



ANNO QUINTO & SEXTO

VICTORIÆ REGINÆ.

C A P. CXVI.

An Act for the Relief of Insolvent Debtors.

[12th August 1842.]

WHEREAS it is expedient to protect from all Process against the Person such Persons as have become indebted without any Fraud or gross or culpable Negligence, so as nevertheless their Estates may be duly distributed among their Creditors: 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, That if any Person, not being a Trader within the Meaning of the Statutes now in force relating to Bankrupts, or if any Person being such Trader, but owing Debts amounting in the whole to less than Three hundred Pounds, shall give Notice, according to the Schedule to this Act annexed, to One Fourth in Number and Value of his Creditors, and shall cause the same Notice to be inserted Twice in the *London Gazette*, and Twice in some Newspaper circulating within the County wherein he resides, he may present a Petition for Protection from Process to the Court of Bankruptcy, if he has resided Twelve Calendar Months in *London* or within the *London* District, or to the Commissioner of Bankrupt in the Country within whose District he may have resided Twelve Calendar Months, which Petition shall have annexed to it a full and true Schedule of his Debts, with the Names of his Creditors, and the Dates of contracting the

Any Person not being a Trader, or being a Trader owing less than 300*l.*, on giving and publishing the required Notice, may present a Petition to Court of Bankruptcy, stating the Debts owing by and to him.

Judge or
Commissioner of
Court of
Bankruptcy
thereupon to
grant a Pro-
tection.

Estate and
Effects shall
forthwith be
vested in
the Official
Assignee.

Not to pre-
vent Insol-
vent from
being ar-
rested under
a Judge's
Order.

Rotation of
Commis-
sioners, and
Orders re-
lating to the
Hearing of
Petitions.

Commis-
sioner to
examine the
Petitioner,
&c. on Oath.

Adjourn-
ment of
Examina-
tion.

Debts, severally, the Nature of the Debt, and the Security (if any) given for the same, and also of the Nature and Amount of his Property, and of the Debts owing to him, with their Dates, and the Names of his Debtors, and the Nature of the Securities (if any) which he may have for such Debts, and which Petition shall also set forth any Proposal which he may have to make for the Payment, in whole or in part, of his Debts; and it shall thereupon be lawful for the Judge or Commissioner of the Court of Bankruptcy to whom, by any Order of the Court, as herein-after provided, the same shall be referred, or for the Commissioner in the Country to whom the Petition shall be presented, to give, upon the filing of such Petition, a Protection to the Petitioner from all Process whatever, either against his Person or his Property of every Description, which Protection shall continue in force, and all Process be stayed, until the Appearance of the Petitioner in Court, as herein-after provided; and upon the Presentation of any such Petition all the Estate and Effects of the Petitioner shall forthwith become vested in the Official Assignee who shall be nominated by the Commissioners acting in the Matter of the said Petition; and such Official Assignee shall and may forthwith take possession of so much thereof as can be reasonably obtained and possessed without Suit; and the said Official Assignee shall hold and stand possessed of the same in like Manner as Official Assignees hold and possess Estates and Effects under and by virtue of the Statute relating to Bankrupts.

II. Provided always, and be it enacted, That nothing herein contained shall be held or construed to hinder or prevent the said Insolvent from being arrested or held to Bail under the Authority of any Judge's Order for that Purpose, in like Manner as may now by Law be done, notwithstanding any Protection which may be granted under the Authority of this Act.

III. And be it further enacted, That the Court of Bankruptcy shall appoint a certain Rotation in which the Commissioners thereof shall hear the Matter of such Petitions, and shall make from Time to Time Orders touching such Rotation, and touching the Reference of such Petitions, and also touching the Commissioner to whom the Matter of any Petition shall be transferred, in case of Death, Resignation, or Removal, and also such Orders as they may think right touching the Notice of Meetings and Examinations to be given to Creditors, and the Publication of such Notice; provided that such Orders shall be approved of by the Lord Chancellor, Lord Keeper, or Lords Commissioners of the Great Seal for the Time being.

IV. And be it enacted, That the Commissioner so authorized, or the Commissioner in the Country, (as the Case may be,) shall, on the Day notified by such Notice as aforesaid, proceed to examine upon Oath the Petitioner, and any Creditor who may attend such Examination, and any Witness whom the Petitioner or any Creditor may call; and the said Commissioner may adjourn the Examination from Time to Time, and summon to be examined before him any Debtor of such Petitioner, or any Creditor of such Petitioner, or any other Person

whose

whose Evidence may appear necessary for the Purposes of the Inquiry; and if it shall appear to the said Commissioner that the Allegations in the Petition and the Matters in the Schedules are true, and that the Debts of the Petitioner were not contracted by any Manner of Fraud or Breach of Trust, or any Prosecution against the Petitioner whereby he had been convicted of any Offence, or without having at the Time of becoming indebted reasonable Assurance of being able to pay the Debts, and that such Debts were not contracted by reason of any Judgment in any Proceeding for Breach of the Revenue Laws, or in any Action for Breach of Promise of Marriage, Seduction, Criminal Conversation, Libel, Slander, Assault, Battery, malicious Arrest, malicious suing out a Fiat of Bankruptcy, or malicious Trespass, and that the Petitioner has made a full Discovery of his Estate, Effects, Debts, and Credits, and has not parted with any of his Property since the presenting of his Petition, it shall then be lawful for the said Commissioner to cause Notice to be given that on a certain Day, to be named therein, he will proceed to make an Order, unless Cause be shown to the contrary; which Order shall be called a Final Order, and shall be for the Protection of the Person of the Petitioner from all Process, and for the vesting of his Estate and Effects in an Official Assignee, to be named by such Commissioner, together with an Assignee to be chosen by the Majority in Number and Value of the Creditors who may attend before the Commissioner on such Day, or for the carrying into effect such Proposal as the Petitioner shall have set forth in his Petition, provided that the Consideration of such final Order may be adjourned from Time to Time by the Commissioner without any fresh Notice: Provided always, that it shall be lawful for the said Commissioner, if he shall think fit, to direct in such final Order some Allowance to be made for the Support of the Petitioner out of his Estate and Effects.

If Commissioner satisfied with Allegations of the Petitioner, he may make a Final Order for his Protection, &c.

Allowance for Support.

V. And be it enacted, That at the first Examination of the Petitioner it shall be lawful for the Commissioner to renew the Order for Protection, and to renew it from Time to Time until the final Order for Protection and Distribution.

Renewal of Order for Protection.

VI. And be it enacted, That it shall be lawful for the Commissioner, by Warrant under his Hand and Seal, to commit to Prison any Petitioner who shall appear to him to have prevaricated or made any false Statement before him, for such Time as he shall think fit, not exceeding One Calendar Month; and touching all Persons other than the Petitioner who shall be examined before him, or being lawfully summoned shall refuse or neglect to attend him, the said Commissioner shall have the same Powers in respect of Commitment as he has by any Law now in force relating to Bankrupts.

Punishment for Prevarication, &c.

Power of Commitment.

VII. And be it enacted, That from and after the passing of the Final Order the whole Estate, present and future, as well Real as Personal, and as well in the Colonies, Dominions, and Plantations belonging to Her Majesty, as in the United Kingdom of *Great Britain and Ireland*, all the Effects and all the Credits of the Petitioner, shall become absolutely vested in the Official Assignee and Assignee chosen

On passing of Final Order, Estate of Petitioner to be vested in his Assignees.

Provision
for Death
or Removal
of Assignees.

chosen by the Creditors, without any Deed or Conveyance, which Assignees shall hold the same as fully as if the Petitioner had been made a Bankrupt and they had been Assignees under his Fiat, and shall sue and be sued as if they had been Assignees under such Fiat; and as often as any such Assignees shall die or be lawfully removed, and a new Assignee duly appointed, all Estate, Real and Personal, and such Effects and Credits, as were or remained vested in such deceased or removed Assignee, shall vest in the new Assignee, either alone or jointly with the existing Assignees, as the Case may require, without any Deed or Conveyance for that Purpose.

Certificate
of Appoint-
ment of
Assignees to
be regis-
tered where
required.

1 & 2 W. 4.
c. 56.

Title of Pur-
chasers not
to be inva-
lidated by
the Ap-
pointment of
an Assignee.

VIII. Provided always, and be it enacted, That where according to any Laws now in force any Conveyance or Assignment of any Real or Personal Property of a Petitioner would require to be registered, enrolled, or recorded in any Registry Office in *England, Wales, or Ireland*, or in any Registry Office, Court, or other Place in *Scotland*, or any of the Dominions, Plantations, or Colonies belonging to Her Majesty, then in every such Case such Certificate of the Appointment of an Assignee or Assignees as is described in an Act passed in the First and Second Year of the Reign of His late Majesty King *William the Fourth*, intituled *An Act to establish a Court in Bankruptcy*, shall be registered in the Registry Office, Court, or Place wherein such Conveyance or Assignment as last aforesaid would require to be registered, enrolled, or recorded; and the Registry hereby directed shall have the like Effect, to all Intents and Purposes, as the Registry, Enrolment, or recording of such Conveyance or Assignment as last aforesaid would have had; and the Title of any Purchaser of any such Property as last aforesaid for valuable Consideration, who shall have duly registered, enrolled, or recorded his Purchase Deed previous to the Registry hereby directed, shall not be invalidated by reason of such Appointment of an Assignee or Assignees as aforesaid, or the vesting of such Property in him or them consequent thereupon, unless the Certificate of such Appointment shall be registered as aforesaid within the Times following; (that is to say,) as regards the United Kingdom of *Great Britain and Ireland*, within Two Months from the Date of such Appointment, and as regards all other Places, within Twelve Months from the Date thereof.

Estate of
Petitioner to
be abso-
lutely vested
in his As-
signees.

Assignee not
to take pos-
session of
Estate, &c.
without an
Order for
the Purpose.

IX. And be it enacted, That the said Assignees shall be entitled to claim and demand from the said Petitioner, at any Time after the said Final Order, any Estate and Effects acquired by him at any Time after such Order shall have been made; and all such Estate and Effects, of what Kind soever and wheresoever situate, shall be absolutely vested in such Assignees upon their filing a Copy of their Claim, served upon the Petitioner personally, or by leaving it at the Place of Residence mentioned in his Notice of Petition, and they shall hold the same in like Manner as they held the Estate and Effects of the Petitioner transferred by force of the Final Order, as herein-before provided: Provided always, that no Assignee of any Insolvent shall be authorized by virtue of this Act to take possession of any Estate or Effects which the Insolvent shall have acquired or become possessed of after the making of the Final Order herein mentioned, except under the Authority of an Order of the said Com-
missioner,

missioner, or of the Court of Review in Bankruptcy, made for that Purpose, and then only to the Extent and at the Time and in manner directed by such Order, and after giving such Notices, and doing such Acts, Matters, and Things, as by the Rules, Orders, and Regulations made under the Authority of this Act shall be required and directed in that Behalf.

X. Provided always, and it is hereby further enacted, That if any Suit or Action is brought against any Petitioner for or in respect of any Debt contracted before the Date of filing his Petition, it shall be a sufficient Plea in bar of the said Suit or Action that such Petition was duly presented, and a Final Order for Protection and Distribution made by a Commissioner duly authorized, whereof the Production of the Order signed by the Commissioner, with Proof of his Hand-writing, shall be sufficient Evidence.

Proof of Presentation of Petition and making of Final Order to bar Suits.

XI. And be it enacted, That the like Evidence of the Appointments of Assignees shall be received as sufficient to prove such Appointments in all Courts and Places whatsoever as is received by the Laws now in force relating to Bankrupts to prove such Appointments.

Proof of Appointment of Assignees.

XII. And be it enacted, That it shall be lawful for any Creditor, or Official Assignee or other Assignee, at any Time after the Final Order shall have been made, to give One Month's Notice to the Petitioner, either by personal Service, or, if he cannot be found, by Service at the Place of his Residence mentioned in his Notice of Petition, that such Creditor intends to apply by Motion to the said Commissioner, or, in case of his Death, Resignation, or Removal, to the Commissioner appointed to succeed him, that the Final Order be rescinded as far as relates to the Protection of the Petitioner's Person from Process, and as far as relates to the Effect of such Order in bar of Suits and Actions; and the said Commissioner shall, upon hearing the Matter of such Motion, and any Evidence in support of it, and what the Petitioner has to allege against it, and any Evidence against it, and upon examining the Petitioner, if he shall desire to be examined or if the Commissioner shall think fit, proceed to make such rescinding Order as is herein-before mentioned, if he sees Reason to believe that the Petitioner had not before the making of the Order sought to be rescinded made a full Disclosure of his Estate, Effects, and Debts, or had since the making of such Order not given Notice to the Assignees of any Property after acquired by him; provided that on any such Motion by a Creditor the Official and other Assignee shall be duly served with a Month's Notice to attend the said Commissioner; and provided further, that Notice of the hearing of such Motion shall be given Twice in the *London Gazette* and Twice in the same Paper in which Notice of the Petition had been given, or in some other Paper circulating in the same County; and provided always, that the said Commissioner, in case he shall refuse to make the rescinding Order, shall, if he think fit, order the Petitioner's Costs of the Motion to be paid by the Creditor making the Motion, or by the Assignee chosen by the Creditors, in case he shall make the Motion, but not out of the Petitioner's Estate and Effects.

Creditor or Official Assignee may make Motion for rescinding Final Order in part.

Commissioner to hear Motion.

Notice of Motion.

Costs of Motion.

Judges and Commissioners may make Orders for carrying Act into execution.

Orders to be approved by the Lord Chancellor, and laid before Parliament.

Time when Act shall come into operation.

Act may be altered, &c. this Session.

XIII. And be it enacted, That it shall be lawful for the Judges and Commissioners of the Court of Bankruptcy, or any Four of them, to make such Orders, Rules, and Regulations as they shall think fit for the better carrying this Act into execution, and particularly for regulating and appointing the Duties of the Official Assignees and of the other Assignees, the auditing of their Accounts, the collecting the Debts and the realizing the Estate and Effects of the Petitioner, and the Notification of the Time of hearing Petitions or Motions in the Gazette or otherwise; which Orders, Rules, and Regulations shall, upon being approved by the Lord Chancellor, Lord Keeper or Lords Commissioners of the Great Seal, be laid before both Houses of Parliament within Fourteen Days from such Approval, if Parliament be then sitting, or if not, within Fourteen Days from the Commencement of the next Session of Parliament, and shall in the meantime and from the Date of such Approval be binding upon the Commissioners in the Country, and upon all other Persons whatever, until such Time as either House of Parliament shall make some Resolution in whole or in part disapproving the same.

XIV. And be it enacted, That this Act shall not come into operation before the First Day of *November* next ensuing, except as regards the Power of the Commissioners to make Orders, Rules, and Regulations, with Consent of the Lord Chancellor, Lord Keeper or Lords Commissioners of the Great Seal.

XV. Provided always, and be it enacted, That this Act may be altered or repealed by any Act to be passed during the present Session of Parliament.

SCHEDULE.

I *A. B.*, at present and for _____ Months past residing at _____
 in the Parish of _____ and County of _____ and being
 [*here set forth the Description of the Debtor, and his Profession or*
Calling, if any], do hereby give Notice, That I intend to present a
 Petition to the Court of Bankruptcy [*or the Commissioner of the*
 District, *as the Case may be*], praying to be examined
 touching my Debts, Estate, and Effects, and to be protected from
 all Process, upon making a full Disclosure and Surrender of such
 Estate and Effects for Payment of my just and lawful Debts; and I
 hereby further give Notice, that the Time when the Matter of the said
 Petition shall be heard is to be advertised in the London Gazette
 and in the _____ Newspaper One Month at the least after the
 Date hereof. As witness my Hand, this _____ Day of _____
 in the Year _____

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