ANNO DECIMO & UNDECIMO

VICTORIÆ REGINÆ.

C A P. CII.

An Act to abolish the Court of Review in Bankruptcy, and to make Alterations in the Jurisdiction of the Courts of Bankruptcy and Court for Relief of Insolvent Debtors. [22d *July* 1847.]

WHEREAS it is expedient to abolish the Court of Review in Bankruptcy, and to make Alterations in the Jurisdiction of the Courts of Bankruptcy and Court for Relief of Insolvent Debtors; 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 the Court of Review in Bankruptcy and the Offices of the Chief Judge and other Judges of the Court of Bankruptcy be hereby abolished.

Court of Review abolished.

II. And be it enacted, That all the Jurisdiction, Powers, Authorities, and Privileges of the said Court of Review in Bankruptcy hereby abolished shall be transferred to and vested in and shall hereafter be exercised and enjoyed by such One of the Vice Chancellors of the High Court of Chancery as the Lord Chancellor shall from Time to Time be pleased to appoint, and that all Persons now holding Office or acting in the said Court of Review shall

Jurisdiction of Court of Review transferred to One of the Vice Chancellors.

continue to hold the same, and to perform the Duties thereof under the Jurisdiction hereby created, in the same Manner and under the same Tenure and subject to the same Regulations as they now hold the same and act therein: Provided always, that notwithstanding the passing of this Act the present Judges of the Court of Review shall be entitled to the same Rank and Precedence to which they are now entitled.

Laws and Orders to apply to Vice Chancellor so sitting.

III. And be it enacted, That all Laws, Orders, and Authorities touching the Practice and Manner of Proceeding in the said Court of Review, and appealing to and from the said Court, shall continue in force, and be applicable to the Jurisdiction of the said Vice Chancellor so appointed; and that all Sums and Fees shall continue to be payable and receivable by the like Persons, and shall continue to be paid and applied to the like Purposes, as the same have heretofore been paid and received in respect of any Matter in the said Court of Review.

Jurisdiction of Courts of Bankruptcy under 5 & 6 Vict. c. 116., 7 & 8 Vict. c. 96., and 8 & 9 Vict. c. 127. transferred to Court for the Relief of Insolvent Debtors and to the County Courts.

IV. And be it enacted, That from the Time this Act shall commence and take effect all Power, Jurisdiction, and Authority given to Her Majesty's Court of Bankruptcy and District Courts of Bankruptcy, and to the Commissioners thereof, in Matters of Insolvency, by an Act passed in the Sixth Year of the Reign of Her Majesty, intituled *An Act for the Relief of Insolvent Debtors*, and by an Act passed in the Eighth Year of the Reign of Her Majesty, intituled *An Act to amend the Law of Insolvency, Bankruptcy, and Execution*, and by an Act passed in the Ninth Year of the Reign of Her Majesty, intituled *An Act for better securing the Payment of Small Debts*, or by the Rules and Orders made in pursuance of any of the said Acts, shall be transferred to and vested in the Court for the Relief of Insolvent Debtors in *England*, and to and in the Commissioners thereof for the Time being, and to and in the County Courts constituted or to be constituted under an Act passed in the Tenth Year of the Reign of Her Majesty, intituled *An Act for the more easy Recovery of Small Debts and Demands in* England, in manner herein-after mentioned.

9 & 10 Vict. c. 95.

In Insolvent Debtors Court the Provisional Assignee, and in County Courts the Clerk, to act as Official Assignee;

Clerks of County Courts to act as Registrars;

Bailiffs of County Courts to act as Messengers.

V. And be it enacted, That in the Court for the Relief of Insolvent Debtors the Provisional Assignee, and in the said County Courts the Clerk of the Court, shall in every Case of Insolvency under such Two first-mentioned Acts be and act as the Official Assignee of the Estate and Effects of the Insolvent; and that in each of the said County Courts the Clerk of such Court shall act as the Registrars of the Court of Bankruptcy have heretofore been accustomed to act under any of the said Acts; and every such Clerk shall do and perform all Acts heretofore done and performed by such Registrars or by the Clerk of the Insolvent Debtors Court under any of the said Acts; and every such Clerk shall do and perform all such Acts and Duties necessary for carrying this Act into effect as shall be ordered by any such County Court, or by any Commissioner of the said Court for the Relief of Insolvent Debtors; and that the High Bailiff of every such County Court and his Assistants shall be and act as a Messenger of the Court of Bankruptcy and his Assistants have hitherto been accustomed to act under the said Acts; and such High Bailiff

Bailiff and his Assistants shall do all Acts heretofore done under the said Acts, and shall possess and enjoy all the Powers, Authorities, and Privileges when acting under the said Acts as have been heretofore done, possessed, or enjoyed by any Messenger of the Court of Bankruptcy or his Assistants when acting under any of the said Acts, and shall do and perform all such Acts as shall be ordered by any such County Court for the Purpose of carrying this Act into effect.

Jurisdiction of Insolvent Debtors Court and County Courts.

VI. And be it enacted, That from the Time this Act shall commence and take effect the Court for the Relief of Insolvent Debtors in *England*, and the Commissioners thereof, and the Judges of the County Courts aforesaid, shall have Jurisdiction in all Matters of Insolvency and Debt under the aforesaid Acts in manner following; that is to say, the said Court for the Relief of Insolvent Debtors, and the Commissioners thereof, in all Cases in which the Insolvent in Cases of Insolvency, or the Defendant in the Case of any Summons issued under the aforesaid Act for the better securing the Payment of Small Debts, shall have resided for Six Calendar Months next immediately preceding the Time of filing his Petition, or of the suing out of any such Summons aforesaid within any Parish the Distance whereof, as measured by the nearest Highway from the General Post Office in *London* to the Parish Church of such Parish, shall not exceed the Distance of Twenty Miles, to which District the Jurisdiction of the said Court and the Commissioners thereof under the aforesaid Acts is hereby restricted; and the said County Courts aforesaid in all Cases wherein the Insolvent or Defendant shall have resided elsewhere, and shall have resided for Six Calendar Months next immediately preceding the Time of filing his Petition, or the suing out of any Summons within the District of such County Court to which such Insolvent shall prefer his Petition, or to which any Plaintiff may apply for any Summons as aforesaid; and that every Commissioner of the Court for the Relief of Insolvent Debtors, and every such County Court aforesaid, shall, from and after the Time this Act shall commence and take effect, have and exercise, in the Prosecution of such Petitions and Summonses filed and issued in such Courts respectively, the like Power and Authority in all respects under the aforesaid Acts as the Commissioners of Her Majesty's Court of Bankruptcy and District Courts of Bankruptcy have heretofore had and exercised on the Presentation of Petitions of Insolvent Debtors, and on such Summonses as aforesaid, under such Acts, except as herein-after otherwise provided, and shall each, singly, be and form a Court for every Purpose under this or the aforesaid Acts; and that every Commissioner of the said Court for the Relief of Insolvent Debtors shall henceforth, singly, be and form a Court for every Purpose under all Acts now in force or which may hereafter be in force relating to Insolvent Debtors.

Recited Acts to apply to Persons petitioning who have been in Prison.

VII. And be it declared and enacted, That the said Two first-mentioned Acts shall apply to the Cases of Persons petitioning under the said Acts, although they may have been already in Prison under Judgment or otherwise for Debt.

VIII. Pro-

If Insolvent shall not have resided Six Months, Jurisdiction vested in Insolvent Court or County Court.

VIII. Provided always, and be it enacted, That if any such Insolvent shall not have so resided for Six Months in any One Place as aforesaid, then he shall file his Petition in the said Insolvent Debtors Court, and the Jurisdiction aforesaid in the Matter of such Insolvency shall be vested either in the Court for Relief of Insolvent Debtors in *London*, or in such One of the said County Courts as the said Court for the Relief of Insolvent Debtors shall direct.

Petitions now pending under recited Acts, &c., to be disposed of notwithstanding the passing of this Act.

IX. And be it enacted, That with respect to Petitions under the aforesaid Acts or either of them which are now in dependence, or which shall have been presented to the Court of Bankruptcy or any District Court of Bankruptcy before the Time at which this Act shall commence and take effect, the Provisions of such Acts, and the Jurisdiction of such Courts and the Commissioners thereof under such Acts, or under the Rules and Orders made in pursuance thereof, shall remain in full Force and Effect notwithstanding the passing of this Act.

Jurisdiction of the Court for Relief of Insolvent Debtors on Circuit transferred to County Courts.

X. And be it enacted, That from and after the Fifteenth Day of *September* next the Circuits of the Commissioners of the said Court for the Relief of Insolvent Debtors shall be abolished; and that if thereafter any Insolvent Debtor in Custody in any of Her Majesty's Gaols situated elsewhere than within the District to which the Jurisdiction of such Court is restricted as herein-before mentioned shall petition such Court under any Act or Acts relating to Insolvent Debtors, other than the Two first-mentioned Acts or this Act, or if any such Prisoner shall have so petitioned prior to the passing of this Act, and his Petition shall not have been heard, or if the same shall have been heard and the Consideration thereof shall have been adjourned, such Court or some Commissioner thereof shall forthwith, after the Schedule of such Prisoner shall have been duly filed in the Case of any new Petition, and at any Time which to such Court or Commissioner shall seem fit in the Case of any Petition which shall not have come on for hearing, or the Hearing of which shall have been adjourned as aforesaid, make an Order referring such Petition for hearing to the County Court within the District of which such Insolvent Debtor is in Custody, and shall transmit such Petition and Schedule to such Court for hearing accordingly; and that the Judge of such Court shall appoint a Time and Place for such Prisoner to be brought up before such Court, and cause the usual Notices to be given; and that any Court to which any such Petition shall be so referred and transmitted shall have and possess the same Power and Authority with respect to every such Petition, and shall make all such Orders, give all such Directions, and do all such Matters and Things requisite for the discharging or remanding of such Prisoner, and otherwise respecting such Prisoner, his Schedule, Creditors, and Assignees, as the said Court for the Relief of Insolvent Debtors or any Commissioner thereof might make, give, or do in the Matters of Petitions heard before such Court or Commissioner under such Acts; and that every such Petition and Schedule, and all Judgments, Rules, Orders, Directions, and Proceedings pronounced, made, and done thereon in all and every the Matters aforesaid by such County Court, shall be returned to the said Court for the Relief of Insolvent Debtors, signed by the Judge of such

County Court, to be a Record of the said Court for the Relief of Insolvent Debtors, and to be kept as such among the Records thereof; and the said Court for the Relief of Insolvent Debtors, and every Commissioner thereof, in every Case in which any Insolvent Debtor petitioning the Court for the Relief of Insolvent Debtors under such Acts shall be in Custody in any of Her Majesty's Gaols within the District to which the Jurisdiction of such Court is limited aforesaid, and the County Courts in the Matter of every such Petition so referred and transmitted for hearing as aforesaid, shall have Power to issue a Warrant or Order, directed to the Governor, Keeper, or Gaoler of any Gaol, directing him to bring the Insolvent before the County Court on the Day appointed for the hearing of his Petition, or at any adjourned Sitting held in the Matter of this Petition, and every such Governor, Keeper, or Gaoler shall obey such Warrant; and every such Court may order the Expence attending the bringing up of every such Insolvent to be paid by the Provisional Assignee out of the Estate and Effects of such Insolvent, or if there be no Estate, or the same be insufficient for such Purpose, out of the Interest and Profit arising from any Government Securities upon which any unclaimed Money produced by the Estates and Effects of Insolvent Debtors may be invested.

Recognizances of Sureties entered into under 1 & 2 Vict. c. 110. for enforcing Attendance of Insolvents, to bind Persons to appear before County Courts.

XI. And whereas in pursuance of an Act passed in the Second Year of the Reign of Her Majesty, intituled *An Act for abolishing Arrest on Mesne Process in 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, divers Persons as Sureties have entered into Recognizances to the Provisional Assignee of the Insolvent Debtors Court, with Conditions that the Insolvents therein mentioned should duly appear at the Times and Places therein mentioned, and it is necessary that some of such Insolvents should appear before the County Courts under this Act; be it therefore enacted, That every such Recognizance shall extend to bind the Persons who may have entered into the same, in case the Insolvent Debtor therein mentioned shall not at the Time appointed in such Recognizance duly appear before the County Court to which the Matter of such Insolvent is transferred by this Act and on every adjourned Hearing, or shall not abide by the final Judgment of such Court.

Fees in Insolvent Debtors Court to go in reduction of certain Compensations to its Officers.

XII. And whereas in consequence of late Alterations in the Laws of Imprisonment for Debt certain Compensations have become payable and are paid by the Commissioners of Her Majesty's Treasury to the Officers of the Court for the Relief of Insolvent Debtors in respect of the Diminution of Fees received therein: And whereas by the additional Business given to the said Court by this Act the Fees payable therein will again be increased, whereby a less Sum will be required for the said Compensations; be it enacted, That the Fees to be received in the said Court in Matters where Jurisdiction is given by this Act shall be received by the same Persons, to be by them applied in the same Manner as the Fees received in Matters heretofore under the Jurisdiction of the said Court are now applied, any thing herein to the contrary notwithstanding: Provided always, that it shall be

lawful for the Commissioners of Her Majesty's Treasury for the Time being, or any Three of them, and they are hereby empowered, to give such Directions as they shall think proper in regard to the Compensation Allowances now payable to the Officers and Clerks of the Court for the Relief of Insolvent Debtors in *England*, under the Provisions of the said recited Act passed in the Eighth Year of the Reign of Her Majesty, in consequence of the Fees to be received by them being again increased by the Operation of this Act.

Power to Secretary of State to order what Fees are to be paid to Officers under 9 & 10 Vict. c 95., and this Act. Until such Order made Clerks and Bailiffs to receive all Fees as heretofore.

XIII. And be it enacted, That it shall be lawful for One of Her Majesty's Principal Secretaries of State, with the Consent of the Commissioners of Her Majesty's Treasury, from Time to Time to order what Fees shall be paid and received by the several Officers or otherwise under and by virtue of the said recited Act passed in the Tenth Year of the Reign of Her Majesty and of this Act, and the Amount of such Fees respectively; and that until such Order shall be made the Clerks of the several County Courts shall have and receive for their own Use all Fees which have heretofore been taken under any of the aforesaid Acts by any Officer of the Court of Bankruptcy, or by any Officer or other Person of or connected with the Court for the Relief of Insolvent Debtors, except as herein-after mentioned, for Business which is by this Act transferred to the County Courts; and that the several High Bailiffs acting as Messengers under this Act as aforesaid shall have and receive for their own Use all Fees which have heretofore been paid to the Messengers of the Court of Bankruptcy when doing the Business by this Act directed to be done by such Bailiffs.

Lord Chancellor may give Directions for Sittings of Court of Bankruptcy elsewhere than in London.

XIV. And whereas it may be expedient that the Court of Bankruptcy in *London* should hold Sittings in Matters of Bankruptcy at some Place or Places within the District over which the Jurisdiction of such Court extends, at which such Court hath not hitherto been used to sit; be it declared and enacted, That it shall be lawful for the Lord Chancellor, at any Time or Times whenever it shall appear to him to be expedient, by any Order or Orders to give the necessary Directions in that Behalf, ordering any Commissioner, Registrar, Official Assignee, Messenger, or Usher of the Court of Bankruptcy in *London* to sit and attend and act in the Prosecution of any Fiat in Bankruptcy at any Place elsewhere within such District than in the City of *London*; and every Commissioner, Registrar, Official Assignee, Messenger, and Usher so sitting, attending, and acting shall have the like Power, Jurisdiction, and Authority as if sitting, attending, and acting in the Prosecution of such Fiat in *London*.

Lord Chancellor may order Payment of travelling and other Expences.

XV. And be it enacted, That any Commissioner or Registrar so sitting and acting shall have paid to him, in addition to his Salary, by the Governor and Company of the Bank of *England*, by virtue of any Order or Orders of the Lord Chancellor to be made from Time to Time for that Purpose, out of the Interest and Dividends that have arisen or may arise from the Securities now or hereafter to be placed in the Bank of *England* to an Account there, entitled "The Bankruptcy Fund Account," (but subject and without Prejudice

to any prior Charges on the same,) such Sum of Money for travelling and other Expences as the Lord Chancellor shall deem fit.

Forms may be altered.

XVI. And be it enacted, That the Forms given in the Schedules to any of the said Acts, or any Forms heretofore used under the said Acts, may be altered so far as to adapt them to the Change of Jurisdiction by this Act directed.

Vacancies not to be filled up till after the Termination of the next Session of Parliament.

XVII. And be it enacted, That the Office of the first One of the Commissioners of the Court for the Relief of Insolvent Debtors, and of the first Two of the Commissioners of the Court of Bankruptcy in *London*, which shall become vacant after the passing of this Act, shall not be filled up until after the Termination of the Session of Parliament next after such Vacancies shall have occurred.

Judges of County Courts incapable of being Members of Parliament.

XVIII. And be it enacted, That no Judge of any County Court who has been appointed or who shall hereafter be appointed to that Office under or by virtue of the herein-before recited Act passed in the Tenth Year of the Reign of Her Majesty, intituled *An Act for the more easy Recovery of Small Debts and Demands in* England, shall, during his Continuance in such Office, be capable of being elected or of sitting as a Member of the House of Commons.

Interpretation of "Lord Chancellor."

XIX. And be it enacted, That the Words "Lord Chancellor" shall in the Construction of this Act be interpreted to mean also and include the Lord Keeper and Lords Commissioners for the Custody of the Great Seal of the United Kingdom for the Time being.

Commencement of this Act.

XX. And be it enacted, That this Act shall commence and take effect from the Fifteenth Day of *September* One thousand eight hundred and forty-seven.

Act may be amended,&c.

XXI. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

LONDON: Printed by GEORGE E. EYRE and WILLIAM SPOTTISWOODE, Printers to the Queen's most Excellent Majesty. 1847.