time to Time, by Leave of the Court, add to or amend such List or Statement, and every such List, Statement, Addition, and Amendment shall be verified by his Affidavit, or by that of some other Person able to depose thereto; and when any Addition or Amendment is made to any such List or Statement, the Affidavit shall contain the Reason why such Addition or Amendment has been rendered necessary, and why the Substance thereof was not contained in the original List or Statement.

Notice to be given of leaving List &c. in London Gazette, &c., and Inspection of List and Statements allowed.

2. Notice of the leaving of such List or Statement, and of any Amendments or Additions thereto, shall be given in the *London Gazette*, and in some One or more Daily Paper or Papers circulating in the Neighbourhood in which the Debtor resides or carries on his Business, within such Time after such List or Statement shall have been left as General Orders direct; and any Person stating himself in Writing to be a Creditor of such Debtor may, personally or by Attorney or Agent, inspect the Lists or Statements, and any Additions or Amendment, and may, on Application in such Manner as General Orders direct, have a Copy thereof or Extracts therefrom.

Creditors assenting to Composition Deed to prove, &c.

3. No Creditor shall be reckoned in the Computation of the requisite Majority in Number representing Three Fourths in Value of the Creditors of the Debtor executing such Deed or Instrument unless he proves his Debt by Affidavit or Declaration in the Manner and subject and according to the Provisions to be prescribed by General Orders; and in the Computation of the requisite Value of such Creditors, and for all other Purposes of the Deed, the Amount due to each Creditor, after deducting the Value of the Securities held by him on the Debtor's Property, shall alone be reckoned;

reckoned; and notwithstanding anything in the Bankruptcy Act, 1861, the Time for the Production and leaving of any such Deed or Instrument at the Office of the Chief Registrar as therein provided shall be Twenty-eight Days from the Day of the Execution thereof by the Debtor, or such further Time as the Court may allow.

Proof to be filed.

4. Every Affidavit or Declaration of Proof by the Creditors of such Debtor shall be filed with the Chief Registrar within such Time as General Orders direct, and the filing of every such Affidavit shall be entered by the Chief Registrar in a Book to be kept by him as filed in the Matter of the Deed or Instrument executed by such Debtor; and any Person stating himself in Writing to be a Creditor of such Debtor may, personally or by Attorney or Agent, inspect such Book, and also every Affidavit or Declaration filed in the Matter of the Deed or Instrument executed by the Debtor, and may, in such Manner as General Orders direct, have Copies thereof or Extracts therefrom.

Power of Inspection by Creditors.

Provisions for Examination of Debtor or Creditor.

5. Any Creditor of a Debtor executing any such Deed or Instrument whose Debt shall exceed Ten Pounds may, at any Time after the Registration of the Deed or Instrument, apply for and obtain from the Court a Summons requiring such Debtor, or any Creditor or Person stated to be a Creditor of such Debtor, or any Person whom the said Court shall believe to be capable of giving any Information concerning the Dealings and Transactions of the Debtor, to appear at the said Court upon a Day and Time to be named in such Summons, and then and there to be examined concerning the Dealings and Transactions of any such Debtor, or Dealings and Transactions of the Creditor so summoned with the Debtor, or the Debt due or stated to be due from the Debtor to such Creditor; and such Debtor or Creditor or other Person, as the Case may be, shall be bound to attend at the Time and Place named in the Summons, and to submit himself to Examination; and at the Conclusion of such Examination the Court shall determine by whom the whole or any Part of the Expense of procuring the Attendance and of the Attendance of the Person examined, and of his Examination, and of the Attendance of all other Parties properly attending such Examination, shall be borne, whether by the Creditor procuring the Summons, or by the Person examined, or by the Debtor, or by the Trustees or Inspectors of his Estate, either personally or out of the Estate of the Debtor, or by the Estate of the Debtor, or otherwise; and an Order shall be drawn up by the Court in accordance with such Determination, and be enforced against the Parties bound by such Order in the same

same Manner that Orders of the Court of Bankruptcy are enforced; but nothing in this Section shall take away or abridge any Jurisdiction or Authority belonging to the Court independently thereof.

Notice to Debtor and Trustees of Deed.

6. The Creditor procuring such Summons shall give Notice to the Trustees or Inspectors (if any) acting under the Deed or Instrument, and (where the Summons is directed to a Creditor) to the Debtor, of the Time and Place appointed for the Examination. The Debtor, Trustees, or Inspectors shall be at liberty to attend such Examination, and to take part therein, subject to the Direction of the Court.

In change from Bankruptcy to Arrangement Creditors assenting to prove, &c.

7. In case of a Deed of Arrangement under Section 187 of the Bankruptcy Act, 1861, no Creditor shall be reckoned in the Computation of the requisite Majority in Number and Value of the Creditors of the Bankrupt unless he proves his Debt by Affidavit or Declaration in the Manner and subject and according to the Provisions to be prescribed by General Orders; and in the Computation of the requisite Value of such Creditors, and for all other Purposes of the Deed, the Amount due to each Creditor, after deducting the Value of the Securities held by him on the Bankrupt's Property, shall alone be reckoned.

Description of Court to have Jurisdiction under Deed.

8. The Court which shall have and exercise all Jurisdiction given by the Bankruptcy Act, 1861, and this Act, under any Deed or Instrument made by an arranging Debtor, shall, if the Debtor is a Bankrupt, be the Court having Jurisdiction in the Bankruptcy, and if he is not a Bankrupt, the Court in which a Petition by him for Adjudication of Bankruptcy against himself would at the Time of the Execution or (in case of Registration) of the Registration of the Deed or Instrument be required to be filed; but the Court of Bankruptcy in *London* may order all or any of the Applications under any Deed or Instrument to be made and prosecuted in any Court, without regard to the District in which the Debtor resided or carried on Business or the Amount of his Debts; provided that any Proceeding *bonâ fide* taken in any Court shall not be impeachable by reason of its appearing that the Jurisdiction was in some other Court, but the Court in which such Proceeding is pending may transmit the Papers to the proper Court.

Power to make General Orders.

9. The Lord Chancellor shall, with the Assistance of Two Commissioners, and subject to the Provisions of the Bankruptcy Act, 1861, frame General Orders for the following Purposes:

For

For regulating the several Forms of the Lists, Statements, Affidavits, Declarations, Advertisements, Orders, and all other Proceedings to be used in all Matters under this Act;

For the Reception and Custody of all Documents required to be produced, left, or filed in accordance with this Act, and the Inspection of such Documents by any Creditors or Person entitled to inspect the same, and for the Delivery of Copies thereof;

For regulating the Duties of the various Officers of the Court of Bankruptcy in accordance with this Act;

For regulating the Fees payable for Matters done under this Act;

And generally for carrying this Act into effect:

And the Lord Chancellor, with such Assistance, may from Time to Time amend, alter, vary, or annul any of such General Orders.

Notices as to Deeds, &c.

10. Section Two hundred and two of the Bankruptcy Act, 1861, shall extend and apply to Notices concerning Deeds or Instruments made by arranging Debtors.

Affidavits, Warrants, &c.

11. In addition to the Officers and Persons enumerated in Section 207 of the Bankruptcy Act, 1861, Affidavits, Declarations, or Affirmations required to be sworn or made in relation to any Matter under that Act or this Act may be sworn, made, or taken before such of the Officers or Clerks in the Court of Bankruptcy as the Lord Chancellor by Order shall from Time to Time appoint for the Purpose; and every Order, Warrant, Certificate, or Proceeding in the Court of Bankruptcy required by Law to be signed by a Commissioner may, in lieu of being so signed, be under the Hand of a Registrar and the Seal of the Court.

Penalty on Persons giving false Affidavit.

12. Any Person who shall, upon any Examination upon Oath or Affirmation, or in any Affidavit, Deposition, or Declaration, or solemn Affirmation, authorized or directed by this Act, wilfully and corruptly give false Evidence, or wilfully and corruptly swear or affirm anything which shall be false, being convicted thereof, shall be liable to the Penalties of wilful and corrupt Perjury.

As to Payment, &c. of Fees.

13. The Provisions with respect to the Payment and Appropriation of Fees contained in or incorporated with the Bankruptcy Act, 1861, shall be incorporated with this Act, and apply to the Fees to be taken and received under the Provisions of this Act.

Limit of Act.

14. This Act shall not extend to *Scotland* or *Ireland*.

15. This

Commencement of Act.

15. This Act shall commence and take effect on the Eleventh Day of *October* One thousand eight hundred and sixty-eight, and shall be construed together with so much of the Bankrupt Law Consolidation Act, 1849, the Bankruptcy Act, 1854, and the Bankruptcy Act, 1861, as is in force, as One Act, and may be cited for all Purposes as The Bankruptcy Amendment Act, 1868.

Short Title.

LONDON:

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