ANNO TRICESIMO PRIMO & TRICESIMO SECUNDO

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C A P. LXVIII.

An Act to facilitate Liquidation in certain Cases of Bankruptcy Arrangement and Winding-up.

[31st *July* 1868.]

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:

Preliminary.

1. This Act may be cited as The Liquidation Act, 1868. — Short Title.

2. In this Act— — Interpretation of Terms.

The Term "Arrangement" means Arrangement, Conveyance, or Assignment by a Debtor, with or for the Benefit of his Creditors, by Deed registered under the Bankruptcy Act, 1861:

The Term "Deed" includes any Instrument:

The Term "Winding-up" means the Winding-up of a Company in any Manner under the Companies Act, 1862, and any Act amending the same:

The Term "Liquidators" means Assignees in a Bankruptcy, Trustees, or Inspectors, or other Persons acting on behalf of a Debtor and his Creditors, under an Arrangement, or Official or other Liquidators in a Winding-up.

3. This Act shall not extend to *Scotland* or *Ireland*. — Extent of Act.

Liquidation.

Application of Act.

4. This Act shall have Effect in the following Cases only:—

(1.) In case of Bankruptcy, where the Adjudication has been made before the passing of this Act, or a Deed of Arrangement has been registered before the passing of this Act and Adjudication of Bankruptcy supervenes before the Completion of the Liquidation under the Deed.

(2.) In case of Arrangement, where the Deed has been registered before the passing of this Act.

(3.) In case of Winding-up, where Proceedings are pending at the passing of this Act.

Division of Assets in Specie.

Power to prepare and file Scheme.

5. If in any Case of Bankruptcy, Arrangement, or Winding-up within this Act it appears to the Liquidators that it will be for the Benefit of the Estate in Liquidation that any Part of the Assets thereof should be divided in Specie, or be otherwise disposed of without Sale, they may prepare and file in the Court of Chancery a Scheme in that Behalf.

Provision in Scheme as to secured Creditors.

6. A Scheme may in any Case provide that any Class of secured Creditors shall take in or towards Discharge of their Claims on the Estate the Securities held by them at a Value to be determined by the Court or in such Manner as the Court shall direct.

Notice of Scheme.

7. Notice of the filing of the Scheme shall be published and given as General Orders under this Act direct.

Application for Confirmation.

8. At such Time after the filing of the Scheme as General Orders under this Act direct the Liquidators may apply to the Court in a summary Way for Confirmation thereof.

Confirmation of Scheme by Court.

9. After hearing the Liquidators, and any Creditors or other Parties whom the Court thinks entitled to be heard on the Application, the Court, if satisfied that no sufficient Objection has been established to the Scheme, may confirm the Scheme, with or without Alteration or Addition.

Effect of Scheme.

10. The Scheme, as and when confirmed by the Court, shall be binding and effectual to all Intents (any Rule of Law or Equity or Course of Procedure in any Court notwithstanding), and the Liquidators and Debtor and others affected by the Scheme shall conform with the Conditions thereof, and accordingly shall (subject to the Directions of the Court) execute and do all Deeds and Things necessary or proper for transferring or vesting any Portion of the Assets of the Estate in accordance with the Scheme.

Regard by Court to Wishes of Creditors.

11. The Court, in determining on the Confirmation of a Scheme, and in all Proceedings and Matters under or relating to a Scheme, may have regard to the Wishes of the Creditors or of separate Classes of Creditors, as proved to the Court by any sufficient Evidence;

Evidence; and the Court may, if it thinks it expedient for the Purpose of ascertaining their Wishes, direct Meetings of Creditors or of Classes of Creditors to be summoned and held, which Meetings shall be regulated in such Manner as the Court thinks fit (regard being always had to the Value of the Debts due to the several Creditors and to the Nature and Amount of their respective Securities, if any), and may appoint a Person to act as Chairman of any such Meeting, and to report the Result thereof to the Court.

Foreclosure by Notice.

Power for Creditors to foreclose by Notice.

12. For facilitating the Settlement of Claims of secured Creditors the following Provisions shall have Effect:—

(1.) In any Case of Bankruptcy, Arrangement, or Winding-up within this Act, any Person being or claiming to be a Creditor on the Estate in Liquidation, and holding or claiming a Security, Charge, or Lien on the Assets of the Estate, may, without Suit, give Notice in Writing to the Liquidators and the Debtor, stating his Debt or Demand, and the Security, Charge, or Lien which he holds or claims, and requiring Payment of his Debt or Demand within a Time therein specified, not being less than Six Months from the Delivery of the Notice:

(2.) Unless the Liquidators within the Time specified either comply with the Notice, or give to the Creditor a counter-Notice to the Effect that they dispute his Right to the Security, Charge, or Lien held or claimed by him, then from and after the Expiration of the Time specified the Creditor shall be entitled and bound to retain and accept, in full and final Satisfaction of the Debt or Demand stated in his Notice, that Portion of the Assets on which he holds or claims the Security, Charge, or Lien, and all Right and Title of the Liquidators and Debtor therein shall thenceforth be foreclosed:

(3.) The Liquidators and Debtor shall, at the Cost of the Estate, execute and do all Deeds and Things necessary or proper for vesting in the Creditor such Portion of the Assets as aforesaid, free from all Right of Redemption by such Liquidators or Debtor.

Procedure.

General Orders and Forms in Schedule.

13. General Orders for the better Execution of this Act and for the Regulation of Procedure thereunder shall be from Time to Time made by the Lord Chancellor of *Great Britain* with the Advice and Assistance of the Lords Justices of the Court of Appeal in Chancery, the Master of the Rolls, and the Vice Chancellors, or of any Two of those Judges; and subject to the Provisions of any such General Orders, and until any such are made, the Forms given in the Schedule to this Act, or Forms to the like Effect, may be used for the Purposes therein indicated, with such Variations as Circumstances require, and when used shall be deemed sufficient.

The

The SCHEDULE.

FORMS.

I.

NOTICE BY CREDITOR.

The Liquidation Act, 1868.

To *A.B.* and *C.D.*, being the Assignees in Bankruptcy [*or as the Case may be*] of *E.F.*, of and to the said *E.F.*

I [*or* we], the undersigned, being a Creditor [*or* Creditors] of the above-named *E.F.* to the Amount of £ and holding the following Securities, namely [*here the Nature of the Securities claimed, and whether legal or equitable, to be fully stated*], do hereby require you (or some or one of you) to pay off my [*or* our] said Debt or Demand within [*not less than Six Calendar Months*] from the Receipt by you of this Notice.

Dated this Day of

(Signed) *G.H.*

II.

COUNTER-NOTICE BY LIQUIDATORS.

The Liquidation Act, 1868.

To *G.H.*

We, the undersigned, being the Assignees in Bankruptcy [*or as the Case may be*] of the Estate of *E.F.*, do hereby give you Notice that we dispute your Right to the Security, Charge, or Lien held or claimed by you on a Portion of the Assets of the Estate in respect of the Debt or Demand of £ claimed by you.

Dated this Day of

(Signed) *A.B.*
C.D.

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