ANNO VICESIMO & VICESIMO PRIMO

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C A P. XIX.

An Act to remove Doubts as to the Law of Bankruptcy and Real Securities in *Scotland*.

[10th *August* 1857.]

WHEREAS Doubts have arisen regarding the Construction of certain Clauses contained in an Act passed in the Nineteenth and Twentieth Years of the Reign of Her present Majesty, intituled *An Act to consolidate and amend the Laws relating to Bankruptcy in* Scotland, and in another Act of the same Year of Her Majesty, intituled *An Act to amend and re-enact certain Provisions of an Act of the Fifty-fourth Year of King* George *the Third, relating to Judicial Procedure and Securities for Debt in* Scotland, and it is expedient that such Doubts should be removed: Be it therefore 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:

19 & 20 Vict. c. 79.

19 & 20 Vict. c. 91.

I. This Act may be cited as "The Bankruptcy and Real Securities "(*Scotland*) Act, 1857." Short Title.

II. Sequestration in the Case of a deceased Debtor may be awarded by the Court of Session or by the Sheriff of the County in which the Debtor for the Year preceding his Death had resided or carried on Business. Court of Session or Sheriffs may award Sequestration of deceased Debtor.

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Notice of Remit by the Sheriffs to be given in the Gazette.

III. In the event of Sequestration having been awarded by the Sheriffs of Two or more Counties, and of the later Sequestration or Sequestrations being remitted by the Sheriff or Sheriffs awarding them to the Sequestration first in Date, a Notice of such Remit shall be inserted in the Gazette Four Days after a Copy of the Deliverance of such Remit could be received in course of Post in *Edinburgh*.

Expense of Competition for Office of Trustee.

IV. No Part of the Expense of any Competition for the Office of Trustee shall be paid out of the Estate, but all such Expense shall be paid by the unsuccessful Party to the successful Party.

Oath, &c. to be produced to entitle Creditor to a Second Dividend.

V. Any Creditor, in order to be entitled to participate in a Second or any subsequent Dividend, shall produce his Oath and Grounds of Debt as directed by the first-recited Act, in reference to the First Dividend, at least Two Months before the Period fixed for Payment of such Second or subsequent Dividend.

Procedure requisite in reference to subsequent Dividends.

VI. The Procedure by the first-recited Act prescribed in reference to a Second Dividend shall be applicable in reference to subsequent Dividends, so that a Dividend may be made on the First lawful Day after the Expiration of every Three Months from the Day of the Payment of the immediately preceding Dividend, until the whole Funds of the Bankrupt shall be divided.

Abbreviate of Discharge of Bankrupt to be issued and recorded as in Sched. (A.)

VII. An Abbreviate of the Deliverance of Discharge of the Bankrupt, whether following on a Composition or not, shall be issued by the Clerk of the Bills or the Sheriff Clerk in the Form of the Schedule (A.) hereunto annexed, and the Abbreviate shall be recorded in the Register of Inhibitions, and the Register of Abbreviates of Adjudications at *Edinburgh*, and the Keepers of such Registers shall, if required, grant Certificates of such Registration in the Form annexed to the said Abbreviate.

Nothing in Sect. 7. of 19 & 20 Vict. c. 91. to exclude the Application of Provisions of 10 & 11 Vict. c. 50. and 17 & 18 Vict. c. 62. to Heritable Securities granted by the same.

VIII. Nothing contained in the Seventh Section of the last-recited Act shall be held to exclude the Application of the Provisions of an Act passed in the Tenth and Eleventh Years of the Reign of Her present Majesty, intituled *An Act to facilitate the Constitution and Transmission of Heritable Securities for Debt in* Scotland, *and to render the same more effectual for the Recovery of Debts*, or of an Act passed in the Seventeenth and Eighteenth Years of the Reign of Her present Majesty, intituled *An Act to extend the Benefits of Two Acts of Her Majesty relating to the Constitution, Transmission, and Extinction of Heritable Securities in* Scotland, to the Heritable Securities authorized to be granted by the said Seventh Section, but the said Provisions shall be held to apply thereto.

IX. The

IX. The Tenth Section of the first herein-before recited Act shall be taken to apply to Actions and Exceptions as well in the ordinary Court of the Sheriff as in the Court of Session. Application of Sect. 10. of 19 & 20 Vict. c. 79.

X. The recited Acts, excepting in so far as altered by this Act, shall be and remain in full Force and Effect, and shall be construed with this Act. Recited Acts, except as altered, to remain in force.

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SCHEDULE (A.)

1. *Form of Abbreviate of the Deliverance of Discharge of Bankrupt.*

Abbreviate of Deliverance discharging
[*Insert Name*]

A.B. [*insert the Bankrupt's Name and Designation*] has been discharged of all Debts and Obligations contracted by him, or for which he was liable at the Date of the Sequestration of his Estates; [*if upon Composition, add as follows:* "the said Sequestration declared at an end, and the said (*Name*) reinvested in his Estates on Composition of (*insert the Amount*)"], conform to Deliverance by [*Lord Ordinary or Sheriff*]. Dated the Day of One thousand eight hundred and and in Terms of "The Bankruptcy (Scotland) Act, 1856," and "The Bankruptcy "and Real Securities (Scotland) Act, 1857."

C.D. (Bill Chamber Clerk
or
Sheriff Clerk of).

[*Place and Date.*]

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2. *Form of Certificates of Registration of Abbreviate to be annexed to the Abbreviate.*

This Abbreviate was presented by
and recorded on the
Day of in the Register of Abbreviates of Adjudication at Edinburgh.

E.F. Keeper.

This Abbreviate was presented by
and recorded on the
Day of in the Register of Inhibitions at Edinburgh.

G.H. Keeper.

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Printers to the Queen's most Excellent Majesty. 1857.