ANNO QUINQUAGESIMO QUARTO

GEORGII III. REGIS.

CAP. XXIII.

An Act to amend an Act of the Fifty-third Year of His Majesty's Reign, intituled *An Act for the Relief of Insolvent Debtors in* England.

[10th *December* 1813.]

WHEREAS an Act passed in the Fifty-third Year of His Majesty's Reign, intituled *An Act for the Relief of Insolvent Debtors in* England, and it is expedient to amend the said Act; be it therefore enacted and declared by the King'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 it shall be lawful for the Commissioner appointed or to be appointed by virtue of the said Act to hold the Court established by virtue of the said Act, and to exercise his Office as Occasion shall require in any Part of *England*; but nevertheless such Commissioner shall at all Times have an Office in some convenient Place, either in the Cities of *London* or *Westminster*, or in the County of *Middlesex*, within the Bills of Mortality, for the Dispatch of Business. 53 G. 3. c. 102. Place for holding the Court.

II. And whereas it is required by the said Act that every Prisoner applying by Petition to the said Court to be discharged by virtue of the said Act shall previously take the Oath required by the said Act, and that such Petition, with the Schedule in the said Act mentioned, and the said Oath, shall be filed as in the said Act mentioned; and it has been found inconvenient that such Oath should be taken previous to such Petition, and Taking Oath previous to Petition repealed.

the

the Order thereon; be it therefore further enacted, That ſo much of the ſaid Act as requires ſuch Oath to be taken before the preſenting of ſuch Petition, and to be filed therewith, and that Notice thereof ſhould be given as provided by the ſaid Act, be and the ſame is hereby repealed from and after the paſſing of this Act.

Petition to contain an Offer to take the Oath.

III. And be it enacted, That inſtead thereof, from and after the paſſing of this Act, ſuch Petition ſhall contain an Offer to take the Oath required by the ſaid Act, in ſuch Form as the Circumſtances of the Caſe ſhall require; and that the ſaid Oath ſhall be taken upon or after the Examination of ſuch Priſoner under the ſaid Act, and ſhall thereupon be filed as the ſaid Act directs; and that the Notice required by the ſaid Act to be given upon the Order made on ſuch Petition ſhall not extend to ſuch Oath: Provided always, that in all Caſes in which ſuch Oath ſhall have been taken before the paſſing of this Act, the ſame ſhall be of the ſame Force and Effect as if this Act had not been made, and the ſaid Court ſhall proceed therein accordingly, if the ſaid Court ſhall think fit.

Notices under recited Act how to be given.

IV. And be it further enacted, That in all Caſes in which Notices of the Petition of any Priſoner for Diſcharge under the ſaid Act, and of the Schedule of ſuch Priſoner, and a Copy of the Order on ſuch Petition, are required by the ſaid Act to be ſerved on Creditors, or Perſons claiming to be Creditors of ſuch Priſoner, it ſhall be lawful for the Court eſtabliſhed by virtue of the ſaid Act to diſpenſe with ſuch Service, and to order that Notice of ſuch ſeveral Matters may be in the Form or to the Effect expreſſed in the Schedule to this Act marked (A), or in ſuch other Form or to ſuch other Effect as the ſaid Court ſhall direct, and that ſuch Notice may be given either by Advertiſement in the *London Gazette* or other Newſpaper or Newſpapers, or in ſuch other Manner as the ſaid Court ſhall ſee fit; and it ſhall be lawful to compriſe Notices on Behalf of ſeveral Priſoners in the ſame Advertiſement or Inſtrument, if the ſaid Court ſhall ſo order; and it ſhall be lawful for the ſaid Court either to direct Liſts of the Creditors or Perſons claiming to be Creditors of each of ſuch Priſoners to be annexed to ſuch Notice, or to direct that ſuch Notice ſhall refer to the Schedule delivered by each of ſuch Priſoners filed in the proper Office of the ſaid Court; and ſuch Notice ſo given according to the Order of the ſaid Court ſhall be deemed ſufficient Notice to the Creditors deſcribed in ſuch Liſt, or deſcribed in ſuch Schedule, as the Caſe may be, any Thing in the ſaid Act to the contrary notwithſtanding; and it ſhall in like Manner be lawful for the ſaid Court to order any other Notice required or authorized by the ſaid Act or by this Act to be given by Advertiſement in any Newſpaper or Newſpapers, or in any other Manner as to the ſaid Court ſhall ſeem fit.

Defective Notices to be remedied.

V. And be it further enacted, That in caſe of Defect in the Form or Manner of Service of any Notice required or authorized by the ſaid Act or by this Act, or in the Inſertion of ſuch Notice in the *London Gazette*, or in any Newſpaper, or in any Mode of Notice ordered by the ſaid Court, it ſhall be lawful for the ſaid Court from Time to Time to adjourn the Hearing of any Petition, and to make ſuch further Order reſpecting the ſame, or reſpecting ſuch Notice, as to the ſaid Court ſhall appear to be reaſonable.

VI. And

VI. And be it further enacted, That in case any Advertisement to be inserted under the Authority of the said Act or of this Act, in any Newspaper, shall contain more than Fifty Words, there shall be paid for the Insertion thereof at the Rate of Sixpence for every Ten Words contained in such Advertisement beyond the Number of Fifty Words over and above the Sum of Three Shillings mentioned in the said Act, and no more. Rate to be paid for Advertisement.

VII. And be it further enacted, That in the Adjudication of the said Court that any Prisoner is entitled to the Benefit of the said Act and the Order thereon, it shall not be necessary to specify the several Creditors and Persons claiming to be Creditors of such Prisoner, as required by the said Act, but it shall be sufficient, if the said Court shall think fit, to refer in such Order to the Schedule sworn to by such Prisoner, specifying such Creditors or Persons claiming to be Creditors of such Prisoner, either generally or specially, or with such Exceptions as the Circumstances of the Case shall appear to the Court to require. In Adjudications, Creditors need not be specified.

VIII. And be it further declared and enacted, That the said Court shall have full Power, and the same is hereby authorized, by any Order for that Purpose, to require the Sheriff or Sheriffs, Keepers or Gaolers of any Prison, or any other Officer having the Custody of any Prisoner, to bring before such Court, or any Justices of the Peace at any Quarter Session or Adjourned or Special Session of the Peace, or out of Session, as to the said Court shall seem fit, any such Prisoner, for any of the Purposes authorized by the said Act or by this Act; which Order every such Sheriff, Keeper, Gaoler, or other Officer shall obey; and for so doing such Order shall be a sufficient Warrant. Court empowered to order Prisoners to be brought before it.

IX. And be it further enacted, That in case the said Court, instead of ordering any Prisoner to be brought before the said Court for Examination, shall direct such Prisoner to be examined before His Majesty's Justices of the Peace for any County, Riding, Division, or Place, at a General Session of the Peace, or any Adjournment thereof, and it shall appear to the said Court, from the Circumstances of the Case, to be proper to authorize such Justices to certify their Opinion, whether such Prisoner is entitled to be discharged under the Authority of the said Act, it shall be lawful for any Creditor or Creditors of such Prisoner to oppose such Discharge before such Justices, who shall thereupon proceed to determine whether such Prisoner is or is not entitled to the Benefit of the said Act, and shall certify such Determination to the said Court established by virtue of the said Act, and it shall thereupon be lawful for the said Court to proceed to adjudge accordingly, as the said Court might have done in case such Prisoner had been brought before the said Court; and it shall not be lawful for any Creditor or Person claiming to be a Creditor of such Prisoner to oppose the Discharge of such Prisoner before the said Court, unless due Notice shall not have been given to such Creditor, or Person claiming to be a Creditor, according to the Order of the said Court for that Purpose, or unless some Fraud or improper Conduct of such Prisoner, or some Irregularity not in question before the said Justices, shall be made appear to the Satisfaction of the said Court. Court may order Prisoners to be examined before Justices in Quarter Sessions.

X. And be it further enacted, That the Notice to be given of the Examination of any Prisoner before Justices of the Peace, at their Quarter Session, Notice to be given of Examination before Justices.

Seſſion, or any Adjournment thereof, may be given by Advertiſement in ſome public Newſpaper, according to the Order of the ſaid Court, for Relief of Inſolvent Debtors, in the Form or to the Effect expreſſed in the Schedule to this Act marked (B), or in ſuch other Form or to ſuch other Effect as the ſaid Court ſhall direct; and it ſhall be lawful to include any Number of Priſoners in ſuch Notice, if the ſaid Court ſhall ſo order.

Gaolers may be examined by the Court or Quarter Seſſions.

XI. And be it further enacted, That the ſaid Court, and alſo the Juſtices of the Peace to whom the Examination of any Priſoner ſhall be referred by the ſaid Court, ſhall reſpectively have full Power, and they are hereby authorized, by Order of the ſaid Court, or of the ſaid Juſtices reſpectively, as the Caſe ſhall require, to cauſe the Keepers or Gaolers, or other Officers of any Priſon, or any other Perſon, to come before ſuch Court or Juſtices, as the Caſe ſhall require, and to examine ſuch Gaolers, Keepers, Officers, or other Perſons reſpectively, on Oath, touching any Matter relating to the Execution of the ſaid Act, and of this Act, as to the ſaid Court and the ſaid Juſtices reſpectively ſhall ſeem fit; and if any ſuch Gaoler, Keeper, Officer, or other Perſon, who ſhall be ſo examined, ſhall wilfully forſwear or perjure himſelf or herſelf on ſuch Examination, and ſhall be lawfully convicted thereof, he or ſhe ſo offending ſhall ſuffer ſuch Puniſhment as by Law may be inflicted on Perſons convicted of wilful and corrupt Perjury.

Sheriffs and Gaolers indemnified.

XII. And be it further enacted, That all and every Sheriffs, Gaolers, Keepers, or other Officers of any Priſon or Priſons, who have done or ſhall do any Thing in obedience to any Order of the ſaid Court, or of any Juſtice or Juſtices of the Peace, authorized by any Order of the ſaid Court by virtue of the ſaid Act or of this Act, ſhall be and is and are hereby indemnified for and in reſpect of any Thing ſo done, and every ſuch Order ſhall be a ſufficient Diſcharge to ſuch Sheriffs, Gaolers, Keepers, and other Officers reſpectively, for whatſoever hath been or ſhall be done by them reſpectively in obedience thereto, and ſhall indemnify them reſpectively againſt any Eſcape or Action for Eſcape, or any Action or Actions whatſoever, which hath been or ſhall or may be brought againſt any ſuch Sheriffs, Gaolers, Keepers, or other Officers reſpectively, for any Thing which hath been or ſhall be ſo done as aforeſaid; and ſuch Sheriffs, Gaolers, Keepers, and other Officers reſpectively, ſhall and may plead to any ſuch Action the General Iſſue, and give the ſaid Act and this Act in Evidence, and on Production of ſuch Order or Orders as aforeſaid, a Verdict ſhall be given for the Defendant or Defendants in any ſuch Action; and on ſuch Verdict, or if the Plaintiff or Plaintiffs in any ſuch Actions ſhall be non-ſuited, or diſcontinue his, her, or their Action, or if Judgement ſhall be had for the Defendant or Defendants on Demurrer, the Defendant or Defendants ſhall have Treble Coſts.

Treble Coſts.

Proviſional Aſſignee may be appointed.

XIII. And be it further enacted, That in caſe no fit Perſon ſhall be willing to accept the Office of Aſſignee of the Eſtate and Effects of any Priſoner under the ſaid Act, it ſhall be lawful for the ſaid Court to order ſuch Eſtate and Effects to be aſſigned to an Officer of the ſaid Court to be appointed for that Purpoſe, and to be called *The Proviſional Aſſignee of Inſolvent Debtors in England*, and ſuch Eſtate and Effects ſhall be thereby veſted in ſuch Proviſional Aſſignee and his Succeſſors, and ſhall not remain

in him if he ſhall reſign or be removed from his Office, or in his Heirs, Executors or Adminiſtrators in caſe of his Death, but ſhall in every ſuch Caſe go to and be veſted in his Succeſſor in Office; but ſuch Officer ſhall not be bound to do any Act with reſpect to ſuch Eſtate or Effects, except to convey or aſſign the ſame to any Perſon or Perſons to be appointed by the ſaid Court, Aſſignee or Aſſignees thereof, for the Purpoſes of the ſaid Act; but in caſe no Perſon will accept the Office of Aſſignee of ſuch Eſtate and Effects, and the ſame ſhall therefore remain veſted in ſuch Proviſional Aſſignee, and it ſhall appear that there are or may be Eſtate or Effects which may be applicable to Payment of the Debts of ſuch Priſoner, it ſhall be lawful for the ſaid Court to make ſuch Order for the Preſervation and Care thereof as to ſuch Court ſhall ſeem neceſſary, and to appoint a Receiver or Receivers of ſuch Eſtate or Effects, with ſuch Allowances and giving ſuch Security for the ſame as to the ſaid Court ſhall ſeem fit; and ſuch Receiver or Receivers ſhall duly account for and apply ſuch Eſtate and Effects under the Order of the ſaid Court, and ſhall ſell and diſpoſe of or let and ſet the ſame, if neceſſary, as the ſaid Court ſhall direct, and ſhall be removed as the ſaid Court ſhall think fit.

A Recognizance to be entered into by the Priſoner, inſtead of an Engagement as under the recited Act.

XIV. And be it further enacted, That ſo much of the ſaid Act as requires any ſuch Priſoner to execute an Engagement for Payment of the Debts or Demands of the Perſons againſt whom ſuch Priſoner ſhall be adjudged by the ſaid Court to be entitled to the Benefit of the ſaid Act, and as directs any Proceeding on ſuch Engagement, ſhall be and the ſame is hereby repealed; and inſtead thereof the ſaid Court ſhall require ſuch Priſoner to enter into a Recognizance to the King's Majeſty for the full Amount of ſuch Debts; and it ſhall be lawful for any Creditor or Creditors of ſuch Priſoner, from Time to Time to apply to the ſaid Court to have ſuch Recognizance put in Suit, and the ſame ſhall be put in Suit in purſuance of the Order of the ſaid Court for that Purpoſe, if the ſaid Court ſhall ſee fit; but all Proceedings thereon ſhall be ſubject to the Order of the ſaid Court, and any Money which ſhall be recovered upon any ſuch Recognizance ſhall be paid and applied under the Order of the ſaid Court, in the ſame Manner as any Money which might have been recovered under ſuch Engagement as aforeſaid, and the Judgement directed by the ſaid Act to be entered thereupon, might have been paid or applied under the Authority of the ſaid Act; and the ſaid Court ſhall in all Caſes proceed upon ſuch Recognizance as the ſaid Court might have done under the Authority of the ſaid Act upon the Engagement and Judgement thereupon by the ſaid Act required to be executed and entered as aforeſaid: Provided always, that in caſe any Proceeding ſhall be had upon the ſaid Recognizance, the Creditor or Creditors deſiring the ſame ſhall be at the Expence of all Proceedings thereupon, but ſhall be at Liberty to retain ſuch Expences, and all Expences attending any Application to the ſaid Court touching the ſame, out of any Money to be recovered thereon, if the ſaid Court ſhall ſo direct; and in caſe any Application ſhall be made to the ſaid Court for Liberty to proceed on any ſuch Recognizance, ſuch Court ſhall order the Coſts of ſuch Application, or of any Oppoſition thereto, to be paid as to the ſaid Court ſhall ſeem juſt.

Court may receive Affidavits of the Service of

XV. And be it further enacted, That in caſe the ſaid Court ſhall think fit, it ſhall be lawful for the ſaid Court to receive Affidavits of the Service of any Notice, or of any formal Proceeding in the Execution of the ſaid

Notice, or of any Proceeding.

Act or of this Act, such Affidavits being sworn either before any Officer of the said Court appointed by the said Court for that Purpose, or before any Master Extraordinary in Chancery, or any Commissioner for taking Affidavits in the Court of King's Bench, Common Pleas, or Exchequer, which Affidavits such Officer, Master, or Commissioner, is hereby authorized to take; and if any Person, making any such Affidavit before any such Officer, Master, or Commissioner, shall wilfully forswear and perjure himself or herself, and shall be lawfully convicted thereof, he or she so offending shall suffer such Punishment as by Law may be inflicted on Persons convicted of wilful and corrupt Perjury.

No Court of Appeal.

XVI. And be it further enacted, That so much of the said Act as provides a Court of Appeal from the Court established by virtue of the said Act, shall be and the same is hereby repealed.

Continuance of Act.

XVII. And be it further enacted, That this Act shall continue in force until the First Day of *November* One thousand eight hundred and eighteen, and thenceforth to the End of the then next Session of Parliament, and no longer.

Act may be repealed or altered this Session.

XVIII. Provided always, and be it further enacted, That this Act or any Part thereof may be repealed or altered by any Act or Acts to be made in this present Session of Parliament.

Schedule (A.)

NOTICE to Creditors of hearing Petitions in Court.

'By Order of the Court for Relief of Insolvent Debtors, the Petition
'[*or*, Petitions] of *A. B.* late of and
'now a Prisoner in [*or*, of *A. B.* late of, &c.
'*C. D.* late of, &c. &c. &c.] will be
'heard on the Day of at

'LIST of the Creditors of the said *A. B.*

'*E. F.* of
'*G. H.* of

or if such List shall not be added to such Notice, there may be added:

'The Names of the Creditors of the said *A. B.* appear in a Schedule
'annexed to his Petition, filed in the Office of the said Court at
' to which any Creditor may refer.'

Schedule (B.)

NOTICE to Creditors of the Examination of a Prisoner before Justices at their Quarter Sessions of the Peace, and that such Justices are authorized by the Court to certify whether the Prisoner is entitled to the Benefit of the said Act.

'By Order of the Court for the Relief of Insolvent Debtors, *A. B.*
'late of , and now a Prisoner in
'[*or*, *A. B. C. D.*, &c. *as the Case may be*] will be examined before the
'Justices of the Peace for , assembled at their Quarter
'Sessions of the Peace at , on the Day of
' , for the Purpose of determining whether the said *A. B.* is
'[*or*, the said *A. B. C. D.*, &c. are] entitled to the Benefit of the Act
'for the Relief of Insolvent Debtors; and all Creditors of the said *A. B.*
'[*or*, of the said *A. B. C. D.*, &c. *as the Case may be*] are required to
'attend accordingly, if they shall think fit.'

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1813.