ANNO PRIMO

GULIELMI IV. REGIS.

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C A P. XXXVIII.

An Act to continue and amend the Laws for the Relief of Insolvent Debtors in *England*.

[16th *July* 1830.]

WHEREAS an Act was passed in the Seventh Year of the Reign of His present Majesty, intituled *An Act to amend and consolidate the Laws for the Relief of Insolvent Debtors in* England; and it is expedient to continue the said Act; be it therefore enacted 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 the said Act shall be and the same is hereby continued.

7 G. 4. c. 57.

Recited Act continued.

II. And be it further enacted, That all Provisions in the said Act contained, concerning the Removal of Assignees and the Appointment of new Assignees, and concerning Assignees Accounts, and concerning the Amount of Debts, and Claims to receive Dividends, and the ascertaining thereof, and concerning all Matters to be done and observed, when it may appear to the Court for Relief of Insolvent Debtors in any Case that all Debts have been discharged, and concerning the Proof or Evidence of Conveyances and Assignments, and of all Proceedings had or being of Record in the said Court, shall be deemed to extend to the Cases of all Persons who petitioned under the several Acts recited in the said Act, as well as of Persons petitioning under the said Act.

Certain Provisions in recited Acts to extend to all Persons petitioning.

Warrants of Attorney executed by Prisoners under Acts for their Relief declared not to be within 3 G. 4. c. 39.

III. And whereas Doubts have arisen whether Warrants of Attorney, executed by Insolvent Debtors before Adjudication made in the Matters of their Petitions pursuant to the several Acts passed for their Relief, are to be deemed secret Warrants of Attorney within the Meaning and Provisions of an Act passed in the Third Year of the Reign of His present Majesty, intituled *An Act for preventing Frauds on Creditors by secret Warrants of Attorney to confess Judgment*; it is hereby declared and enacted, That such Warrants of Attorney, executed and to be executed as aforesaid, are not within the Meaning and Provisions of the said last-mentioned Act; and that the same have been, are, and shall be valid and effectual, any thing in the said last-mentioned Act, or in any Act extending the Provisions thereof, notwithstanding.

Adjudication may be made conditional in certain Cases.

IV. And whereas it is for the Benefit of Prisoners petitioning the said Court, and especially of those whose Cases may be heard before a Commissioner on Circuit, or before Justices of the Peace at their Quarter Sessions in *Wales* or the Town of *Berwick-upon-Tweed*, where it may appear in the Case of any such Prisoner, on the Hearing, that the Proof of Notice to Creditors is imperfect, or that any other Matter or Thing ought to be done by or on behalf of such Prisoner before he or she is actually discharged from Custody, that nevertheless Adjudication should be made conditional upon such Matter or Thing being performed, and that the Hearing of such Case should stand adjourned only on Failure therein: And whereas Doubts have arisen as to the Competency of proceeding in manner above mentioned; it is hereby declared and enacted, That where it shall appear to the said Court, Commissioner, or Justices, at the Hearing of the Matters of the Petition of any such Prisoner, that certain Matters or Things ought to be performed by or on behalf of such Prisoner, before he or she is entitled to be actually discharged from Custody, but that nevertheless it is expedient not to adjourn the Hearing of such Case absolutely to some future Occasion without the Opportunity of such Discharge being sooner had by doing such Things as aforesaid, it shall and may be lawful for the said Court, Commissioner, or Justices, to pronounce Adjudication, without then issuing the Order and Warrant pursuant thereto, and that such Adjudication may be directed to be conditional on the Performance of such Matters or Things as aforesaid, and that on the Non-performance thereof the Hearing of such Case shall stand adjourned according to the Direction made in that Behalf; and that all Proceedings heretofore had in manner aforesaid, in the Matters of the Petitions of any Prisoners petitioning the said Court, under any Act or Acts for the Relief of Insolvent Debtors, shall be deemed good and valid to all Intents and Purposes.

Court may direct Conveyance by Provisional Assignee where no Assignee is appointed.

V. And whereas it may often happen that some Interest in Lands and Tenements may become vested in the Provisional Assignee of the said Court, which appears to be of no Value to Creditors, but nevertheless it may be reasonable and expedient that the said Provisional Assignee should make or join in making some Conveyance or Assignment of the same, and that the same should be done without the Expence attending Advertisements and Meetings of Creditors as

prescribed by the said first-mentioned Act in certain Cases; be it therefore enacted, That it shall and may be lawful for the said Court, at any Time after the Day gazetted for the Hearing of the Matters of the Petition of any Insolvent Debtor, if no Creditor shall have become Assignee of his or her Estate and Effects, and if it shall appear fit, upon such Notice given by Advertisement or otherwise to the Creditors or any of them as the said Court shall in any Case direct, to order the said Provisional Assignee to make or join in making any Conveyance or Assignment of any such Interest as to the said Court may appear just and reasonable, without observing the Provisions of the said first-mentioned Act as to the Sale of Real Property by the Provisional or other Assignees of the Estates of Insolvent Debtors.

Assignments made by Provisional Assignee declared valid.

VI. And it is further declared and enacted, That all Assignments and Conveyances heretofore made or to be made by such Provisional Assignee in any such Cases, by Order of the said Court, shall be and the same are hereby declared to be good and valid to all Intents and Purposes; any thing in the said first-mentioned Act, or in any other Act to the contrary notwithstanding.

Assignments by Provisional Assignee to be in the Form annexed to this Act.

VII. And whereas it is expedient to prescribe a Form of Conveyance and Assignment from the Provisional Assignee to any other Assignee or Assignees when appointed by the said Court, and also to remove any Doubts as to the Validity or Effect of any Conveyances or Assignments at any Time heretofore made and executed by the said Provisional Assignee by virtue of any Order of the said Court; be it therefore declared and enacted, That every Conveyance and Assignment hereafter to be made and executed by the Provisional Assignee for the Time being to any other Assignee or Assignees, by virtue of any Order of the said Court, shall be in such Form as is to this Act annexed; and that every such Conveyance and Assignment, and also every Conveyance and Assignment at any Time heretofore made and executed by the Provisional Assignee for the Time being, in obedience to any Order of the Court for Relief of Insolvent Debtors, shall be deemed and taken to be valid and effectual to all Intents and Purposes whatever, and fully and effectually to vest and to have vested all and every Estate and Estates, Real and Personal, and all and every Right, Title, Interest, and Trust in and to the same, of what Nature or Kind soever, to which the Insolvent Debtor in each Case respectively shall or may be or shall or may have been entitled in any Manner or by any Means whatsoever, or which such Insolvent Debtor shall or may be or shall or may have been required by Law to convey and assign in Trust for his or her Creditors.

In case of Illness of a Commissioner, another Person may be appointed to execute the Duties.

VIII. And whereas it may happen that the Chief or other Commissioner for the Relief of Insolvent Debtors may, by Illness or other reasonable Cause, be for a Time disabled from performing his Duties, whereby the Business of the said Court would be delayed: And whereas if such Disability should occur to any such Commissioner proceeding on his Circuit, the Suitors of the said Court would be much prejudiced, unless some Person should be authorized forthwith to undertake the Duties of the said Chief or other Commissioner

missioner on his Circuit; be it therefore further enacted, That if such Disability as aforesaid shall occur to such Chief or other Commissioner at any Time, not being the Time of his Circuit, it shall be lawful for any fit Person, being a Barrister at Law, and appointed by One of His Majesty's Principal Secretaries of State, to execute the Duties of such Chief or other Commissioner during such Disability; and that if such Disability shall occur during the Time appointed for the Circuit of such Chief or other Commissioner, it shall be lawful for any fit Person, being a Barrister at Law, and nominated by such Chief or other Commissioner, to execute the Duties of such Chief or other Commissioner on such Circuit as aforesaid during such Disability; and that all Things done according to the Provisions of this Act and of the said Act hereby continued, by such Person so appointed or nominated as aforesaid, as the Case may be, during such Disability as aforesaid, shall be good and valid to all Intents and Purposes as if the same had been done by such Chief or other Commissioner: Provided always, that such Chief or other Commissioner, if such Disability as aforesaid shall occur during the Time appointed for his Circuit, shall forthwith state the same, together with the Cause thereof, and such Nomination as aforesaid, in Writing, and shall subscribe such Statement, and shall send the same forthwith by His Majesty's Post to One of His Majesty's Principal Secretaries of State.

Act may be altered.

IX. And be it further enacted, That this Act or any Part thereof may be altered, varied, or repealed by any Act or Acts to be passed in this present Session of Parliament.

Prohibiting Persons from being discharged under 32 G. 2. c. 28.

X. And be it further enacted, That during the Continuance of this Act no Person shall be entitled to be discharged as an Insolvent Debtor, on his or her own Petition or Application, under or by virtue of the Statute passed in the Thirty-second Year of the Reign of King *George* the Second, commonly called "The Lords Act," or of any other Statute since passed for extending or continuing the same.

Continuance of Act.

XI. And be it further enacted, That the said recited Act and this Act shall be and the same are hereby continued for Two Years, and from thence to the End of the then next Session of Parliament.

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SCHEDULE to which this Act refers.

Form of Conveyance and Assignment by the Provisional Assignee.

THIS Indenture, made the Day of in the Year of our Lord between Provisional Assignee of the Estate and Effects of Insolvent Debtors in England, of the one Part, and of the other Part, Whereas by Indenture bearing Date the Day of between an Insolvent Debtor, then a Prisoner in the of the one Part, and the said such Provisional Assignee as aforesaid, of the other Part, all the Estate, Right, Title, Interest, and Trust of the said Insolvent Debtor in and to all the Real and Personal Estate and Effects of the said Insolvent Debtor, in Possession, Reversion, Remainder, or Expectancy, except the Wearing Apparel and other such Necessaries of the said Insolvent Debtor and Family not exceeding in the whole the Value of Twenty Pounds, were, among other Things, conveyed and assigned to the said as such Provisional Assignee as aforesaid, his Successors and Assigns: Now this Indenture witnesseth, that in obedience to an Order of the Court for Relief of Insolvent Debtors, he the said at the Request and with the Consent of the said testified by sealing and delivering these Presents, hath conveyed, assigned, transferred, and set over, and by these Presents doth convey, assign, transfer, and set over, unto the said his Heirs, Executors, Administrators, and Assigns, all the Estate, Right, Title, Interest, and Trust of, in, and to all the Real and Personal Estate and Effects whatsoever and wheresoever, and of what Nature or Kind soever, present and future, which by virtue of the said herein-before in part recited Indenture now are in any way vested in the said as such Provisional Assignee as aforesaid, together with their and every of their Rights, Members, and Appurtenances; to have and to hold, receive and take, all and every the said Estate, Effects, and Premises, and every Part thereof, conveyed, assigned, transferred, and set over, or mentioned or intended to be hereby conveyed, assigned, transferred, or set over, with their and every of their Rights, Members, and Appurtenances, unto the said his Heirs, Executors, Administrators, and Assigns, according to the respective Natures, Properties, and Tenures thereof; in Trust nevertheless for the Use, Benefit, and Advantage of the Creditors of the said Insolvent Debtor who shall be entitled to share in a Dividend of the said Estate and Effects, and to and for such other Uses, Intents, and Purposes, and in such Manner and Form, as are in and by the said Indenture expressed of and concerning the same,

and to and for no other Use, Intent, or Purpose whatsoever. In witness whereof the said Parties have hereunto set their Hands and Seals, the Day and Year first above written.

Signed, sealed, and delivered by the said in the Presence of }

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