CHAP. 83.

An Act to provide for the winding-up of the business of the late Court for the Relief of Insolvent Debtors in England, and to repeal Enactments relating to Insolvency, Bankruptcy, Imprisonment for Debt, and matters connected therewith. [9th August 1869.]

A.D. 1869.

WHEREAS it is expedient to provide for the winding-up of the business of the late Court for the Relief of Insolvent Debtors in England:

And whereas the enactments described in the schedule to this Act relate to insolvency or bankruptcy, or imprisonment for debt, or to matters connected therewith, and the same either have ceased to be in force, or on the commencement of divers Acts of the present session will cease to be in force, and it is therefore expedient that the same be expressly repealed:

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:

Preliminary.

Short title.

1. This Act may be cited as The Bankruptcy Repeal and Insolvent Court Act, 1869.

Commencement of Act.

2. This Act shall not come into operation until the day on which The Bankruptcy Act, 1869, comes into operation, which day is herein-after referred to as the commencement of this Act.

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PART I.

Temporary Provisions respecting Insolvent Debtors.

Construction of part of Act.

3. Words and expressions defined or explained in The Bankruptcy Act, 1869, shall have the same meaning in this part of this Act.

Jurisdiction of Insolvent Debtors Court and of county courts.

4. The Court of Bankruptcy in London shall have all the jurisdiction, powers, and authorities possessed at the commencement of The Bankruptcy Act, 1861, by the late Court for the Relief of Insolvent Debtors in England (in this part of this Act called the late Insolvent Debtors Court), in relation to all matters then pending in that court, and not completed at the commencement of this Act, and all matters at the commencement of this Act pending in that court or in the county courts under the Acts for the relief of insolvent debtors shall (subject to the express provisions of this part of this Act) be continued and completed therein as if this Act had not been passed.

General rules to be made by court.

5. Rules of court may be made in manner provided by The Bankruptcy Act, 1869, for the effectual execution of this part of this Act and of the objects thereof, and the regulation of the practice and procedure in proceedings thereunder, and the provisions of The Bankruptcy Act, 1869, with respect to the making of rules of court shall apply accordingly.

Until rules have been made in pursuance of this section, and, so far as such rules do not extend, the principles, practice, and rules on which courts having jurisdiction in insolvency have heretofore acted in dealing with insolvency proceedings shall be observed.

Delegation of authority by court.

6. The judge of any court exercising jurisdiction under this part of this Act may delegate to the registrar or to any other officer of his court such of the powers vested in him under this part of this Act as are allowed by the rules of court to be so delegated.

Saving for liability under Insolvent Debtors Acts.

7. Where a bankrupt has before adjudication of bankruptcy taken the benefit of any Act for the relief of insolvent debtors, nothing in The Bankruptcy Act, 1869, shall interfere with the operation of the Act of which he so took the benefit, in respect of the liability of property acquired after his discharge under that Act, if and so far as any such liability would have existed if The Bankruptcy Act, 1869, had not been passed.

Provision for duties of provisional assignee.

8. The person at the passing of this Act holding the office of provisional and official assignee of the estates and effects of insolvent debtors shall be deemed to have been duly appointed, and shall (subject to the provisions of this Act) continue, on the same terms

on which he then holds that office, to perform the duties imposed on him by or under The Bankruptcy Act, 1861, or any other Act. If a vacancy occurs in that office at any time after the passing of this Act, the Lord Chancellor may appoint a fit person to perform the remaining duties thereof, who shall receive such remuneration as the Lord Chancellor, with the concurrence of the Commissioners of Her Majesty's Treasury, from time to time directs, and the person so appointed shall have all the powers and authorities of the person who is at the passing of this Act the provisional and official assignee; and all estates, rights, and effects vested at the time of the vacancy in the provisional and official assignee shall, by virtue of such appointment, become vested in the person so appointed, and the like appointment on a vacancy shall be made and the like vesting shall have effect from time to time as occasion requires.

Receiver of Insolvent Debtors Court.

9. The provisional and official assignee of the estates and effects of insolvent debtors and the person for the time being appointed to perform the remaining duties of that office shall also be styled the Receiver of the late Insolvent Debtors Court, and as such he shall act in such manner in relation to the receipt and custody of money paid to him or into court in respect of the estates of insolvent debtors, and to the payment thereof out of court, and give such security, as may be from time to time prescribed by the rules of court.

The accounts of the provisional and official assignee and receiver may be audited by such person and in such manner and at such times as may be prescribed by the rules of court.

Clerks and officers of Insolvent Debtors Court.

10. The taxing master, clerks, and persons (other than the provisional and official assignee) at the commencement of this Act discharging duties connected with the late Insolvent Debtors Court shall continue to discharge the same duties as at the commencement of this Act; and every such clerk and person appointed before the commencement of The Bankruptcy Act, 1861, shall hold his appointment during good behaviour, but may be removed by the Lord Chancellor, by order, for some sufficient reason therein stated. If a vacancy happens in the place of any clerk or person to whom this section relates, the Lord Chancellor may, if he thinks fit, with the concurrence of the Commissioners of Her Majesty's Treasury, employ a fit person to discharge the duties of that place; and in the event of the duties of any such first-named clerk or person ceasing, he shall, if the Lord Chancellor thinks fit, be appointed to discharge similar duties in the Court of Bankruptcy in London in case his

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services are required in that behalf, and if not so appointed his office shall be abolished, and he shall be awarded the same compensation as if his office had been abolished by The Bankruptcy Act, 1869.

Salary of provisional assignee.

11. The person who is at the passing of this Act the provisional and official assignee shall as long as he remains in office receive the same salary as at the commencement of this Act.

Salaries of clerks and officers of court.

12. The clerks and persons (other than the provisional and official assignee) who under this Act discharge duties connected with the late Insolvent Debtors Court shall as long as they discharge such duties continue to receive the same salaries as at the commencement of this Act.

Saving for right to superannuation allowance, &c.

13. Nothing in The Bankruptcy Act, 1869, or this Act shall deprive any person holding at the commencement of this Act any office or place in the late Insolvent Debtors Court of any benefit to which at or after the commencement of this Act he is or may become entitled by virtue of any Act relating to superannuation allowances; and the service of any such person in the Court of Bankruptcy in London shall, in relation to superannuation allowance, retiring pension, and compensation annuity on abolition of office, be equivalent to service in the late Insolvent Debtors Court; and nothing in this part of this Act shall prevent any person from being deemed an officer of the Court of Bankruptcy who would have been deemed such if this part of this Act had not been enacted.

Winding up of insolvency business.

14. For the purpose of winding up and terminating as quickly as possible all matters at the commencement of this Act pending in the late Insolvent Debtors Court and in county courts under the Acts for the relief of insolvent debtors, the judges of the courts in which the same are pending shall from time to time order the provisional and official assignee of the estates and effects of insolvent debtors, or the person for the time being appointed to perform the remaining duties of that office, to institute and carry on such proceedings, either at law or in equity, as the judges direct for compelling creditors, assignees, and others to account for and pay to the receiver of the late Insolvent Debtors Court assets belonging to the estates of insolvent debtors, and those judges shall have for that purpose all such powers and authorities as were vested in the late Insolvent Debtors Court in cases where the court was dissatisfied with the account of an assignee.

1 & 2 Vict. c. 110.

Termination of insolvency cases.

15. For the purpose of winding up and terminating all matters which at the commencement of this Act may be pending in the late

Insolvent Debtors Court and in county courts under the Acts for the relief of insolvent debtors, the following provisions shall have effect; namely, A.D. 1869.

(1.) Every insolvency shall at the expiration of twelve months from the commencement of this Act or at the expiration of twenty years from the date of the filing of the petition (whichever last happens) be closed:

(2.) Before the expiration of the said twelve months or twenty years, as the case may be, any assignee, creditor, or other person interested in an insolvency may apply in the prescribed manner to the court in which it is pending to have the close of such insolvency postponed, and the judge of such court, on sufficient cause being shown for the postponement, may, subject to the rules of court, postpone such close for such period and on such terms and conditions (if any) as he thinks just:

(3.) If the close is postponed the same proceedings may be had before the expiration of the period of postponement as is provided by this section before the expiration of the said twenty years:

(4.) If sufficient cause for postponement is not shown before the expiration of the said twelve months, or twenty years, or the period of postponement (as the case may be), or of such further period as may, subject to the rules of court, be allowed for an application by the court in which the case is pending, the insolvency shall at the expiration of the said times be ipso facto closed, and thereupon the insolvent or the heirs, devisees, or personal representatives of the insolvent (if he is dead) shall be in the same position and have the same rights in all respects as if the insolvent had been bankrupt, and had at the date of the closing obtained his discharge under The Bankruptcy Act, 1869:

(5.) The term insolvency in this section includes any proceeding taken to obtain protection under the Act of the session of the fifth and sixth years of Her Majesty's reign, chapter one hundred and sixteen.

16. The powers and authorities originally conferred by this part of this Act on the Court of Bankruptcy in London and the county courts shall be deemed to be in addition to and not in abridgment of or substitution for the powers and authorities vested in them under the Acts for the relief of insolvent debtors. Authorities to be cumulative.

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Account of Insolvent Debtors Court.

17. The receiver of the late Insolvent Debtors Court shall keep an account to be intituled "The Account of the late Insolvent Debtors "Court," and there shall be transferred to that account the account kept at the passing of this Act by the Accountant in Bankruptcy, intituled The purposes of the twenty-sixth section of The Bankruptcy Act, 1861, and so much of the accounts kept by the said accountant, intituled respectively The General Account of Bankrupts Estates and The Unclaimed Dividend Account, as relates to insolvent debtors, and so much of the cash and securities left standing in the name of the said accountant under the provisions of any Act passed in the present session respecting the funds of the Court of Bankruptcy as represents part of the sums standing to the credit of the accounts so transferred shall be transferred into the name of the receiver of the late Insolvent Debtors Court to the account of the late Insolvent Debtors Court, and all the provisions of any such Act relating to the Accountant in Bankruptcy shall extend, mutatis mutandis, to the receiver of the late Insolvent Debtors Court.

Application of Insolvent Debtors Court account.

18. The sums for the time being standing to the account of the late Insolvent Debtors Court shall be subject to the orders of the Court of Bankruptcy in London for payment of any dividend, or distribution of any money, in the matter to which any part thereof originally belonged, and for payment of any money paid into the late Insolvent Debtors Court and appearing to be unaccounted for or not duly appropriated, and for indemnifying every existing and past provisional and official assignee, and every person appointed to perform the remaining duties of the office of provisional and official assignee, and their respective estates, against costs and expenses incurred or to be incurred in any action, suit, or proceeding.

Vesting of dividends after six years non-claim.

19. All dividends declared in any court acting under the Acts relating to bankruptcy or the relief of insolvent debtors which remain unclaimed for five years after the commencement of this Act, if declared before that commencement, and for five years after the declaration of the dividend if declared after the commencement of this Act, and all undivided surpluses of estates administered under the jurisdiction of such court which remain undivided for five years after the declaration of a final dividend in the case of bankruptcy, or for five years after the close of an insolvency under this Act, shall be deemed vested in the Crown, and shall be disposed of as the Commissioners of Her Majesty's Treasury direct; provided that at any time after such vesting the Lord Chancellor may, if he thinks fit, by reason of the disability or absence beyond seas

of the person entitled to the sum so vested, or for any other reason appearing to him sufficient, direct that the sum so vested shall be repaid out of moneys provided by Parliament, and shall be distributed as it would have been if there had been no such vesting.

PART II.

Repeal.

Enactments described in schedule repealed.

20. The enactments described in the schedule to this Act are hereby repealed; but this repeal shall not affect the past operation of any such enactment, or revive any court, office, jurisdiction, authority, or thing abolished by any such enactment, or affect the validity or invalidity of anything done or suffered before the commencement of this Act, or any right, title, obligation, or liability accrued or restriction imposed before the commencement of this Act, by or under any such enactment, or affect any principle or rule of law derived from any enactment contained in the first and secondly mentioned Acts in the schedule to this Act; nor shall this repeal interfere with the prosecution or affect the course of any legal proceeding pending in bankruptcy or otherwise under any such enactment before the commencement of this Act; but subject to the provisions of The Bankruptcy Act, 1869, and The Debtors Act, 1869, such proceedings shall be prosecuted as if this Act had not passed; nor shall this repeal interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty or forfeiture incurred under, any enactment hereby repealed.

SCHEDULE.

Enactments repealed.

13 Edw. 1. (Stat. West. 2.) c. 11.	The masters remedy against their servants and other accomptants.	
25 Edw. 3. Stat. 5. c. 17.	Process of exigent in debt, detinue, and replevin.	
12 Geo. 1. c. 29. in part.	An Act to prevent frivolous and vexatious arrests.	in part: namely,— Sections one and two.
19 Geo. 3. c. 70. in part.	An Act for extending the provisions of an Act made in the twelfth year of the reign of King George the First, intituled an Act to prevent frivolous and vexatious arrests; and for other purposes.	in part: namely,— Sections one, two, and three, and so much of section four as relates to execution against the person of a defendant, and to detaining a defendant.
43 Geo. 3. c. 46. in part.	An Act for the more effectual prevention of frivolous and vexatious arrests and suits, and to authorize the levying of poundage upon executions in certain cases.	in part: namely,— Sections one, two, three, and six, so far as they relate to England.
48 Geo. 3. c. 123.	An Act for the discharge of debtors in execution for small debts from imprisonment in certain cases.	
52 Geo. 3. c. 144.	An Act to suspend and finally vacate the seats of members of the House of Commons, who shall become bankrupts, and who shall not pay their debts in full within a limited time.	in part: namely,— Except so far as it relates to Scotland and Ireland.
1 & 2 Geo. 4. c. 115.	An Act to repeal so much of an Act of the fifth year of the reign of His late Majesty King George the Second, relating to bankrupts, as requires the meetings under commissions of bankrupt to be holden in the Guildhall of the city of London, and for building offices in the said city for the meetings of the commissioners, and for the more regular transaction of business in bankruptcy.	
7 & 8 Geo. 4. c. 71. in part.	An Act to prevent arrests upon mesne process where the debt or cause of action is under twenty pounds, and to regulate the practice of arrests.	in part: namely,— Except section six.
11 Geo. 4. & 1 Will. 4. c. 70. in part.	An Act for the more effectual administration of justice in England and Wales.	in part: namely,— Sections twenty-one and twenty-two.
1 & 2 Will. 4. c. 56.	An Act to establish a court in bankruptcy.	

2 & 3 Will. 4. c. 39.	An Act for uniformity of process in personal actions in His Majesty's courts of law at Westminster.	in part: namely,— Sections one to ten, both inclusive.
2 & 3 Will. 4. c. 114.	An Act to amend the laws relating to bankrupts.	
3 & 4 Will. 4. c. 84. in part.	An Act to provide for the performance of the duties of certain offices connected with the Court of Chancery which have been abolished.	in part: namely,— Section nine.
5 & 6 Will. 4. c. 29.	An Act for investing in Government securities a portion of the cash lying unemployed in the Bank of England belonging to bankrupts estates, and applying the interest thereon in discharge of the expenses of the Court of Bankruptcy, and for the relief of the suitors in the said court, and for removing doubts as to the extent of the powers of the Court of Review and of the subdivision courts.	
6 & 7 Will. 4. c. 27.	An Act for investing in Government securities further portions of the cash lying unemployed in the Bank of England belonging to bankrupts estates.	
1 & 2 Vict. c. 110. in part.	An Act for abolishing arrest on mesne process in civil actions, except in certain cases; for extending the remedies of creditors against the property of debtors; and for amending the laws for the relief of insolvent debtors in England.	in part: namely,— Sections one to ten, both inclusive. So much of section eighteen as relates to orders of the Lord Chancellor or of the Court of Review in matters of bankruptcy, and sections twenty-three to one hundred and twenty-three, both inclusive.
2 & 3 Vict. c. 39.	An Act to amend an Act passed in the last session of Parliament for abolishing arrest on mesne process in civil actions, except in certain cases; for extending the remedies of creditors against the property of debtors; and for amending the laws for the relief of insolvent debtors in England.	
5 & 6 Vict. c. 122.	An Act for the amendment of the law of bankruptcy.	
7 & 8 Vict. c. 70.	An Act for facilitating arrangements between debtors and creditors.	
7 & 8 Vict. c. 96. in part.	An Act to amend the law of insolvency, bankruptcy, and execution.	in part: namely,— Sections one to fifty-nine, both inclusive.
8 & 9 Vict. c. 127. in part.	An Act for the better securing the payment of small debts.	in part: namely,— Sections one to seven, both inclusive, and section fifteen.
9 & 10 Vict. c. 95.	An Act for the more easy recovery of small debts and demands in England.	in part: namely,— Sections ninety-eight to one hundred and one, both inclusive.
10 & 11 Vict. c. 102.	An Act to abolish the Court of Review in Bankruptcy, and to make alterations in the jurisdictions of the Courts of Bankruptcy and Court for Relief of Insolvent Debtors.	
11 & 12 Vict. c. 77.	An Act to authorize the application of part of the unclaimed money in the Court for the Relief of Insolvent Debtors in enlarging the court-house of the said court.	
12 & 13 Vict. c. 106.	The Bankrupt Law Consolidation Act, 1849.	
14 & 15 Vict. c. 52.	An Act to facilitate the more speedy arrest of absconding debtors.	
14 & 15 Vict. c. 83. in part.	An Act to improve the administration of justice in the Court of Chancery, and in the Judicial Committee of the Privy Council.	in part: namely,— Section seven, and section ten as far as it relates to matters of bankruptcy.

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15 & 16 Vict. c. 77.	An Act to abolish the office of Lord Chancellor's secretary of bankrupts, and to regulate the office of chief registrar of the Court of Bankruptcy.
16 & 17 Vict. c. 81.	An Act to reduce the salary and emoluments of the registrar of meetings of the Court of Bankruptcy.
17 & 18 Vict. c. 119.	The Bankruptcy Act, 1854.
18 & 19 Vict. c. 15. in part.	An Act for the better protection of purchasers against judgments, Crown debts, cases of lis pendens, and life annuities or rent-charges. — in part: namely,— Section ten.
22 & 23 Vict. c. 57.	An Act limiting the power of imprisonment for small debts exercised by the county court judges.
23 & 24 Vict. c. 147.	An Act to amend the seventh and eighth Victoria, chapter seventy.
24 & 25 Vict. c. 134.	The Bankruptcy Act, 1861.
25 & 26 Vict. c. 99. in part.	An Act to amend the Bankruptcy Act, 1861. — in part: namely,— Except section four.
31 & 32 Vict. c. 104.	An Act to amend the Bankruptcy Act, 1861.

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