

ANNO SECUNDO

VICTORIÆ REGINÆ.

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CAP. XI.

An Act for the better Protection of Purchasers against Judgments, Crown Debts, Lis pendens, and Fiats in Bankruptcy. [4th *June* 1839.]

WHEREAS it is desirable that further Protection should be afforded to Purchasers against Judgments, Crown Debts, and Lis pendens: 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, That no Judgment shall hereafter be docketted under the Provisions of an Act passed in the Fourth and Fifth Years of the Reign of Their late Majesties King *William* and Queen *Mary*, intituled *An Act for the better Discovery of Judgments in the Courts of King's Bench, Common Pleas, and Exchequer, at* Westminster, but that all such Dockets shall be finally closed immediately after the passing of this Act, without Prejudice to the Operation of any Judgment already docketted and entered under the said recited Act, except so far as any such Judgment may be affected by the Provisions herein-after contained.

No Judgments to be hereafter docketted under the Provisions of 4 & 5 W. & M. c. 20.

As to Judgments already docketted.

II. And be it enacted, That no Judgment already docketted and entered under the said recited Act of Their late Majesties King *William* and Queen *Mary* shall after the First Day of *August* One thousand eight hundred and forty-one affect any Lands, Tenements, or Hereditaments, as to Purchasers, Mortgagees, or Creditors, unless and until such Memorandum or Minute thereof as is prescribed in an Act passed in the First and Second Years of Her present Majesty Queen *Victoria*, intituled *An Act for abolishing Arrest on Mesne Process and 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, shall be left with the Senior Master of the Court of Common Pleas at *Westminster*, who shall forthwith enter the same in manner thereby directed in regard to Judgments; and such Officer shall be entitled for any such Entry to the Sum of Five Shillings.

1 Vict. c. 110.

The Date when the Memorandum of Judgment is left to be entered in a Book.

III. And be it enacted, That in addition to the Entry by the said last-mentioned Act or by this Act required to be made in a Book by the Senior Master, of the Particulars to be contained in every Memorandum or Minute left with him of any Judgment, Decree or Order, Rule or Order, he shall insert in such Book the Year and the Day of the Month when every such Memorandum or Minute is so left with him.

Judgments, after Five Years from Entry, to be void, unless a fresh Memorandum is left.

IV. And be it enacted, That all Judgments of any of the Superior Courts, Decrees or Orders in any Court of Equity, Rules of a Court of Common Law, and Orders in Bankruptcy or Lunacy, which since the passing of the said recited Act of the First and Second Years of the Reign of Her present Majesty have been registered under the Provisions therein contained, or which shall hereafter be so registered, shall, after the Expiration of Five Years from the Date of the Entry thereof, be null and void against Lands, Tenements, and other Hereditaments, as to Purchasers, Mortgagees, or Creditors, unless a like Memorandum or Minute as was required in the first instance is again left with the Senior Master of the said Court of Common Pleas within Five Years before the Execution of the Conveyance, Settlement, Mortgage, Lease, or other Deed or Instrument vesting or transferring the legal or equitable Right, Title, Estate, or Interest in or to any such Purchaser or Mortgagee for valuable Consideration, or as to Creditors, within Five Years before the Right of such Creditors accrued, and so, *toties quoties*, at the Expiration of every succeeding Five Years; and the Senior Master shall forthwith re-enter the same in like Manner as the same was originally entered; and such Officer shall be entitled for any such Re-entry to the Sum of One Shilling.

V. Pro-

V. Provided also, and be it enacted, That as against Purchasers and Mortgagees without Notice of any such Judgment, Decrees or Orders, Rules or Orders as aforesaid, none of such Judgments, Decrees or Orders, Rules or Orders, shall bind or affect any Lands, Tenements, or Hereditaments, or any Interest therein, further or otherwise or more extensively in any respect, although duly registered, than a Judgment of one of the Superior Courts aforesaid would have bound such Purchaser or Mortgagee before the said Act of the First and Second Years of the Reign of Her present Majesty, where it had been duly docketted according to the Law then in force.

Judgments duly registered not to affect Purchasers or Mortgagees more extensively than Judgments of Superior Courts would hitherto have done.

VI. Provided also, and be it enacted, That nothing in the said recited Act of Her present Majesty nor in this Act contained shall extend to revive or restore any Judgment which shall be extinguished or barred, nor shall the same extend to affect or prejudice any Judgment as between the Parties thereto, or their Representatives, or those deriving as Volunteers under them.

Not to revive Judgments already extinguished or barred.

VII. And be it enacted, That no Lis pendens shall bind a Purchaser or Mortgagee without express Notice thereof, unless and until a Memorandum or Minute, containing the Name and the usual or last known Place of Abode, and the Title, Trade, or Profession, of the Person whose Estate is intended to be affected thereby, and the Court of Equity, and the Title of the Cause or Information, and the Day when the Bill or Information was filed, shall be left with the Senior Master of the said Court of Common Pleas, who shall forthwith enter the same Particulars in a Book as aforesaid, in alphabetical Order, by the Name of the Person whose Estate is intended to be affected by such Lis pendens; and such Officer shall be entitled for any such Entry to the Sum of Two Shillings and Sixpence; and the Provisions herein-before contained in regard to the re-entering of Judgments every Five Years, and the Fee payable to the Officer thereon, shall extend to every Case of Lis pendens which shall be registered under the Provisions of this Act.

Purchasers not to be affected by any Lis pendens, unless such Suit is duly registered as directed by this Act.

VIII. And be it enacted, That no Judgment, Statute, or Recognizance which shall hereafter be obtained or entered into in the Name or upon the proper Account of Her Majesty, Her Heirs or Successors, or Inquisition by which any Debt shall be found due to Her Majesty, Her Heirs or Successors, or Obligation or Specialty which shall hereafter be made to Her Majesty, Her Heirs or Successors, in the Manner directed by an Act passed in the Thirty-third Year of the Reign of His late Majesty King *Henry* the Eighth, intituled *The Erection of the Court of Surveyors of the King's Lands, and the Names of the Officers there, and their Authority*, or any Acceptance of Office which shall hereafter be accepted by Officers whose Lands shall thereby become

Recognizances entered into not to affect Purchasers, unless duly registered as directed by this Act.

33 Hen. 8. c. 39.

become liable for the Payment and Satisfaction of Arrearages under the Provisions of the Act passed in the Thirteenth Year of the Reign of Her late Majesty Queen *Elizabeth*, intituled *An Act to make the Lands, Tenements, Goods, and Chattels of Tellers, Receivers, et cætera, liable to the Payment of their Debts*, shall affect any Lands, Tenements, or Hereditaments, as to Purchasers or Mortgagees, unless and until a Memorandum or Minute, containing the Name and the usual or last Place of Abode, and the Title, Trade, or Profession, of the Person whose Estate is intended to be affected thereby, and also in the Case of any Judgment the Court and the Title of the Cause in which such Judgment shall have been obtained, and the Date of such Judgment, and the Amount of the Debt, Damages, and Costs thereby recovered, and also in the Case of a Statute or Recognizance the Sum for which the same was acknowledged, and before whom the same was acknowledged, and the Date of the same, and also in the Case of an Inquisition the Sum thereby found to be due, and the Date of the same, and also in the Case of an Obligation or Specialty the Sum in which the Obligee shall be bound, or for which the Obligation or Specialty shall be made, and the Date of the same, and also in the Case of Acceptance of Office the Name of the Office and the Time of the Officer accepting the same, shall be left with the Senior Master of the said Court of Common Pleas, who shall forthwith enter the same Particulars in a Book, to be intituled "The Index to Debtors and Accountants to the Crown," in alphabetical Order, by the Name of the Person whose Estate is intended to be affected by such Judgment, Statute, or Recognizance, Inquisition, Obligation, or Specialty, or the Acceptance of any Office; and such Officer shall be entitled for any such Entry to the Sum of Two Shillings and Sixpence; and all Persons shall be at liberty to search the same Book, and also the other Book to be kept according to the Provisions of the said recited Act of the First and Second Years of the Reign of Her present Majesty, or either of the said Books, on Payment of the Sum of One Shilling, whether one only or both of the said Books shall be searched, and no Multiplication of Books is to increase the Fee.

13 Eliz. c. 4.

Registry to be open to Inspection.

Quietus to Debtors or Accountants to the Crown to be registered.

IX. And be it enacted, That whenever a Quietus shall be obtained by a Debtor or Accountant to the Crown, and an Office Copy thereof shall be left with the Senior Master of the said Court of Common Pleas, together with a Certificate, signed by the Accountant General, that the same may be registered, the said Master shall forthwith enter the same in the said Book of Debtors and Accountants to the Crown, in alphabetical Order, by the Name of the Person whose Estate is intended to be discharged by such Quietus, with the Date, and shall for any such Entry be entitled to a Fee of Two Shillings and Sixpence.

X. And

X. And whereas it is expedient to make further Provision for the Discharge of an Estate belonging to a Debtor or Accountant to the Crown from the Claim of the Crown in the Hands of a Purchaser or Mortgagee, although the Debt or Liability shall not be fully discharged; be it therefore enacted, That it shall be lawful for the Commissioners of Her Majesty's Treasury of the United Kingdom of *Great Britain* and *Ireland* for the Time being, or any Three of them, by Writing under their Hands, upon Payment of such Sums of Money as they may think fit to require into the Receipt of Her Majesty's Exchequer, to be applied in liquidation of the Debt or Liability of any Debtor or Accountant to the Crown, or upon such other Terms as they may think proper, to certify that any Lands, Tenements, or Hereditaments of any such Crown Debtor or Accountant shall be held by the Purchaser or Mortgagee or intended Purchaser or Mortgagee thereof, his or their Heirs, Executors, Administrators, and Assigns, wholly exonerated and discharged from all further Claims of Her Majesty, Her Heirs or Successors, for or in respect of any Debt, Claim, or Liability, present or future, of the Debtor or Accountant to whom such Lands, Tenements, or Hereditaments belonged, or, in Cases of Leases for Fines, to certify that the Lessees, their Heirs, Executors, Administrators, and Assigns, shall hold so exonerated and discharged, without Prejudice to the Rights and Remedies of the Crown against the Reversion of the Lands, Tenements, or Hereditaments comprised in any such Leases, and the Rents and Covenants reserved and contained by and in the same; and thereupon the same Lands, Tenements, or Hereditaments shall respectively be held accordingly wholly exonerated and discharged as aforesaid, but in the Cases of Leases without Prejudice as aforesaid.

For Discharge of the Estates of Debtors or Accountants to the Crown in certain Cases.

XI. Provided also, and be it enacted, That any such Certificate, or the Discharge of any such Lands, Tenements, or other Hereditaments by virtue of this Act, shall in nowise impeach, lessen, or affect the Right or Power of Her Majesty, Her Heirs or Successors, to levy the whole of any Debt or Demand which may at any Time be due from any such Debtor or Accountant to the Crown out of or from any other Lands, Tenements, or Hereditaments which would have been liable thereto in case no such Certificate had been granted and no such Discharge had been obtained.

Discharge of Part of the Estate of a Debtor or Creditor to the Crown not to affect Claim of the Crown on other Lands liable.

XII. And whereas it is expedient that further Provision should be made for the Protection of Purchasers against secret Acts of Bankruptcy and Fiats in Bankruptcy; be it therefore enacted, That all Conveyances by any Bankrupt *bonâ fide* made and executed before the Date and issuing of the Fiat against such Bankrupt shall be valid, notwithstanding any prior Act of Bankruptcy by him committed, provided the Person or Persons to whom such Bankrupt so

For Protection of Purchasers against secret Fiats of Bankruptcy.

conveyed had not at the Time of such Conveyance Notice of any prior Act of Bankruptcy by him committed.

Purchases from Bankrupts not to be impeached unless Commission is sued out within 12 Months.

XIII. And be it enacted, That no Purchase from any Bankrupt *bonâ fide* and for valuable Consideration, where the Purchaser had Notice at the Time of such Purchase of an Act of Bankruptcy by such Bankrupt committed, shall be impeached by reason thereof, unless the Commission against such Bankrupt shall have been sued out within Twelve Calendar Months after such Act of Bankruptcy.

Act not to extend to Ireland.

XIV. And be it enacted, That this Act shall not extend to *Ireland*.

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