

1838



ANNO PRIMO & SECUNDO

VICTORIÆ REGINÆ.

C A P. CX.

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*.
[16th *August* 1838.]

WHEREAS the present Power of Arrest upon Mesne Process is unnecessarily extensive and severe, and ought to be relaxed: 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 from and after the Time appointed for the Commencement of this Act no Person shall be arrested upon Mesne Process in any Civil Action in any Inferior Court whatsoever, or (except in the Cases and in the Manner herein-after provided for) in any Superior Court.

Arrest on Mesne Process abolished, except in certain Cases.

II. And be it enacted, That all personal Actions in Her Majesty's Superior Courts of Law at *Westminster* shall be commenced by Writ of Summons.

All Actions to be commenced by Writ of Summons.

A Judge of a Superior Court may order Defendant to be arrested in certain Cases.

III. And be it enacted, That if a Plaintiff in any Action in any of Her Majesty's Superior Courts of Law at *Westminster*, in which the Defendant is now liable to Arrest, whether upon the Order of a Judge, or without such Order, shall, by the Affidavit of himself or or some other Person, show, to the Satisfaction of a Judge of One of the said Superior Courts, that such Plaintiff has a Cause of Action against the Defendant or Defendants to the Amount of Twenty Pounds or upwards, or has sustained Damage to that Amount, and that there is probable Cause for believing that the Defendant or any One or more of the Defendants is or are about to quit *England* unless he or they be forthwith apprehended, it shall be lawful for such Judge, by a special Order, to direct that such Defendant or Defendants so about to quit *England* shall be held to Bail for such Sum as such Judge shall think fit, not exceeding the Amount of the Debt or Damages; and thereupon it shall be lawful for such Plaintiff, within the Time which shall be expressed in such Order, but not afterwards, to sue out One or more Writ or Writs of Capias into One or more different Counties, as the Case may require, against any such Defendant so directed to be held to Bail, which Writ of Capias shall be in the Form contained in the Schedule to this Act annexed, and shall bear Date on the Day on which the same shall be issued: Provided always, that the said Writ of Capias and all Writs of Execution to be issued out of the Superior Courts of Law at *Westminster* into the Counties Palatine of *Lancaster* and *Durham* shall be directed to the Chancellor of the County Palatine of *Lancaster*, or his Deputy there, or to the Chancellor of the County Palatine of *Durham*, or his Deputy there.

Sheriff may proceed to arrest Defendant.

Defendant to remain in Custody until he finds Bail, or makes a Deposit.

IV. And be it enacted, That the Sheriff or other Officer to whom any such Writ of Capias shall be directed shall, within One Calendar Month after the Date thereof, including the Day of such Date, but not afterwards, proceed to arrest the Defendant thereupon; and such Defendant when so arrested shall remain in Custody until he shall have given a Bail Bond to the Sheriff, or shall have made Deposit of the Sum endorsed on such Writ of Capias, together with Ten Pounds for Costs, according to the present Practice of the said Superior Courts; and all subsequent Proceedings as to the putting in and perfecting Special Bail, or of making Deposit and Payment of Money into Court instead of putting in and perfecting Special Bail, shall be according to the like Practice of the said Superior Courts, or as near thereto as the Circumstances of the Case will admit.

Order may be made at any Stage of Proceedings before final Judgment.

V. And be it enacted, That any such special Order may be made and the Defendant arrested in pursuance thereof at any Time after the Commencement of such Action, and before final Judgment shall have been obtained therein; and that a Defendant in Custody upon any such Arrest, and not previously served with a Copy of the Writ of Summons, may be lawfully served therewith.

Defendant may apply for his Discharge forthwith.

VI. And be it enacted, That it shall be lawful for any Person arrested upon any such Writ of Capias to apply at any Time after such Arrest to a Judge of One of the Superior Courts at *Westminster*,

minster, or to the Court in which the Action shall have been commenced, for an Order or Rule on the Plaintiff in such Action to show Cause why the Person arrested should not be discharged out of Custody; and that it shall be lawful for such Judge or Court to make absolute or discharge such Order or Rule, and to direct the Costs of the Application to be paid by either Party, or to make such other Order therein as to such Judge or Court shall seem fit; provided that any such Order made by a Judge may be discharged or varied by the Court, on Application made thereto by either Party dissatisfied with such Order.

Judge may discharge Defendant or not. Order of Judge may be appealed from.

VII. And be it enacted, That every Prisoner who at the Time appointed for the Commencement of this Act shall be in Custody upon Mesne Process for any Debt or Demand, and shall not have filed a Petition to be discharged under the Laws now in force for the Relief of Insolvent Debtors, shall be entitled to his Discharge upon entering a common Appearance to the Action: Provided nevertheless, that every such Prisoner shall be liable to be detained, or after such Discharge to be again arrested, by virtue of any such special Order as aforesaid, at the Suit of the Plaintiff at whose Suit he was previously arrested, or of any other Plaintiff.

Prisoners in Custody on Mesne Process who have not filed Petitions under Insolvent Acts entitled to be discharged.

VIII. And be it enacted, That if any single Creditor or any Two or more Creditors being Partners, whose Debt shall amount to One hundred Pounds or upwards, or any Two Creditors whose Debts shall amount to One hundred and fifty Pounds or upwards, or any Three or more Creditors whose Debts shall amount to Two hundred Pounds or upwards, of any Trader within the Meaning of the Laws now in force respecting Bankrupts, shall file an Affidavit or Affidavits in Her Majesty's Courts of Bankruptcy that such Debt or Debts is or are justly due to him or them respectively, and that such Debtor, as he or they verily believe, is such Trader as aforesaid, and shall cause him to be served personally with a Copy of such Affidavit or Affidavits, and with a Notice in Writing requiring immediate Payment of such Debt or Debts; and if such Trader shall not within Twenty-one Days after personal Service of such Affidavit or Affidavits and Notice pay such Debt or Debts, or secure or compound for the same to the Satisfaction of such Creditor or Creditors, or enter into a Bond, in such Sum and with such Two sufficient Sureties as a Commissioner of the Court of Bankruptcy shall approve of, to pay such Sum or Sums as shall be recovered in any Action or Actions which shall have been brought or shall thereafter be brought for the Recovery of the same, together with such Costs as shall be given in the same, or to render himself to the Custody of the Gaoler of the Court in which such Action shall have been or may be brought according to the Practice of such Court, or within such Time and in such Manner as the said Court or any Judge thereof shall direct, after Judgment shall have been recovered in such Action, every such Trader shall be deemed to have committed an Act of Bankruptcy on the Twenty-second Day after Service of such Affidavit or Affidavits and Notice, provided a Fiat in Bankruptcy shall issue against such Trader within Two Calendar Months from the filing of such Affidavit or Affidavits, but not otherwise.

Manner of making a Debtor a Bankrupt.

Warrants of Attorney and Cognovit Actionem to be executed in the Presence of an Attorney on behalf of the Person.

IX. And whereas it is expedient that Provision should be made for giving every Person executing a Warrant of Attorney to confess Judgment or a Cognovit Actionem due Information of the Nature and Effect thereof; be it enacted, That from and after the Time appointed for the Commencement of this Act no Warrant of Attorney to confess Judgment in any personal Action, or Cognovit Actionem, given by any Person, shall be of any Force unless there shall be present some Attorney of One of the Superior Courts on behalf of such Person, expressly named by him and attending at his Request, to inform him of the Nature and Effect of such Warrant or Cognovit, before the same is executed; which Attorney shall subscribe his Name as a Witness to the due Execution thereof, and thereby declare himself to be Attorney for the Person executing the same, and state that he subscribes as such Attorney.

Warrant, &c. not formally executed invalid.

X. And be it enacted, That a Warrant of Attorney to confess Judgment or Cognovit Actionem not executed in manner aforesaid shall not be rendered valid by Proof that the Person executing the same did in fact understand the Nature and Effect thereof, or was fully informed of the same.

Sheriff empowered to deliver Execution of Lands, &c. to Judgment Creditor.

XI. And whereas the existing Law is defective in not providing adequate Means for enabling Judgment Creditors to obtain Satisfaction from the Property of their Debtors, and it is expedient to give Judgment Creditors more effectual Remedies against the Real and Personal Estate of their Debtors than they possess under the existing Law; be it therefore further enacted, That it shall be lawful for the Sheriff or other Officer to whom any Writ of Elegit, or any Precept in pursuance thereof, shall be directed, at the Suit of any Person, upon any Judgment which at the Time appointed for the Commencement of this Act shall have been recovered, or shall be thereafter recovered in any Action in any of Her Majesty's Superior Courts at *Westminster*, to make and deliver Execution unto the Party in that Behalf suing of all such Lands, Tenements, Rectories, Tithes, Rents, and Hereditaments, including Lands and Hereditaments of Copyhold or Customary Tenure, as the Person against whom Execution is so sued, or any Person in Trust for him, shall have been seised or possessed of at the Time of entering up the said Judgment, or at any Time afterwards, or over which such Person shall at the Time of entering up such Judgment, or at any Time afterwards, have any disposing Power which he might without the Assent of any other Person exercise for his own Benefit, in like Manner as the Sheriff or other Officer may now make and deliver Execution of One Moiety of the Lands and Tenements of any Person against whom a Writ of Elegit is sued out; which Lands, Tenements, Rectories, Tithes, Rents, and Hereditaments, by force and virtue of such Execution, shall accordingly be held and enjoyed by the Party to whom such Execution shall be so made and delivered, subject to such Account in the Court out of which such Execution shall have been sued out as a Tenant by Elegit is now subject to in a Court of Equity: Provided always, that such Party suing out Execution, and to whom any Copyhold or Customary Lands shall be so delivered in Execution, shall be liable and is hereby required to make, perform, and

Proviso as to Copyhold Lands.

and render to the Lord of the Manor or other Person entitled all such and the like Payments and Services as the Person against whom such Execution shall be issued would have been bound to make, perform, and render in case such Execution had not issued; and that the Party so suing out such Execution, and to whom any such Copyhold or Customary Lands shall have been so delivered in Execution, shall be entitled to hold the same until the Amount of such Payments, and the Value of such Services, as well as the Amount of the Judgment, shall have been levied: Provided also, that as against Purchasers, Mortgagees, or Creditors, who shall have become such before the Time appointed for the Commencement of this Act, such Writ of Elegit shall have no greater or other Effect than a Writ of Elegit would have had in case this Act had not passed.

Proviso as to Purchasers, Mortgagees, or Creditors.

XII. And be it enacted, That by virtue of any Writ of Fieri facias to be sued out of any Superior or Inferior Court after the Time appointed for the Commencement of this Act, or any Precept in pursuance thereof, the Sheriff or other Officer having the Execution thereof may and shall seize and take any Money or Bank Notes, (whether of the Governor and Company of the Bank of *England*, or of any other Bank or Bankers,) and any Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialties, or other Securities for Money, belonging to the Person against whose Effects such Writ of Fieri facias shall be sued out; and may and shall pay or deliver to the Party suing out such Execution any Money or Bank Notes which shall be so seized, or a sufficient Part thereof; and may and shall hold any such Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialties, or other Securities for Money as a Security or Securities for the Amount by such Writ of Fieri facias directed to be levied, or so much thereof as shall not have been otherwise levied and raised; and may sue in the Name of such Sheriff or other Officer for the Recovery of the Sum or Sums secured thereby, if and when the Time of Payment thereof shall have arrived; and that the Payment to such Sheriff or other Officer by the Party liable on any such Cheque, Bill of Exchange, Promissory Note, Bond, Specialty, or other Security, with or without Suit, or the Recovery and levying Execution against the Party so liable, shall discharge him to the Extent of such Payment, or of such Recovery and Levy in Execution, as the Case may be, from his Liability on any such Cheque, Bill of Exchange, Promissory Note, Bond, Specialty, or other Security; and such Sheriff or other Officer may and shall pay over to the Party suing out such Writ the Money so to be recovered, or such Part thereof as shall be sufficient to discharge the Amount by such Writ directed to be levied; and if, after Satisfaction of the Amount so to be levied, together with Sheriff's Poundage and Expences, any Surplus shall remain in the Hands of such Sheriff or other Officer, the same shall be paid to the Party against whom such Writ shall be so issued; provided that no such Sheriff or other Officer shall be bound to sue any Party liable upon any such Cheque, Bill of Exchange, Promissory Note, Bond, Specialty, or other Security, unless the Party suing out such Execution shall enter into a Bond, with Two sufficient Sureties, for indemnifying him from all Costs and Expences to be incurred in the Prosecution of such Action, or to which he may become liable

Sheriff empowered to seize Money, Bank Notes, &c.;

and to pay Money or Bank Notes to Execution Creditor;

and to sue for Amount secured by Bills of Exchange and other Securities.

Proviso as to Indemnity for Sheriff.

in consequence thereof, the Expence of such Bond to be deducted out of any Money to be recovered in such Action.

Judgment to operate as a Charge on Real Estate.

XIII. And be it enacted, That a Judgment already entered up or to be hereafter entered up against any Person in any of Her Majesty's Superior Courts at *Westminster* shall operate as a Charge upon all Lands, Tenements, Rectories, Advowsons, Tithes, Rents, and Hereditaments (including Lands and Hereditaments of Copyhold or Customary Tenure) of or to which such Person shall at the Time of entering up such Judgment, or at any Time afterwards, be seised, possessed, or entitled for any Estate or Interest whatever, at Law or in Equity, whether in Possession, Reversion, Remainder, or Expectancy, or over which such Person shall at the Time of entering up such Judgment, or at any Time afterwards, have any disposing Power which he might without the Assent of any other Person exercise for his own Benefit, and shall be binding as against the Person against whom Judgment shall be so entered up, and against all Persons claiming under him after such Judgment, and shall also be binding as against the Issue of his Body and all other Persons whom he might without the Assent of any other Person cut off and debar from any Remainder, Reversion, or other Interest in or out of any of the said Lands, Tenements, Rectories, Advowsons, Tithes, Rents, and Hereditaments; and that every Judgment Creditor shall have such and the same Remedies in a Court of Equity against the Hereditaments so charged by virtue of this Act, or any Part thereof, as he would be entitled to in case the Person against whom such Judgment shall have been so entered up had Power to charge the same Hereditaments, and had by Writing under his Hand agreed to charge the same with the Amount of such Judgment Debt and Interest thereon: Provided that no Judgment Creditor shall be entitled to proceed in Equity to obtain the Benefit of such Charge until after the Expiration of One Year from the Time of entering up such Judgment, or in Cases of Judgments already entered up, or to be entered up before the Time appointed for the Commencement of this Act, until after the Expiration of One Year from the Time appointed for the Commencement of this Act, nor shall such Charge operate to give the Judgment Creditor any Preference in case of the Bankruptcy of the Person against whom Judgment shall have been entered up unless such Judgment shall have been entered up One Year at least before the Bankruptcy: Provided also, that as regards Purchasers, Mortgagees, or Creditors, who shall have become such before the Time appointed for the Commencement of this Act, such Judgment shall not affect Lands, Tenements, or Hereditaments, otherwise than as the same would have been affected by such Judgment if this Act had not passed: Provided also, that nothing herein contained shall be deemed or taken to alter or affect any Doctrine of Courts of Equity whereby Protection is given to Purchasers for valuable Consideration without Notice.

Charge not to be enforced until after the Expiration of a Year.

Proviso as to Purchasers, &c.

Stock and Shares in Public Funds and Public Companies

XIV. And be it enacted, That if any Person against whom any Judgment shall have been entered up in any of Her Majesty's Superior Courts at *Westminster* shall have any Government Stock, Funds, or Annuities, or any Stock or Shares of or in any Public Company

Company in *England* (whether incorporated or not), standing in his Name in his own Right, or in the Name of any Person in Trust for him, it shall be lawful for a Judge of one of the Superior Courts, on the Application of any Judgment Creditor, to order that such Stock, Funds, Annuities, or Shares, or such of them or such Part thereof respectively as he shall think fit, shall stand charged with the Payment of the Amount for which Judgment shall have been so recovered, and Interest thereon, and such Order shall entitle the Judgment Creditor to all such Remedies as he would have been entitled to if such Charge had been made in his Favour by the Judgment Debtor; provided that no Proceedings shall be taken to have the Benefit of such Charge until after the Expiration of Six Calendar Months from the Date of such Order.

belonging to the Debtor, and standing in his own Name, to be charged by Order of a Judge.

XV. And in order to prevent any Person against whom Judgment shall have been obtained from transferring, receiving, or disposing of any Stock, Funds, Annuities, or Shares hereby authorized to be charged for the Benefit of the Judgment Creditor under an Order of a Judge, be it further enacted, That every Order of a Judge charging any Government Stock, Funds, or Annuities, or any Stock or Shares in any Public Company, under this Act, shall be made in the first instance *ex parte*, and without any Notice to the Judgment Debtor, and shall be an Order to show Cause only; and such Order, if any Government Stock, Funds, or Annuities standing in the Name of the Judgment Debtor in his own Right, or in the Name of any Person in Trust for him, is to be affected by such Order, shall restrain the Governor and Company of the Bank of *England* from permitting a Transfer of such Stock in the meantime and until such Order shall be made absolute or discharged; and if any Stock or Shares of or in any Public Company, standing in the Name of the Judgment Debtor in his own Right, or in the Name of any Person in Trust for him, is or are to be affected by any such Order, shall in like Manner restrain such Public Company from permitting a Transfer thereof; and that if, after Notice of such Order to the Person or Persons to be restrained thereby, or in case of Corporations to any authorized Agent of such Corporation, and before the same Order shall be discharged or made absolute, such Corporation or Person or Persons shall permit any such Transfer to be made, then and in such Case the Corporation or Person or Persons so permitting such Transfer shall be liable to the Judgment Creditor for the Value or Amount of the Property so charged and so transferred, or such Part thereof as may be sufficient to satisfy his Judgment; and that no Disposition of the Judgment Debtor in the meantime shall be valid or effectual as against the Judgment Creditor; and further, that, unless the Judgment Debtor shall within a Time to be mentioned in such Order show to a Judge of one of the said Superior Courts sufficient Cause to the contrary, the said Order shall, after Proof of Notice thereof to the Judgment Debtor, his Attorney or Agent, be made absolute; Provided that any such Judge shall, upon the Application of the Judgment Debtor, or any Person interested, have full Power to discharge or vary such Order, and to award such Costs upon such Application as he may think fit.

Order of Judge to be made in the first instance *ex parte*, and on Notice to the Bank or Company to operate as a *Distringas*.

XVI. And

Securities not realized to be relinquished if the Person taken in Execution.

XVI. And be it enacted, That if any Judgment Creditor, who under the Powers of this Act shall have obtained any Charge or be entitled to the Benefit of any Security whatsoever, shall afterwards, and before the Property so charged or secured shall have been converted into Money or realized, and the Produce thereof applied towards Payment of the Judgment Debt, cause the Person of the Judgment Debtor to be taken or charged in Execution upon such Judgment, then and in such Case such Judgment Creditor shall be deemed and taken to have relinquished all Right and Title to the Benefit of such Charge or Security, and shall forfeit the same accordingly.

Judgment Debts to carry Interest.

XVII. And be it enacted, That every Judgment Debt shall carry Interest at the Rate of Four Pounds *per Centum per Annum* from the Time of entering up the Judgment, or from the Time of the Commencement of this Act in Cases of Judgments then entered up and not carrying Interest, until the same shall be satisfied, and such Interest may be levied under a Writ of Execution on such Judgment.

Decrees and Orders of Courts of Equity, &c. to have Effect of Judgments.

XVIII. And be it enacted, That all Decrees and Orders of Courts of Equity, and all Rules of Courts of Common Law, and all Orders of the Lord Chancellor or of the Court of Review in Matters of Bankruptcy, and all Orders of the Lord Chancellor in Matters of Lunacy, whereby any Sum of Money, or any Costs, Charges, or Expences, shall be payable to any Person, shall have the Effect of Judgments in the Superior Courts of Common Law, and the Persons to whom any such Monies, or Costs, Charges, or Expences, shall be payable, shall be deemed Judgment Creditors within the Meaning of this Act; and all Powers hereby given to the Judges of the Superior Courts of Common Law with respect to Matters depending in the same Courts shall and may be exercised by Courts of Equity with respect to Matters therein depending, and by the Lord Chancellor and the Court of Review in Matters of Bankruptcy, and by the Lord Chancellor in Matters of Lunacy; and all Remedies hereby given to Judgment-Creditors are in like Manner given to Persons to whom any Monies, or Costs, Charges, or Expences, are by such Orders or Rules respectively directed to be paid.

No Judgment, Decree, &c., to affect Real Estate, otherwise than as before the Act, until registered.

XIX. Provided always, and be it further enacted, That no Judgment of any of the said Superior Courts, nor any Decree or Order in any Court of Equity, nor any Rule of a Court of Common Law, nor any Order in Bankruptcy or Lunacy, shall by virtue of this Act affect any Lands, Tenements, or Hereditaments, as to Purchasers, Mortgagees, or Creditors, unless and until a Memorandum or Minute, containing the Name, and the usual or last known Place of Abode; and the Title, Trade, or Profession of the Person whose Estate is intended to be affected thereby, and the Court and the Title of the Cause or Matter in which such Judgment, Decree, Order, or Rule shall have been obtained or made, and the Date of such Judgment, Decree, Order, or Rule, and the Account of the Debt, Damages, Costs, or Monies thereby recovered or ordered to be paid, shall be left with the Senior Master of the Court of Common Pleas at *Westminster*, who shall forthwith enter the same Particulars in a Book in alphabetical

alphabetical Order by the Name of the Person whose Estate is intended to be affected by such Judgment, Decree, Order, or Rule; and such Officer shall be entitled for any such Entry to the Sum of Five Shillings; and all Persons shall be at liberty to search the same Book on Payment of the Sum of One Shilling.

XX. And be it enacted, That such new or altered Writs shall be sued out of the Courts of Law, Equity, and Bankruptcy as may by such Courts respectively be deemed necessary or expedient for giving Effect to the Provisions herein-before contained, and in such Forms as the Judges of such Courts respectively shall from Time to Time think fit to order; and the Execution of such Writs shall be enforced in such and the same Manner as the Execution of Writs of Execution is now enforced, or as near thereto as the Circumstances of the Cases will admit; and that any existing Writ the Form of which shall be in any Manner altered in pursuance of this Act shall nevertheless be of the same force and virtue as if no Alteration had been made therein, except so far as the Effect thereof may be varied by this Act.

New Writs
to be framed.

XXI. And be it enacted, That all the Remedies, Authorities, and Provisions of this Act applicable to Her Majesty's Superior Courts of Common Law at *Westminster*, and the Judgments and Proceedings therein, shall extend to and be applicable to the Court of Common Pleas of the County Palatine of *Lancaster* and the Court of Pleas of the County Palatine of *Durham*, within the Limits of the Jurisdiction of the same Courts respectively; and the Judgments of each of the said last-mentioned Courts shall, within the Limits of the Jurisdiction of the same Courts respectively, have the same Effect in all respects as the Judgments of any of Her Majesty's said Superior Courts at *Westminster* under and by virtue of this Act; and all Powers and Authorities hereby given to the Judges or any Judge of Her Majesty's Superior Courts at *Westminster*, with respect to Matters depending in the same Courts, shall and may be exercised by the Judges or any Judge of the said Court of Common Pleas at *Lancaster*, or the Justices or any Justice of the said Court of Pleas at *Durham*, with respect to Matters therein depending, and within the Jurisdiction of the same Courts respectively: Provided always, that no Judgment of either of the same last-mentioned Courts shall by virtue of this Act affect any Lands, Tenements, or Hereditaments, as to Purchasers, Mortgagees, or Creditors, unless and until a Memorandum or Minute, containing the Name and the usual or last known Place of Abode, and Title, Trade, or Profession of the Plaintiff and Defendant, the Date when such Judgment was signed, and the Amount of the Debt, Damages, and Costs thereby recovered, shall be left with the Prothonotary or Deputy Prothonotary, or some other Officer to be appointed for that Purpose by the said Courts respectively, who shall forthwith enter the same Particulars in a Book in alphabetical Order by the Name of the Person whose Estate is to be affected thereby, and such Officer shall be entitled for every such Entry to the Sum of Two Shillings and Sixpence; and all Persons shall be at liberty to search the same Book on Payment of the Sum of One Shilling: And provided also, that no Order or other Proceeding under this Act made by any Justice or Justices of the said Court of Common Pleas of the County

Powers, &c.
of this Act
applicable to
the Courts
and Judges
at Westmin-
ster to be
applicable to
Courts of
Lancaster
and Durham.

Palatine of *Lancaster* or the Court of Pleas in the County Palatine of *Durham* shall be valid or effectual except made in open Court on one of the Court or Return Days of the same Court, or except such Justice or Justices shall be also a Judge or Judges of one of the said Courts at *Westminster*: Provided also, that no Order directing any Person or Persons to be held to Bail under this Act, nor any Order for discharging out of Custody any Person or Persons arrested under this Act, shall be made by any Justice or Justices of the Court of Pleas in the County Palatine of *Durham* who shall not be a Judge or Judges of one of the said Courts of Common Law at *Westminster*.

For Removal
of Judgment
of Inferior
Courts.

XXII. And be it enacted, That in all Cases where final Judgment shall be obtained in any Action or Suit in any Inferior Court of Record in which at the Time of passing of this Act a Barrister of not less than Seven Years standing shall act as Judge Assessor or Assistant in the Trial of Causes, and also in all Cases where any Rule or Order shall be made by any such Inferior Court of Record as aforesaid whereby any Sum of Money or any Costs, Charges, or Expences shall be payable to any Person, it shall be lawful for the Judges of any of Her Majesty's Superior Courts of Record at *Westminster*, or if such Inferior Court be within the County Palatine of *Lancaster* for the Judges of the Court of Common Pleas at *Lancaster*, or for any Judge of any of the said Courts at Chambers, either in Term or Vacation, upon the Application of any Person who at the Time of the Commencement of this Act shall have recovered or who shall at any Time thereafter recover such Judgment, or to whom any Money or Costs, Charges, or Expences shall be payable by such Rule or Order as aforesaid, or upon the Application of any Person on his Behalf, and upon the Production of the Record of such Judgment, or upon the Production of such Rule or Order, such Record, or Rule or Order, as the Case may be, being respectively under the Seal of the Inferior Court and Signature of the proper Officer thereof, to order and direct the Judgment, or, as the Case may be, the Rule or Order, of such Inferior Court to be removed into the said Superior Court or into the Court of Common Pleas at *Lancaster*, as the Case may be, and immediately thereupon such Judgment, Rule, or Order shall be of the same Force, Charge, and Effect as a Judgment recovered in or a Rule or Order made by such Superior Court, and all Proceedings shall and may be immediately had and taken thereupon or by reason or in consequence thereof as if such Judgment so recovered, or Rule or Order so made, had been originally recovered in or made by the said Superior Court, or into the Court of Common Pleas at *Lancaster* as the Case may be; and all the reasonable Costs and Charges attendant upon such Application and Removal shall be recovered in like Manner as if the same were Part of such Judgment or Rule or Order: Provided always, that no such Judgment or Rule or Order when so removed as aforesaid shall affect any Lands, Tenements, or Hereditaments, as to Purchasers, Mortgagees, or Creditors, any further than the same would have done if the same had remained a Judgment, Rule, or Order of such Inferior Court, unless and until a Writ of Execution thereon shall be actually put into the Hands of the Sheriff or other Officer appointed to execute the same.

XXIII. And

XXIII. And whereas it is expedient to continue, for the Purposes herein-after mentioned, the Laws now in force for the Relief of Insolvent Debtors in *England*, and to make further Provision for the Relief of Insolvent Debtors; be it therefore further enacted, That from and after the passing of this Act the Powers vested in the Court now established for the Relief of Insolvent Debtors in *England* shall be and the same are hereby continued and vested in the Court to be continued by virtue of this Act, as herein-after provided, in so far as the same relate to or may be exercised in the Matters of the Petitions of any Persons who, before the Time appointed for the Commencement of this Act, shall have petitioned the said Court now established for Relief, under the Provisions of any Act or Acts for the Relief of Insolvent Debtors in *England*, or of any Persons who have obtained their Discharge by virtue of any Act for the Relief of Insolvent Debtors in *England*; and that all Things shall and may be done by all Persons relating to the Matters of all such Petitions which such Persons might have done if the Laws now in force with respect to Insolvent Debtors in *England* had been continued by this Act.

Powers now vested in the Court for Relief of Insolvent Debtors continued for the Purposes herein mentioned.

XXIV. And be it enacted, That the Court now established for the Relief of Insolvent Debtors in *England* shall be continued, and that the present Chief and other Commissioners of the said Court shall continue to be the Chief and other Commissioners of the Court so hereby continued, and to preside therein; and that it shall be lawful for Her Majesty, from Time to Time, upon any Vacancy in any of the said Offices of Chief or other Commissioner, by Death or otherwise, to appoint other fit Persons, being Barristers at Law of Ten Years standing at the least, to be such Chief or other Commissioners, and to preside in the said Court accordingly; and that the present Chief Clerk, Provisional Assignee, and other Officers of the said Court, shall continue to be the Chief Clerk, Provisional Assignee, and other Officers of the Court so hereby continued; and that it shall be lawful for the said Court, from Time to Time, upon any Vacancy in any of the said Offices, by Death or otherwise, to appoint other fit Persons to be such Chief Clerk, Provisional Assignee, and other Officers; and that the Court so hereby continued as aforesaid shall at all Times have Power to appoint such Officers as the Lord Chancellor, and the Lords Chief Justices of the Courts of Queen's Bench and Common Pleas, and the Lord Chief Baron of the Exchequer, shall judge to be necessary, and in such Manner as they shall direct.

Court now established, and Commissioners and Officers, to be continued.

XXV. And be it enacted, That the Commissions of the said Chief Commissioner and other Commissioners of the said Court, hereby continued in their Offices or hereafter to be appointed as aforesaid, shall be continued and remain in full Force during their good Behaviour, notwithstanding the Demise of Her Majesty (whom God long preserve) or of any of Her Heirs or Successors.

Commissioners to hold their Offices during good Behaviour;

XXVI. Provided always, and be it enacted, That it may be lawful for Her Majesty, Her Heirs and Successors, to remove any such Chief

but may be removed upon Address.
or

or other Commissioner of the said Court upon the Address of both Houses of Parliament.

Court to be
a Court of
Record.
Seal of the
Court.

Powers of
Court and
Commis-
sioners.

XXVII. And be it enacted, That the said Court for the Relief of Insolvent Debtors in *England* shall be a Court of Record for the Purposes of this Act; and shall cause to be sealed with the Seal of the said Court all such Records, Proceedings, Documents, and Copies of the same as are herein-after expressly required to be so sealed, and such other Records, Proceedings, Documents, and Copies of the same as the said Court shall at any Time direct; and that the said Court, or any Commissioner thereof, acting under the Powers of this Act, may adjourn any Sitting of the said Court or Commissioner, as may be requisite, and may administer Oaths, and examine all Parties and Witnesses upon Oath, for the Purposes of this Act, and shall have such, like, and the same Powers of compelling the Attendance of Witnesses, both before the said Court and before any Commissioner thereof, acting as aforesaid, and before an Officer of the Court or Examiner, as herein-after mentioned, and before such Justices as are herein-after mentioned, and of requiring and compelling the Production of Books and Writings, as are now possessed by any of the Superior Courts at *Westminster*, and to order any Prisoner whose Estate shall, by an Order to be made under this Act as herein-after mentioned, have been vested in the Provisional Assignee of the said Court, or any Prisoner who shall be a necessary and material Witness in any Matter pending in the said Court, to be brought before the said Court or Commissioner, or Officer or Examiner, or Justices, as often as shall be requisite; and that the said Court, or any Commissioner thereof acting as aforesaid, shall have the Power of committing all Persons guilty of any Contempt of the said Court to the Prison of the Queen's Bench, or to the Common Gaol of any County in which such Person shall be or shall usually reside; and that the said Court shall have the Power of fining in a summary Way, or removing, any of the Officers of the said Court who shall be guilty of any Negligence, wilful or unnecessary Delay, or other Misconduct whatsoever: Provided always, that the said Court, or any Commissioner thereof, shall not have the Power of awarding Costs against any Person or Persons whomsoever, except in such Cases only where such Costs are herein-after expressly mentioned and permitted to be awarded by this Act; and that nothing herein contained shall extend to the compelling the Attendance of any Witness, unless the Party on whose Behalf such Witness shall be required to attend shall have previously tendered to such Witness such Allowance for Expences for his Attendance as in the Judgment of the said Court, or of a Commissioner thereof, shall appear to be reasonable.

Court to sit
at the Court
House in
Portugal
Street, and
elsewhere, if
necessary.

XXVIII. And be it enacted, That all Proceedings and Matters to be heard by the said Court for the Relief of Insolvent Debtors shall be heard and determined by the said Court at the Court House of the said Court in *Portugal Street, Lincoln's Inn Fields*, unless the said Court shall at any Time see Cause to appoint its Sittings in any other Place, and shall appoint the same accordingly, which it is hereby empowered to do; and that it shall be lawful for any One

Commissioner to hear and determine out of Court, upon Summons to the proper Parties, all Matters and Things relating to any Person whose Estate shall, by an Order to be made under this Act as hereinafter mentioned, have been vested in the Provisional Assignee of the said Court, or to his Estate or Effects, or the Assignee or Assignees thereof, except the Hearing, Re-hearing, or any Examination of any such Person; and the Order made in any such Behalf by such Commissioner shall be of as full Force and Effect, to all Intents and Purposes, as if the same had been made by the said Court, unless the same shall, upon Application to the said Court at the next following Sitting thereof, be by the said Court rescinded or altered.

One Commissioner may hear Matters out of Court upon Summons.

XXIX. And be it enacted, That the said Court for the Relief of Insolvent Debtors shall sit for the Despatch of Business Twice at least in every Week throughout the Year, and One or more of the said Commissioners shall attend for that Purpose: Provided nevertheless, that from and after the Expiration of Six Weeks from the last Day of *Trinity* Term until the First Day of *November* in every Year the said Court shall have full Power and Authority to regulate and appoint the Sittings of the said Court, at such Times as to the said Court shall appear fit and necessary for the due Administration of Justice in the said Court; and that no Adjournment of the said Court during the Period aforesaid shall be at any Time for more than Six Weeks.

Court to sit Twice a Week.

Power to regulate Sittings otherwise during certain Periods.

XXX. And be it enacted, That Three of the said Commissioners shall from Time to Time severally make Circuits, and give their Attendance at the several Assize or other Towns or Places at which any Prisoner or Prisoners shall be ordered to appear, as hereinafter provided; and that upon such Prisoner's Appearance before such Commissioner on his Circuit, it shall be lawful for such Commissioner to make all such Orders, and to give all such Directions, and to do all such Matters and Things requisite for the discharging or remanding of such Prisoner, and otherwise respecting such Prisoner, and his Schedule, and his Creditors and Assignees, as the said Court for the Relief of Insolvent Debtors may make, give, or do in the Matters of Petitions heard by the said Court, according to this Act; and that in each and every Matter to be heard and inquired into by such Commissioner, according to the Provisions of this Act, such Commissioner shall have the same Power as the said Court would have therein if the same were heard and inquired into by the said Court; and that all Judgments, Rules, Orders, Directions, and Proceedings pronounced, made, and done in all and every the Matters aforesaid by such Commissioners, shall be transmitted to the said Court, signed by such Commissioner, to be a Record of the said Court, and to be kept as such among the Records thereof.

Commissioners to make Circuit.

Power of Commissioner on Circuit.

XXXI. And be it enacted, That the said Circuits shall be made Three Times in each Year, if requisite, and that the Time and Manner of making the same, and the Officers necessary to attend the Commissioners thereupon, shall be regulated in such Manner as shall be appointed by the Commissioners of the said Court, with the Approbation of One of Her Majesty's Principal Secretaries of State for the Time being; and that it shall be lawful for the Lord High

Time and Manner of making Circuits.

Travelling Expences to

be paid by the Treasury.

One Commissioner to remain in London.

All Commissioners may be on Circuit if necessary.

Treasurer or Lords Commissioners of Her Majesty's Treasury of the United Kingdom of *Great Britain and Ireland* for the Time being to direct that such Sum or Sums shall be paid as may appear fit and necessary for the defraying the travelling Expences of such Commissioners and Officers in execution of their Duties under this Act; and that during the said Circuits One of the said Commissioners shall be attendant and presiding in the said Court: Provided always, that if on any particular Occasion the said Commissioners shall be of opinion that it would be expedient that all the said Commissioners should be absent from the said Court on Circuits in different Places at the same Time, it shall be lawful for such Commissioners to state such Opinion, together with the Grounds and Reasons thereof, in Writing, to One of Her Majesty's Principal Secretaries of State for the Time being; and thereupon, if such Secretary of State shall approve thereof, and such Approval shall be notified in Writing to such Commissioners by such Secretary of State, it shall be lawful for all the said Commissioners to be so absent from the said Court as aforesaid at the same Time, in such Places respectively as shall be so stated and approved, and for that Purpose to adjourn the said Court for such Time as shall be approved in and by such Notification.

Time of Circuits to be advertised.

Commissioner not arriving, the Court to stand adjourned.

Cause of Non-arrival to be signified to Secretary of State.

In case of Illness of a Commissioner

XXXII. And be it enacted, That the said Court for the Relief of Insolvent Debtors shall cause Notice of the Time and Place or Places of the Attendance of such Commissioner in each Assize or other Town or Place, according to this Act, to be given in the *London Gazette*, and in some public Journal or Newspaper circulated in the County wherein such Town or Place is situate, once in each of the Two Weeks immediately preceding the Time appointed for such Attendance: Provided always, that if on the Day appointed for such Attendance such Commissioner shall not attend at the Court House or other Place appointed for such Attendance, then and in every such Case the Court to be held by such Commissioners shall be considered as adjourned to the ensuing Day, not being a *Sunday*; and if the ensuing Day should be a *Sunday*, then to the next Day, *Monday*, and so on from Day to Day until the said Commissioner shall give his Attendance; and that all Persons summoned or bound, or having Occasion to attend such Court, shall thereupon be bound to attend the same, according to every such Adjournment, in the same Manner in all respects as if the said Commissioner had regularly sat and so adjourned the said Court; and that when such Commissioner shall so give his Attendance, he shall proceed to despatch the Business of the said Court in the same Manner in all respects as if he had regularly sat, and had himself made such Adjournment or Adjournments of the same; and that he shall thereupon without Delay state in Writing the Reason or Cause which prevented his Attendance on the Day appointed for such Attendance, and shall subscribe such Statement, and shall send the same forthwith by Her Majesty's Post to One of Her Majesty's Principal Secretaries of State.

XXXIII. And be it enacted, That if the Chief or other Commissioner of the said Court for the Relief of Insolvent Debtors shall at any Time, not being the Time of his Circuit, be by Illness or other reasonable

reasonable Cause for a Time disabled from performing his Duties, it shall be lawful for any fit Person, being a Barrister at Law, and appointed by One of Her Majesty's Principal Secretaries of State, to execute the Duties of such Chief or other Commissioner during such Disability; and 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 by such Person so nominated or appointed 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, in Writing, and shall subscribe such Statement, and shall send the same forthwith by Her Majesty's Post to One of Her Majesty's Principal Secretaries of State.

another Person may be appointed to execute the Duties.

XXXIV. And be it enacted, That no Fee or Gratuity shall be received or taken by the said Court for the Relief of Insolvent Debtors, or any Officer thereof, of or from any Person whomsoever, on any Pretence whatsoever, except such Fees as shall at any Time be specified in a List thereof to be signed by the Commissioners of the said Court, a Copy of which List shall always be exposed to View in the Office of the said Court.

No Fees to be taken except such as shall be established.

XXXV. And be it enacted, That from and after the Time appointed for the Commencement of this Act it shall be lawful for any Person who shall be in actual Custody within the Walls of any Prison in that Part of the United Kingdom called *England*, upon any Process whatsoever, for or by reason of any Debt, Damages, Costs, Sum or Sums of Money, or for or by reason of any Contempt of any Court whatsoever for Nonpayment of any Sum or Sums of Money, or of Costs taxed or untaxed, either ordered to be paid, or to the Payment of which such Person would be liable in purging such Contempt, or in any Manner in consequence or by reason of such Contempt, at any Time within the Space of Fourteen Days next after the Commencement of the actual Custody of such Prisoner, whether such Commencement shall have been in the same Prison, or in any other Prison, or the Rules or Liberties of any Prison, or afterwards, if the said Court shall in any Case think reasonable to permit the same, to apply by Petition in a summary Way to the said Court for the Relief of Insolvent Debtors for his Discharge from such Custody, according to the Provisions of this Act; and in such Petition shall be stated the Time and Place of the First Arrest of such Prisoner in the Cause or Causes wherein he shall then be detained, and the Time of his Commitment to the Prison where he shall then be confined; and if such Prisoner shall not have been in the same Custody from the Time of such First Arrest, then the Means and Manner by which the Change of Custody of such Prisoner has taken place, and also

Persons imprisoned for Debt may apply to the Court in a summary Way for Discharge.

Time of petitioning.

What shall be stated in the Petition.

also

also the Name or Names of the Person or Persons at whose Suit or Prosecution such Prisoner shall at the Time of presenting such Petition be detained in Custody, and the Amount of the Debt or Debts, Sum or Sums of Money, and of such Costs as aforesaid, so far as the Amount of such Costs is ascertained, for which he shall be so detained; and such Prisoner shall in such Petition state whether such Prisoner has given Notice to the Keeper of the Gaol or Prison in which he shall be confined of his Intention to present the said Petition, which Notice the said Prisoner is hereby required to give in Writing to the Keeper of such Gaol or Prison; and such Prisoner shall in such Petition state that he is willing that all his Real and Personal Estate and Effects shall be vested in the Provisional Assignee for the Time being of the Estates and Effects of Insolvent Debtors in *England*, according to the Provisions of this Act, and shall pray to be discharged from Custody, and to have future Liberty of his Person, against the Demands for which such Prisoner shall be then in Custody, and against the Demands of all other Persons who shall be or claim to be Creditors of such Prisoner at the Time of presenting such Petition; which Petition shall be subscribed by the said Prisoner, and shall forthwith be filed in the said Court.

Petition to be signed and filed.

Detaining Creditors of Prisoners in Execution may apply by Petition to Insolvent Debtors Court for an Order to vest Debtor's Estate in Provisional Assignee of Court.

XXXVI. And be it enacted, That if any Prisoner who at the Time appointed for the Commencement of this Act shall have been committed to any Prison or Gaol, and charged in Execution for any Debt, Damages, or any Costs, or Sum or Sums of Money, or committed for or by reason of any Contempt of any Court whatsoever for Nonpayment of any Sum or Sums of Money, or of Costs, taxed or untaxed, either ordered to be paid, or to the Payment of which such Prisoner would be liable in purging such Contempt, or in any Manner in consequence or by reason of such Contempt, shall not, within Twenty-one Days next after the Time appointed for the Commencement of this Act, make Satisfaction to the Creditor or Creditors at whose Suit such Prisoner shall have been so committed or charged in Execution for such Debt, Damages, Costs, Sum or Sums of Money, or to the Person or Persons entitled to the Money for the Nonpayment of which such Prisoner shall have been in Contempt, or to the Payment of which such Prisoner would be liable in consequence or by reason of such Contempt; or if any Prisoner who after the Time appointed for the Commencement of this Act shall be committed to any Prison or Gaol, and charged in Execution for any Debt or Damages, or any Costs, or Sum or Sums of Money, or committed for or by reason of any such Contempt as aforesaid, shall not, within Twenty-one Days next after such Prisoner shall be so committed or charged in Execution as aforesaid, make Satisfaction to the Creditor or Creditors at whose Suit such Prisoner shall have been so committed or charged in Execution for such Debt, Damages, Costs, Sum or Sums of Money, or to the Person or Persons entitled to the Money for Nonpayment of which such Prisoner shall have been in Contempt, or to the Payment of which such Prisoner would be liable in consequence or by reason of such Contempt; then and in any of the said Cases it shall be lawful for any such Creditor or Creditors, or Person or Persons entitled to such Money as aforesaid, to apply by Petition in a summary Way to the said Court for the Relief of Insolvent Debtors

Debtors for an Order vesting the Real and Personal Estate and Effects of such Prisoner in the Provisional Assignee for the Time being of the Estates and Effects of Insolvent Debtors in *England*, according to the Provisions of this Act; and such Petition shall be signed by the Party or Parties so applying; and in such Petition shall be stated the Time and Place of the Commitment or Charge in Execution of such Prisoner at the Suit of the Party or Parties so applying, and the Amount of the Debt or Sum of Money for which such Prisoner shall have been so committed or charged in Execution; and such Petition shall be supported by such Evidence, by Affidavit or otherwise, of the Truth of the Matters therein stated, as the said Court shall think fit to require; and the Party or Parties presenting such Petition shall thereby state that he or they is or are desirous that such Prisoner should be ordered to file a Schedule of his Property according to the Provisions of this Act, and should thereupon be brought up before the said Court, to be dealt with according to the Provisions of this Act; and such Petition and the Evidence in support thereof shall forthwith be filed in the said Court; and the said Court shall and may require such Prisoner to file his Schedule, and shall and may cause such Prisoner to be brought up to be dealt with according to this Act, and all Things to be done thereupon or preparatory thereto as in other Cases according to this Act.

XXXVII. And be it enacted, That upon the filing of such Petition by such Prisoner, or on the filing of such Petition by such Creditor or Creditors as aforesaid, and the Evidence in support thereof, as the Case may be, it shall be lawful for the said Court for the Relief of Insolvent Debtors, and such Court is hereby authorized and required, to order that all the Real and Personal Estate and Effects of such Prisoner, both within this Realm and abroad, except the Wearing Apparel, Bedding, and other such Necessaries of such Person and his Family, and the Working Tools and Implements of such Prisoner, not exceeding in the whole the Value of Twenty Pounds, and all the future Estate, Right, Title, Interest, and Trust of such Prisoner in or to any Real and Personal Estate and Effects within this Realm or abroad which such Prisoner may purchase, or which may revert, descend, be devised or bequeathed, or come to him, before he shall become entitled to his final Discharge in pursuance of this Act, according to the Adjudication made in that Behalf; or in case such Prisoner shall obtain his full Discharge from Custody without any Adjudication being made by the said Court, then before such Prisoner shall be so fully discharged from Custody; and all Debts due or growing due to such Prisoner, or to be due to him or her before such Discharge as aforesaid, shall be vested in the Provisional Assignee for the Time being of the Estates and Effects of Insolvent Debtors in *England*, and such Order shall be entered of Record in the same Court, and such Notice thereof shall be published as the said Court shall direct; and such Order when so made shall, without any Conveyance or Assignment, vest all the Real and Personal Estate and Effects of such Prisoner, and all such future Real and Personal Estate and Effects as aforesaid, of every Nature and Kind whatsoever, and all such Debts as aforesaid, in the said Provisional Assignee: Provided always, that in case the Petition

Prisoner's Estate and Effects, except Wearing Apparel, &c. not exceeding 20*l.*, and future Estate, to be vested in Provisional Assignee by Order of the Court.

of any such Prisoner shall be dismissed by the said Court, such vesting Order made in pursuance of such Petition shall from and after such Dismission be null and void to all Intents and Purposes: Provided also, that in case any such vesting Order as aforesaid shall become null and void by the Dismission of the Prisoner's Petition, all the Acts theretofore done by the said Provisional Assignee, or any Person or Persons acting under his Authority, according to the Provisions of this Act, shall be good and valid; and no Action or Suit shall be commenced against such Provisional Assignee, nor against any Person duly acting under his Authority, except to recover any Property, Estate, Money, or Effects of such Prisoner detained after an Order made by the said Court for the Delivery thereof, and Demand made thereupon: Provided also, that when such vesting Order shall have been made on the Petition of a Creditor as aforesaid, it shall be lawful for the said Court, if it shall seem just and right, but not without Proof made to the Satisfaction of the said Court of the Consent of the Petitioning Creditor, to make Order declaring such vesting Order to be null and void, and the same shall thereupon be null and void to all Intents and Purposes.

Prisoners
within the
Walls only
to petition;

except in
certain
Cases.

Power to
Insolvent
Debtors
Court to
direct Pri-
soner to be
discharged
on his finding
Sureties to
attend at the
Time and
Place of
Hearing.

XXXVIII. And be it enacted, That no Prisoner shall upon his own Petition be entitled to the Benefit of this Act who shall not be at the Time of filing his Petition, and during all the Proceedings thereon, in actual Custody within the Walls of the Prison, without any Intermission of such Imprisonment by Leave of any Court or otherwise: Provided always, that if, after any such Prisoner shall have obtained an Order to be brought up in order to be dealt with according to the Provisions of this Act, it shall appear to the Satisfaction of the said Court, by the Oath or Affidavit of a Physician, Surgeon, or Apothecary, and such other Evidence as the said Court may require, that such Prisoner cannot continue to reside within the Walls of any such Prison without serious Injury to the Health of such Prisoner, or that, for the Sake of the Health of the Prisoners in general, it is necessary that the Number thereof within the Walls of any such Prison should be reduced, it shall be lawful for the said Court to dispense with such actual Custody of any such Prisoner within the Walls as is herein-before mentioned; provided that if any such Prisoner, having obtained such Dispensation, shall go beyond the Rules and Liberties in which he shall in pursuance thereof be confined, such Prisoner shall thereby be deprived of all Benefit of this Act: Provided also, that after any Order shall have been made under this Act directing any Insolvent to be brought up in order to be dealt with according to the Provisions of this Act, it shall be lawful for the said Court for the Relief of Insolvent Debtors, if such Court shall think fit so to do, and on such Notice to the detaining Creditor or Creditors of such Insolvent as the said Court shall deem proper, to direct such Insolvent to be discharged out of Custody, on his finding Two sufficient Sureties to enter into a Recognizance to the Provisional Assignee of the said Court in such Sum as the said Court shall think fit, with a Condition that such Insolvent shall duly appear at the Time and Place fixed for the Hearing of such Insolvent, and on every adjourned Hearing, and shall abide by the final Judgment of the said Court or a Commissioner thereof on his Circuit, or such Justices as

herein-after mentioned, and on such other Terms (if any) as the said Court shall think fit to impose, and to issue a Warrant directed to the Gaoler ordering the Discharge of such Insolvent from Custody accordingly, and that after such Discharge such Insolvent shall be free from Arrest or Imprisonment by any Creditor whose Debt shall be specified in the Schedule filed by such Insolvent as herein-after mentioned until the Time appointed for the Hearing of such Insolvent, and for such further Time (if any) as the said Court shall by Indorsement on such Order from Time to Time appoint: Provided always nevertheless, that in case any Insolvent so discharged out of Custody shall not duly appear at the Time and Place fixed for the Hearing or any adjourned Hearing of such Insolvent (not being prevented by Illness or other lawful Impediment, to be allowed of by the said Court) the Recognizance so entered into shall be forfeited, and the Amount secured thereby shall be recoverable in a summary Way by a Distress and Sale of the Goods and Chattels of such Sureties as the said Court shall by their Order direct; and the Amount so recovered shall be applied for the Benefit of the Creditors of such Insolvent in like Manner as if the same were Part of his Estate and Effects; and the said Court may also issue a Warrant authorizing any Person or Persons to be therein named to apprehend and arrest such Insolvent, and deliver him into the Custody of the Gaoler or Keeper in whose Custody such Prisoner was at the Time when he was so discharged as aforesaid; and such Gaoler or Keeper is hereby required to receive such Prisoner again into his Custody; and all Detainers which were in force against him at the Time of such Discharge, or which shall have since been duly lodged against him, shall thereupon be deemed to be in force: Provided further, that any Insolvent so discharged out of Custody as aforesaid shall on his appearing before the said Court or Commissioner or Justices be deemed and considered, for all the Purposes of this Act, in the Custody in which he was at the Time he was so discharged.

XXXIX. And be it enacted, That the filing of the Petition of every Person in actual Custody, who shall be subject to the Laws concerning Bankrupts, and who shall apply by Petition to the said Court for his Discharge from Custody, according to this Act, shall be accounted and adjudged an Act of Bankruptcy from the Time of filing such Petition; and that any Fiat in Bankruptcy issuing against such Person and under which he shall be declared bankrupt before the Time appointed by the said Court, and advertised in the *London Gazette*, for such Prisoner to be brought up to be dealt with according to this Act, or at any Time within Two Calendar Months from the Time of making any such Order as aforesaid, whether upon the Petition of such Prisoner or the Petition of any such Creditor as aforesaid, shall have the Effect of divesting the said Real and Personal Estate and Effects of such Person out of the said Provisional Assignee: Provided always, that the filing of such Petition shall not be deemed an Act of Bankruptcy unless such Person be so declared bankrupt before the Time so advertised as aforesaid, or within such Two Calendar Months as aforesaid; but that every such Order as aforesaid shall be good and valid notwithstanding any Fiat in Bankruptcy under which such Person shall be declared bankrupt

Filing Petition an Act of Bankruptcy, if acted upon within a certain Time; in which Case Order avoided.

bankrupt after the Time so advertised as aforesaid, and after the Expiration of such Two Calendar Months as aforesaid.

Order to be filed although avoided by Commission of Bankruptcy;

and Court shall proceed to hear and adjudicate as in other Cases.

If Insolvent obtains his Certificate, the Rights of Assignees afterwards to be the same as in other Cases.

Not to affect Title of Assignees of Bankrupt, or Operation of Certificate.

Prisoner not to be discharged for Want of Plaintiff proceeding in his Action.

Provisional Assignee to take possession of Estates, &c. vested in him, and sell the same if the Court directs;

XL. Provided always, and be it enacted, That where the Order vesting the Estate and Effects of any such Prisoner in the Provisional Assignee of the said Court, in pursuance of the Provisions of this Act, shall be or become void by reason of such Prisoner being declared bankrupt within such Period as above mentioned, or being an uncertificated Bankrupt at the Time of such Order, the said Order shall nevertheless, together with the Petition of such Prisoner, if any, remain of Record in the said Court; and the said Court shall and may require such Prisoner to file his Schedule, and shall and may cause such Prisoner to be brought up to be dealt with according to this Act, and all Things to be done thereupon or preparatory thereto, as in other Cases, according to this Act; and the said Court shall and may, at any Time when it shall seem fit, appoint other Assignee or Assignees in such Case in the same Manner as in other Cases; and that if, at any Time after such vesting Order shall have been made, such Prisoner shall obtain his Certificate under any such Fiat in Bankruptcy, the Rights, Powers, Title, and Interest of the Provisional Assignee and other Assignee or Assignees appointed under this Act, in, over, and respecting any Property, Real or Personal, whatsoever, remaining to such Prisoner after the obtaining of such Certificate, or thereafter in any way coming to him, and under or in pursuance of the Warrant of Attorney to be executed by such Prisoner under the Provisions of this Act, shall from and after the obtaining of such Certificate be the same as if the vesting Order made under this Act had been valid at the Time of the making thereof: Provided always, that nothing herein contained shall be construed to affect the Title, Rights, and Interests of the Assignees under any such Fiat in Bankruptcy, or to alter or diminish the Effect of any such Certificate as aforesaid, but that the Title, Rights, and Interests of such last-mentioned Assignees, and the Benefit of such Certificate to such Prisoner, shall be the same to all Intents and Purposes as if this Act had not been made.

XLI. And be it enacted, That no Prisoner whose Estate shall by an Order under this Act have been vested in the said Provisional Assignee shall, after the making of such Order, be discharged out of Custody, as to any Action, Suit, or Process for or concerning any Debt, Sum of Money, Damages, or Claim, with respect to which an Adjudication can, under the Provisions of this Act, be made by or by virtue of any Supersedeas, Judgment of Non-pros, or Judgment as in the Case of a Nonsuit, for Want of the Plaintiff or Plaintiffs in such Action, Suit, or Process proceeding therein.

XLII. And be it enacted, That it shall be lawful for the Provisional Assignee of the said Court for the Relief of Insolvent Debtors to take possession himself, or by means of a Messenger of the said Court, or other Person or Persons appointed by him, of all the Real and Personal Estate and Effects of every such Prisoner, vested in such Provisional Assignee by virtue of any such Order as aforesaid; and, if the said Court shall so order, to sell or otherwise dispose of such Goods,

Goods, Chattels, and Personal Estate, or any Part thereof, and of the Real Estate of such Prisoner, according to the Provisions herein-after made with regard to the Sale of such Real Estate, and out of the Proceeds of such Real and Personal Estate to defray, in the first place, all such Costs and Expences of taking possession or of seizing and selling the same, as shall be allowed by the said Court, and to account for the Produce of such Sale or Disposition to the said Court; and it shall be lawful for the said Provisional Assignee to sue in his own Name, if the said Court shall so order, for the recovering, obtaining, and enforcing of any Estates, Debts, Effects, or Rights of any such Prisoner; and all and every the Real and Personal Estate, Money, and Effects, vested in or possessed by such Provisional Assignee by virtue of such Order as aforesaid, shall not remain in him if he shall resign or be removed from his Office, nor 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 appointed by the said Court as aforesaid.

paying the Expences out of Proceeds;

to sue in his own Name, if the Court directs.

Property vested in him to go to his Successor in Office.

XLIII. And be it further enacted, That the said Court for the Relief of Insolvent Debtors may order and direct such Provisional Assignee as aforesaid, or such Assignee or Assignees as are herein-after mentioned, to pay to any such Prisoner, out of his or her Estate and Effects, such Allowance for his or her Support and Maintenance during such Prisoner's Imprisonment, and previous to the Adjudication in the Matter of his Petition, or for the Expence of making out and filing his Schedule, as to the said Court shall seem reasonable and fit.

Court may order an Allowance to Prisoner during his Confinement, or for Expence of Schedule.

XLIV. Provided always, and be it enacted, That in case any Prisoner as to whose Estate and Effects any such vesting Order as aforesaid shall have been made shall by the Consent or Default of his detaining Creditor or Creditors be discharged out of Custody without any Adjudication being made in that Behalf by the said Court for the Relief of Insolvent Debtors, all the Acts done before such Discharge by the said Provisional Assignee, or other Assignee or Assignees appointed as herein-after provided, or other Person or Persons acting under his or their Authority, according to the Provisions of this Act, shall be good and valid; and that in such Case, or in case such vesting Order as aforesaid shall be avoided by any Fiat in Bankruptcy thereafter issuing against such Prisoner, as herein-before provided, no Action or Suit shall be commenced against such Provisional Assignee, or against any Assignee or Assignees appointed under this Act, nor against any Person duly acting under his or their Authority, except to recover any Property, Estate, Money, or Effects of such Prisoner, detained after an Order made by the said Court for the Delivery thereof, and Demand made thereupon.

Where Prisoner is discharged out of Custody, Acts of Assignees to be valid.

No Action to be brought against them where Assignment is avoided.

XLV. And be it enacted, That it shall be lawful for the said Court for the Relief of Insolvent Debtors, at any Time after the making any such vesting Order as aforesaid as to the same Court shall seem expedient, to appoint a proper Person or Persons to be Assignee or Assignees of the Estate and Effects of such Prisoner for the Purposes of this Act; and when such Assignee or Assignees shall have

Power of Insolvent Debtors Court to appoint Assignees.

signified to the said Court his or their Acceptance of the said Appointment, the Estate, Effects, Rights, and Powers of such Prisoner vested in such Provisional Assignee as aforesaid shall immediately, by virtue of such Appointment, and without any Conveyance or Assignment, vest in the said Assignee or Assignees, in Trust for the Benefit of the Creditors of such Prisoner, in respect of or in proportion to their respective Debts, according to the Provisions of this Act; and every such Appointment shall after such Acceptance thereof be entered of Record of the said Court, and such Notice thereof shall be published as the said Court shall direct; and every Person so appointed Assignee shall be deemed to be an Officer of the said Court, and shall be liable as such to the Control thereof: Provided always, that it shall be lawful for the said Court to direct any Fee or Remuneration for the Performance of Duties in getting in and distributing the Estate of any Insolvent Debtor, whether by any Assignee or by the Provisional Assignee, in case of such Distribution being effected without the Appointment of any other Assignee, which shall not exceed the Rate of Five *per Centum* on the Sum received as Produce of such Estate.

Certified
Copy of
Order and
Appoint-
ment to be
Evidence.

XLVI. And be it enacted, That a Copy of any Order under this Act vesting the Estate and Effects of any Prisoner in the Provisional Assignee of the Estates and Effects of Insolvent Debtors, or of the Appointment, under the Provision last herein-before contained, of an Assignee or Assignees of such Estate and Effects, such Copy being made upon Parchment, and purporting to have the Certificate of the Provisional Assignee of the said Court, or his Deputy appointed for that Purpose, endorsed thereon, and to be sealed with the Seal of the said Court, shall in all Courts and Places, and without further Proof, be recognized and received as sufficient Evidence of such Order and Appointment respectively having been made, and of the Title of the Provisional Assignee, and of such other Assignee or Assignees respectively, under the same: Provided always, that where, according to any Laws now in force, any Conveyance or Assignment of any Real or Personal Property of an Insolvent Debtor would be required 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 and in every such Case such certified Copy as herein-before is described of such Order under this Act, vesting the Estate and Effects of any Prisoner in the Provisional Assignee of the said Insolvent Debtors Court, and a like certified Copy of the Appointment of an Assignee or Assignees under this Act (if any such Appointment shall have been made), 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, without Notice of any such Order or Appointment as aforesaid, who shall have duly registered, enrolled, or recorded his Purchase Deed previously to the Registry hereby directed, shall not be invalidated by reason of any such Order

Proviso for
Registry.

as aforesaid, or the Appointment of an Assignee or Assignees as aforesaid, or the vesting of such Property in him or them consequent thereupon respectively, unless a certified Copy of such Orders and a certified Copy of such Appointment, if any, 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 after the Date of such Order and Appointment respectively, and as regards all other Places within Twelve Months from the Date thereof respectively.

XLVII. And be it further enacted, That the Assignee or Assignees of the Estate and Effects of any such Prisoner shall, with all convenient Speed after his or their Appointment, use his or their best Endeavours to receive and get in the Estate and Effects of such Prisoner, and shall with all convenient Speed make Sale of all such Estate and Effects; and if such Prisoner shall be interested in or entitled to any Real Estate, either in Possession, Reversion, or Expectancy, such Real Estate, within the Space of Six Months after the Appointment of such Assignee or Assignees, or within such other Time as the said Court shall direct, shall be sold by public Auction, in such Manner, and at such Place or Places, as shall Thirty Days before any such Sale be approved, in Writing under their Hands, by the major Part in Value of the Creditors of such Prisoner entitled to the Benefit thereof, who shall meet together on Notice of such Meeting, published Fourteen Days previous thereto in the *London Gazette* and also in some daily Newspaper printed and published in *London* or within the Bills of Mortality, if the Prisoner before his or her going to Prison resided in *London* or within the Bills of Mortality, and if such Prisoner resided elsewhere within the United Kingdom, then in some printed Newspaper which shall be generally circulated in or near the Place where such Prisoner resided at the Time aforesaid; and in case such Prisoner shall be entitled to any Copyhold or Customary Estate, a certified Copy of such vesting Order as aforesaid, and a like certified Copy of the Appointment of such Assignee or Assignees as aforesaid, shall be entered on the Court Rolls of the Manor of which such Copyhold or Customary Estate shall be holden, and thereupon it shall be lawful for such Assignee or Assignees to surrender or convey such Copyhold or Customary Estate to any Purchaser or Purchasers of the same from such Assignee or Assignees, as the said Court shall direct; and the Rents and Profits thereof shall be in the meantime received by such Assignee or Assignees for the Benefit of the Creditors of such Prisoner, without Prejudice nevertheless to the Lord or Lords of the Manor of which any such Copyhold or Customary Estate shall be holden.

Sale of Estate and Effects to be made immediately.

Creditors to meet 30 Days before Sale of Real Estate.

Meeting to be advertised.

Assignee may surrender or convey Copyhold or Customary Estate.

XLVIII. And whereas Persons whose Estates may by an Order under this Act have been vested in the said Provisional Assignee may be entitled to Annuities for their own Lives, or other uncertain Interests, or to reversionary or contingent Interests, or to Property under such Circumstances that the immediate Sale thereof for Payment of their Debts may be very prejudicial to them, and deprive them of the Means of Subsistence which they might otherwise have, after Payment of their Debts; and it may be proper in some Cases

Discretion in Court as to the Disposal of Property in certain Cases.

to

to authorize the raising of Money by way of Mortgage for Payment of the Debts or Part of the Debts of such Person, instead of selling the Property of such Person for that Purpose ; be it enacted, That in all such Cases it shall be lawful for the said Court to take into consideration all Circumstances affecting the Property of any such Person ; and if it shall appear to the said Court that it would be reasonable to make any special Order touching the same, it shall be lawful for the said Court so to do, and to direct that such Property as it may be expedient not to sell, or not to sell immediately, according to the Provisions of this Act, shall not be so sold, and from Time to Time to order and direct in what Manner such Property shall be managed for the Benefit of the Creditors of such Person, until the same can be properly sold, or until Payment of all such Creditors, according to the Provisions of this Act, shall have been made, and to make such Orders touching the Sale or Disposition of such Property as to the said Court shall seem reasonable, considering the Rights of the Creditors of such Person to Payment of their Demands, and the future Benefit of such Person after Payment of his Debts, and upon such Terms and Conditions with respect to the Allowance of Interest on Debts not bearing Interest, or other Circumstances, as to the said Court shall seem just ; and if it shall appear to the said Court that the Debts of such Person can be discharged by means of Money raised by way of Mortgage on any Property of such Person, instead of raising the same by Sale, it shall be lawful for the said Court so to order, and to give all necessary Directions for such Purpose, and generally to direct all Things which may be proper for the Discharge of the Debts of such Person in such Manner as may be most consistent with the Interests of such Person in any Surplus of his or her Effects after Payment of such Debts.

Property may be mortgaged if more beneficial.

Assignees may execute Powers which the Insolvent might have executed for his own Benefit.

XLIX. And be it enacted, That all Powers vested in any such Prisoner whose Estate shall by an Order under this Act have been vested in the Provisional Assignee which such Prisoner might legally execute for his own Benefit, (except the Right of Nomination to any vacant Ecclesiastical Benefice,) shall be and are hereby vested in the Assignee or Assignees of the Real and Personal Estate of such Prisoner by virtue of this Act, to be by such Assignee or Assignees executed for the Benefit of all and every the Creditors of such Prisoner under this Act, in such Manner as such Prisoner might have executed the same.

Where Lease accepted by Assignees, the Insolvent not liable for the Rent.

L. And be it enacted, That in all Cases in which any such Prisoner shall be entitled to any Lease or Agreement for a Lease, and his Assignee or Assignees shall accept the same, and the Benefit thereof, as Part of such Prisoner's Estate and Effects, the said Prisoner shall not be or be deemed to be liable to pay any subsequent Rent to which his Discharge, adjudicated according to this Act, may not apply, nor be in any Manner sued after such Acceptance in respect or by reason of any subsequent Non-observance or Non-performance of the Conditions, Covenants, or Agreements therein contained : Provided that in all such Cases as aforesaid it shall be lawful for the Lessor, or Person agreeing to make such Lease, his Heirs, Executors, Administrators, or Assigns, if the said Assignee or Assignees shall decline,

Assignees not determining whether to accept the Lease,

decline, upon his or their being required so to do, to determine whether he or they will or will not accept such Lease or Agreement for a Lease, to apply to the said Court, praying that he or they may either so accept the same, or deliver up such Lease or Agreement for a Lease, and the Possession of the Premises demised or intended to be demised; and the said Court shall thereupon make such Order as in all the Circumstances of the Case shall seem meet and just, and such Order shall be binding on all Parties.

Lease, the Lessor may apply to the Court.

LI. And be it enacted, That it shall be lawful for the Assignee or Assignees of any such Prisoner, and such Assignee or Assignees is and are hereby empowered, to sue from Time to Time as there may be Occasion, in his or their own Name or Names, for the Recovery, obtaining, and enforcing of any Estate, Effects, or Rights of such Prisoner, but in Trust for the Benefit of the Creditors of such Prisoner, according to the Provisions of this Act, and to give such Discharge and Discharges to any Person or Persons who shall be respectively indebted to such Prisoner as may be requisite; and to make Compositions with any Debtors or Accountants to such Prisoner, where the same shall appear necessary, and to take such reasonable Part of any such Debts as can upon such Composition be gotten in full Discharge of such Debts and Accounts; and to submit to Arbitration any Difference or Dispute between such Assignee or Assignees and any Person or Persons for or on account or by reason of any Matter, Cause, or Thing relating to the Estate and Effects of such Prisoner: Provided nevertheless, that no such Composition, or Submission to Arbitration, shall be made, nor any Suit in Equity be commenced, by any such Assignee or Assignees, without the Consent in Writing of the major Part in Value of the Creditors of such Prisoner, who shall meet together pursuant to a Notice of such Meeting, to be published at least Fourteen Days before such Meeting in the *London Gazette*, and also in some Newspaper most usually circulated in the Neighbourhood of the Place where such Prisoner had his or her last usual Residence before his or her Imprisonment as aforesaid, nor without the Approbation of the said Court, or of One of the Commissioners thereof.

Assignees may sue in their own Names;

may make Composition for Debts;

may submit Differences to Arbitration.

Proviso for Consent of Creditors to Compositions and Arbitrations.

LII. And be it enacted, That all Matters wherein Creditors shall vote, or wherein the Assent or Dissent of Creditors shall be exercised in pursuance of or in carrying into effect this Act, every Creditor shall be accounted such in respect of such Amount only as upon an Account fairly stated between the Parties, after allowing the Value of mortgaged Property, and other such available Securities and Liens, shall appear to be the Balance due; and that all Disputes arising in such Matters concerning any such Amount shall upon Application duly made in that Behalf be examined into by the said Court, or any Commissioner thereof on his Circuit, who shall have Power to determine the same, and, if it seem fit, to refer the Examination thereof to an Officer of the said Court, or to an Examiner duly appointed in pursuance of this Act: Provided always, that the Amount in respect of which any such Creditor shall vote in any such Matter shall not be conclusive of the Amount of his or her Debt for any ulterior Purposes, in pursuance of the Provisions of this Act.

Creditors to vote according to Balance due to them, on Account fairly stated.

Suits not to be abated by Death or Removal of Assignees.

LIII. And be it enacted, That whenever any such Assignee or Assignees shall die or be removed, or a new Assignee or Assignees shall be appointed in pursuance of the Provisions of this Act, no Action at Law or Suit in Equity shall be thereby abated, but the Court in which any Action or Suit is depending may, upon the Suggestion of such Death or Removal and new Appointment, allow the Name or Names of the surviving or new Assignee or Assignees to be substituted in the Place of the former; and such Action or Suit shall be prosecuted in the Name or Names of the said surviving or new Assignee or Assignees, in the same Manner as if he or they had originally commenced the same.

Where the Prisoner is beneficially entitled to Stock, the Court may order a Transfer.

LIV. And be it enacted, That if any such Prisoner shall at the Time of filing such Petition as aforesaid, whether such Petitions shall have been preferred by himself or by any such Creditor as aforesaid, or at any Time before such Prisoner shall become entitled to his final Discharge according to this Act, have any Government Stocks, Funds, or Annuities, or any of the Stock of any public Company, either in *England, Scotland, or Ireland*, standing in his own Name in his own Right, it shall be lawful for the said Court for the Relief of Insolvent Debtors, whenever it shall deem fit so to do, to order all Persons whose Act or Consent is thereto necessary to transfer the same into the Name of such Assignee or Assignees as aforesaid; and all such Persons whose Act or Consent is so necessary as aforesaid are hereby indemnified for all Things done or permitted pursuant to such Order.

Assignees Power not to extend to the Income of a Benefice or Curacy. Sequestration of Profit of Benefice may be obtained.

LV. And be it enacted, That nothing in this Act contained shall extend to entitle the Assignee or Assignees of the Estate and Effects of any such Prisoner, being a Beneficed Clergyman or Curate, to the Income of such Benefice or Curacy, for the Purposes of this Act: Provided always, that it shall be lawful for such Assignee or Assignees to apply for and obtain a Sequestration of the Profits of any such Benefice, for the Payment of the Debts of such Prisoner; and the Order appointing an Assignee or Assignees of such Prisoner, in pursuance of this Act, shall be a sufficient Warrant for the granting of such Sequestration, without any Writ or other Proceedings to authorize the same; and such Sequestration shall accordingly be issued, as the same might have been issued upon any Writ of *Levari facias*, founded upon any Judgment against such Prisoner.

Assignees Power not to extend to the Pay or Pension of Naval, Military, or Civil Officers.

LVI. And be it enacted, That nothing in this Act contained shall extend to entitle the Assignee or Assignees of the Estate and Effects of any such Prisoner, being or having been an Officer of the Army or Navy, or an Officer or Clerk, or otherwise employed or engaged in the Service of Her Majesty, in the Customs or Excise, or any Civil Office, or other Department whatsoever, or being or having been in the Naval or Military Service of the *East India Company*, or an Officer or Clerk or otherwise employed or engaged in the Service of the Court of Directors of the said Company, or being otherwise in the Enjoyment of any Pension whatever under any Department of Her Majesty's Government or from the said Court of Directors, to the Pay, Half Pay, Salary, Emoluments, or Pension of any such Prisoner,

for the Purposes of this Act : Provided always, that it shall be lawful for the said Court to order such Portion of the Pay, Half Pay, Salary, Emoluments, or Pension of any such Prisoner, as on Communication from the said Court to the Secretary at War, or the Lords Commissioners of the Admiralty, or the Commissioners of the Customs or Excise, or the Chief Officer of the Department to which such Prisoner may belong or have belonged, or under which such Pay, Half Pay, Salary, Emoluments, or Pension may be enjoyed by such Prisoner, or the said Court of Directors, he or they may respectively, under his or their Hands or under the Hand of his or their Chief Secretary, or other chief Officer for the Time being, consent to in Writing, to be paid to such Assignee or Assignees, in order that the same may be applied in Payment of the Debts of such Prisoner ; and such Order and Consent being lodged in the Office of Her Majesty's Paymaster General, or of the Secretary of the said Court of Directors, or of any other Officer or Person appointed to pay, or paying, any such Pay, Half Pay, Salary, Emoluments, or Pension, such Portion of the said Pay, Half Pay, Salary, Emoluments, or Pension as shall be specified in such Order and Consent shall be paid to the said Assignee or Assignees, until the said Court shall make Order to the contrary.

Portion of Pay or Pension may be obtained on Application.

LVII. And be it enacted, That if any such Prisoner shall, at the Time of his Arrest, or other Commencement of his Imprisonment, by the Consent and Permission of the true Owner thereof, have in his Possession, Order, or Disposition any Goods or Chattels whereof such Prisoner was reputed Owner, or whereof he had taken upon him the Sale, Alteration, or Disposition as Owner, the same shall be deemed to be the Property of such Prisoner, so as to become vested in the Provisional Assignee of the said Court by the Order made in pursuance of this Act ; provided that no Transfer or Assignment of any Ship or Vessel, or any Share thereof, made as a Security for any Debt or Debts, either by way of Mortgage or Assignment, duly registered according to the Provisions of an Act made in the Session of Parliament held in the Third and Fourth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for the registering of British Vessels*, shall be invalidated or affected by reason of such Possession, Order, or Disposition of the same as aforesaid.

Goods in Possession of Prisoner, whereof he was reputed Owner, to be deemed his Property.

No Assignment of Vessels under 3 & 4 W. 4. c. 55. to be affected.

LVIII. And be it enacted, That no Distress or Distresses for Rent made and levied after the Arrest or other Commencement of the Imprisonment of any Person whose Estate shall, by any such Order as aforesaid, have been vested in the Provisional Assignee, upon the Goods or Effects of any such Person, shall be available for more than One Year's Rent accrued prior to the making of such Order, but that the Landlord or Party to whom the Rent shall be due shall and may be a Creditor for the Overplus of the Rent due, and for which the Distress shall not be available, and entitled to all the Provisions made for Creditors by this Act.

Distress not to be available for more than One Year's Rent.

LIX. And be it enacted, That if any such Prisoner shall, before or after his or her Imprisonment, being in insolvent Circumstances, voluntarily convey, assign, transfer, charge, deliver, or make over any Estate,

Voluntary Preference fraudulent and void

as against
Assignees.

Estate, Real or Personal, Security for Money, Bond, Bill, Note, Money, Property, Goods, or Effects whatsoever, to any Creditor or Creditors, or to any Person or Persons in Trust for, or to or for the Use, Benefit, or Advantage of any Creditor or Creditors, every such Conveyance, Assignment, Transfer, Charge, Delivery, and making over shall be deemed and is hereby declared to be fraudulent and void as against the Provisional or other Assignee or Assignees of such Prisoner appointed under this Act: Provided always, that no such Conveyance, Assignment, Transfer, Charge, Delivery, or making over shall be so deemed fraudulent and void unless made within Three Months before the Commencement of such Imprisonment, or with the View or Intention, by the Party so conveying, assigning, transferring, charging, delivering, or making over, of petitioning the said Court for his Discharge from Custody under this Act.

Provisions of
3 G. 4. c. 39.
extended to
the Assign-
ees of
Insolvents.

LX. And whereas an Act passed in the Third Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for preventing Frauds upon Creditors by secret Warrants of Attorney to confess Judgment*: And whereas it is expedient to extend the Provisions of such Act; be it therefore enacted, That the last-mentioned Act shall extend to the Provisional or other Assignee or Assignees of every Prisoner whose Estate shall after the Expiration of Twenty-one Days next after his Execution of such Warrant of Attorney, or giving of such Cognovit Actionem as therein mentioned, be vested in the Provisional Assignee of the said Court for the Relief of Insolvent Debtors by virtue of this Act, as if the last-mentioned Act had been expressly herein enacted; and every such Warrant of Attorney, and Judgment and Execution thereon, and every such Cognovit Actionem, and Judgment entered up thereon, and Execution taken out on such Judgment, as are declared by the last-mentioned Act to be fraudulent and void against the Assignees mentioned therein, shall be deemed equally fraudulent and void against the Provisional or other Assignee or Assignees of such Prisoner, appointed under this Act, and such Provisional or other Assignee or Assignees shall be entitled to recover back and receive, for the Use of the Creditors of such Prisoner, all and every the Monies levied and Effects seized under or by virtue of any such Judgment or Execution.

Warrant of
Attorney
and Cognovit
Actionem
not to be
acted upon
against
Goods of
Insolvent
after his Im-
prisonment.

LXI. And be it further enacted, That in all Cases where any Prisoner whose Estate shall have been vested in the said Provisional Assignee under this Act shall have executed any Warrant of Attorney to confess Judgment, or shall have given any Cognovit Actionem, or Bill of Sale, whether for a valuable Consideration or otherwise, no Person shall, after the Commencement of the Imprisonment of such Prisoner, avail himself or herself of any Execution issued or to be issued upon any Judgment obtained or to be obtained upon such Warrant of Attorney or Cognovit Actionem, or of such Bill of Sale, either by Seizure and Sale of the Property of such Prisoner, or any Part thereof, or by Sale of such Property theretofore seized, or any Part thereof, but that any Person or Persons to whom any Sum or Sums of Money shall be due in respect of any such Warrant of Attorney or Cognovit Actionem, or of such Bill of Sale, shall and may be a Creditor or Creditors for the same under this Act.

LXII. And

LXII. And be it further enacted, That the said Provisional Assignee shall keep account from Day to Day, the same to be of Record in the said Court, of all Monies received and paid, and of every thing done by him and under him in the Matter of every Estate of any such Prisoner vested in him, and shall make Oath of the Truth of every such Account as often as he shall be duly required so to do; and that every other Assignee of any such Estate at the End of Three Months at the farthest from the Time of his Appointment, or sooner if the said Court shall direct, and so from Time to Time as Occasion shall require or the said Court shall direct, shall make up an Account of such Estate, and make Oath in Writing, before any Person before whom Affidavits are by this Act directed to be sworn, that such Account contains a fair, just, and particular Account of the Estate and Effects of such Prisoner got in by or for such Assignee, and of all Payments necessarily made or deducted therefrom, and of all Expences sought to be allowed in respect thereof, up to the Time of filing such Account, or to some ulterior Time, if need be; which Account so sworn, together with a Minute concerning the probable Assets of the Estate (if any), shall be filed with the proper Officer of the said Court, and thereupon and at the Time of so filing the same Appointment shall be made for the Examination of such Accounts, and for Taxation of all Costs and Charges claimed by such Assignee; and Examination shall be had of the Proceedings of the said Provisional Assignee, or of any other Assignee or Assignees, as the Case may be, and of all the Matters of his or their Account, by the Court or a Commissioner thereof, or an Examiner duly appointed, before any such Assignee shall proceed to a Dividend; and if upon such Examination there shall appear to be in the Hands of such Assignee or Assignees any Balance wherewith a Dividend may be made, Proceedings shall be had forthwith under the Direction of the said Court for making such Dividend, and also, when it shall appear necessary, for correcting and ascertaining the List of Creditors entitled to receive the same; and Notice of any Meeting ordered to be held for such ascertaining of Debts or for declaring Dividend thereupon, or for both Purposes, shall be given for such Time and Place and in such Manner as the said Court shall at any Time or in any Case direct; and in case such Dividend shall be made before Adjudication shall have been made with respect to such Prisoner as herein-after provided, the same shall be made amongst the Creditors of such Prisoner who shall prove their Debts in pursuance of any Order of the said Court to be made in that Behalf; and in case such Dividend shall be made after such Adjudication, the same shall be made amongst the Creditors of such Prisoner whose Debts shall be admitted in his or her Schedule so sworn to as herein-after directed, and amongst such other Creditors (if any) who shall prove their Debts in manner aforesaid, in proportion to the Amount of the Debts so proved, and so admitted and proved respectively, as the Case may be: Provided always, that if any such Prisoner, Creditor, or Assignee shall object in whole or in part to any Debt tendered to be so proved as aforesaid or to any Debt mentioned in the Schedule of such Prisoner, or if any Person whose Demand is stated in such Schedule, but is not admitted therein to the Extent of such Demand, shall claim to be admitted as a Creditor for the whole of such Demand, or for more thereof than is so admitted,

Assignees
to file Ac-
counts.

Accounts to
be audited.

Debts to be
ascertained
and Divi-
dend made.

How Divi-
dend to be
made.

Court may
examine into
disputed
Claims.

the said Objections and Claims shall, upon Application duly made, be examined into by the said Court or a Commissioner thereof on his Circuit; and the said Court or Commissioner may, if it shall seem fit, refer the Examination of the same to an Officer of the said Court, or to an Examiner duly appointed in pursuance of this Act; and the said Court or Commissioner, and such Officer or Examiner to whom such Reference shall have been made, shall have full Power for the Purpose aforesaid to require and compel the Production of all Books, Papers, and Writings which may be necessary to be produced, as well by the Person claiming such Debt as by such Prisoner, or his or her Assignee or Assignees, Creditor or Creditors, and to examine all such Persons and their Witnesses upon Oath, as the Nature of the Case may require, and to take all other Measures necessary for the due Investigation of such Objections and Claims; and the Decision of the said Court or Commissioner thereupon shall be conclusive with respect to the Title of any such Creditor or Creditors to his, her, or their Share of such Dividend under the Provisions of such Act: Provided always, that if in any Case it shall appear expedient that the Proof of any Debt or Debts should be required to be made at any earlier or other Period than as aforesaid, it shall be lawful at any Time for the said Court, by Notice as may be directed in that Behalf, to cause all or any of the Creditors to prove their Debts in such Manner as the said Court or a Commissioner thereof shall require, and to decide upon such Debts, and the Rights to receive Dividends thereupon, and to do all Things requisite thereto as aforesaid.

If Prisoner or Creditor or Court dissatisfied with Assignee's Account, the Court may direct Inquiry.

LXIII. And be it further enacted, That in case such Prisoner, or any of his or her Creditors, or the said Court shall at any Time be dissatisfied with the Account of any such Assignee or Assignees so rendered upon Oath as aforesaid, and it shall appear to the said Court that the Matters of such Account require a fuller or further Examination; or in case any such Assignee or Assignees shall neglect to render such Account, or shall neglect to dispose of the Property or collect the Effects of such Prisoner, or shall in any Manner waste or mismanage the Estate or Effects of such Prisoner, or neglect to make a due Distribution thereof, it shall be lawful for the said Court to require such Assignee or Assignees to render such Account on Oath as is directed by this Act, if not before rendered, and for the said Court or any Commissioner thereof on his Circuit to examine or further examine any Account so rendered, and to inquire into any Waste, Mismanagement, or Neglect of the Estate and Effects of such Prisoner, and, if it shall seem fit, to order that it shall be referred to an Officer of the said Court, or to an Examiner duly appointed in pursuance of this Act, to investigate the Accounts of such Assignee or Assignees so rendered as aforesaid together with all Matters brought forward in objection thereto, and to examine into the Truth thereof, and to report thereon to the said Court or Commissioner; and it shall and may be lawful for the said Court or Commissioner, or such Officer or Examiner, upon such Reference as aforesaid, to require and compel the Production of all Books, Papers, and Writings necessary for such Purposes, and to summon all Parties before him or them, and to examine all Parties and their Witnesses on Oath, as the Case may require; and the said Court or Commissioner shall and may take all such Measures as shall

be necessary for the compelling of the rendering of such Account and for the due Investigation thereof, and shall have Power to disallow any Charge or Charges in such Account which it shall appear to the said Court or Commissioner ought not in fairness to be allowed, and to ascertain the Produce of the Estate and Effects of any such Prisoner to be divided among his or her Creditors, and to direct the Distribution thereof, and to take all such Measures and make such Orders as shall be necessary for compelling the proper Disposition and Distribution thereof, and to award Costs against any of the Parties as Justice shall require; and that if it shall appear to the said Court or Commissioner upon any Examination of the Matters of Account that any such Assignee or Assignees shall have wilfully retained in his or their Hands, or otherwise employed for his or their own Benefit, any Sum or Sums of Money Part of or being the Produce of such Estate or Effects, the said Court or Commissioner shall have Power and Authority to order such Assignee or Assignees to be charged in his or their Accounts with the Estate of such Prisoner with such Sum or Sums of Money as shall be equal to the Amount of Interest, computed at a Rate not exceeding Twenty Pounds *per Centum per Annum*, on all Sums of Money appearing to the said Court or Commissioner to be so retained or employed by him or them for the Time or Times during which he or they shall have so retained or employed the same; and the said Court shall in pursuance of such Order charge such Assignee or Assignees in their Accounts with such Sum or Sums of Money accordingly; and the Decisions of the said Court or Commissioner upon all such Matters shall be final and conclusive.

Court may charge Assignee with 20 per Cent. on Money wilfully retained.

LXIV. And be it further enacted, That in all Cases where any Dividend or Dividends have remained in the Hands of any Assignee or Assignees for the Space of Twelve Months next following the declaring thereof, such Dividend or Dividends shall be paid by such Assignee or Assignees into the said Court, to be placed to the Credit of the proper Party or Parties in that Behalf under such Estate: Provided always, that it shall be lawful for the said Court or a Commissioner thereof at any Time, although such Twelve Months may not have expired, if it shall seem fit, to direct that all unpaid and unclaimed Dividends, together with the Balance remaining in the Hands of any Assignee or Assignees, shall be paid forthwith into the said Court to the Credit of the said Estate or of the particular Creditors thereof, as the Case may be.

Assignees to pay unclaimed Dividends into Court.

LXV. And be it further enacted, That in case any Assignee of the Estate and Effects of any such Prisoner so appointed as aforesaid shall be unwilling to act, or in case of the Death, Incapacity, Disability, Misconduct, or Absence from the Realm of any such Assignee, or other Cause of Unfitness appearing to the said Court, it shall be lawful to and for any Creditor or Creditors of such Prisoner to apply to the said Court to appoint a new Assignee or Assignees with like Powers and Authorities as are given by this Act to the Assignee or Assignees herein-before mentioned; and that the said Court shall have Power to remove such Assignees, and to appoint such new Assignee or Assignees, and to compel any Assignee who shall be removed, and the Heirs, Executors, or Administrators of any deceased

Court may remove Assignees and appoint new Assignees.

What shall be Evidence of Removal and Appointment.

ceased Assignee, to account for and deliver up to the said Court, or as the said Court shall order, all such Estate and Effects, Books, Papers, Writings, Deeds, and other Evidences relating thereto as shall remain in his or their Hands, to be applied for the Purposes of this Act; and the Decision of the said Court in the Matters aforesaid shall be final and conclusive; and from and immediately after such Appointment of a new Assignee or Assignees, and by virtue of the Order of the said Court in that Behalf, all the Estate, Effects, Rights, and Powers of such Prisoner vested in any such former Assignee or Assignees shall become and the same are hereby vested in such new Assignee or Assignees without any Assignment or Conveyance executed in that Behalf; and every such Removal and Appointment shall be entered of Record in the said Court, and such Notice thereof shall be published as the said Court shall at any Time direct; and Proof of such Removal and Appointment so entered of Record as aforesaid shall be received by such certified Copy thereof as is hereinbefore directed to be received as Proof of such Order and Appointment as aforesaid made in pursuance of this Act.

Court may commit for refusing to file Accounts and other Contempts.

LXVI. And be it further enacted, That in case any Assignee or other Person shall disobey any Rule or Order of the said Court duly made by the said Court for enforcing the Purposes and Provisions of this Act, or made and entered into by the Consent of such Assignee or other Person for carrying into effect the Purposes and Provisions of this Act, it shall and may be lawful for the said Court to order the Person so offending to be arrested and committed as for a Contempt of the said Court to the Prison of the Queen's Bench, or to the Common Gaol of any County, City, or Place where he or she shall be, or where he or she shall usually reside, there to remain without Bail or Mainprize until such Person shall have fulfilled the Duty required by the said recited Acts or this Act, or until the said Court shall make Order to the contrary: Provided always, that nothing herein contained shall authorize a Commissioner of the said Court acting out of Court upon Summons to commit any Person for Disobedience of any Order of the said Court or of any Commissioner thereof.

Proviso.

Provisions concerning Assignees, Dividends, &c. to extend to Cases now of Record.

LXVII. And be it further enacted, That all Enactments and Provisions in this Act contained concerning the Appointment and Removal of Assignees, and otherwise concerning Assignees, and concerning Debts and Dividends, and the Management and Control of the Estates of Insolvent Debtors, shall be deemed to extend to all Cases which shall be of Record in the said Court for the Relief of Insolvent Debtors at the Commencement of this Act as well as to Cases arising subsequently thereto.

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

LXVIII. And whereas it may often happen that some Interest in Lands and Tenements has or may become vested in the Provisional Assignee of the said Court for the Relief of Insolvent Debtors which appears to be of no Value to Creditors, but nevertheless it may be reasonable and expedient that the 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

ments and Meetings of Creditors, as herein-before described in certain Cases: Be it therefore enacted, That it shall be lawful for the said Court, at any Time after the Day gazetted for the bringing up of any Prisoner to be dealt with according to the Provisions of this Act, if no Person or Persons other than the said Provisional Assignee shall have been appointed Assignee or Assignees of his 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 this Act as to the Sale of Real Property by the Provisional or other Assignees of the Estates of Insolvent Debtors.

LXIX. And be it enacted, That every Prisoner whose Estate shall, by an Order to be made under this Act, be vested in the Provisional Assignee of the said Court for the Relief of Insolvent Debtors (whether upon his own Petition or on the Petition of any such Creditor as aforesaid), shall, within the Space of Fourteen Days next after such Order shall have been made, or next after Notice in Writing of such Order having been made shall have been given to him, in case such Order shall not have been made on his own Petition, or within such further Time as the said Court shall think reasonable, deliver in to the said Court a Schedule, containing a full and fair Description of such Prisoner, as to his Name or Names, Trade or Trades, Profession or Professions, together with the last usual Place of Abode of such Prisoner, and the Place or Places where he has resided during the Time when his Debts were contracted; and also a full and true Description of all Debts due or growing due from such Prisoner at the Time of making such Order, and of all and every Person and Persons to whom such Prisoner shall be indebted, or who to his Knowledge or Belief shall claim to be his Creditors, together with the Nature and Amount of such Debts and Claims respectively, distinguishing such as shall be admitted from such as shall be disputed by such Prisoner; and also a full, true, and perfect Account of all the Estate and Effects of such Prisoner, Real and Personal, in Possession, Reversion, Remainder, or Expectancy; and also of all Places of Benefit or Advantage held by such Prisoner, whether the Emoluments of the same arise from fixed Salaries or from Fees, or otherwise; and also of all Pensions or Allowances of the said Prisoner, in Possession or Reversion, or held by any other Person or Persons for or on behalf of the said Prisoner, or of and from which the said Prisoner derives or may derive any Manner of Benefit or Advantage; and also of all Rights and Powers of any Nature and Kind whatsoever, which such Prisoner, or any other Person or Persons in Trust for such Prisoner, or for his Use, Benefit, or Advantage, in any Manner whatsoever, shall be seised or possessed of, or interested in, or entitled unto, or which such Prisoner, or any other Person or Persons in Trust for him, or for his Benefit, shall have any Power to dispose of, charge, or exercise for the Benefit or Advantage of such Prisoner; together with a full, true, and perfect Account of all the Debts at the Time of making such

After Order made, the Prisoner to deliver in a Schedule of Debts, Property, &c.

Order due or growing due to such Prisoner, or to any Person or Persons in Trust for him, or for his Benefit or Advantage, either solely or jointly with any other Person or Persons, and the Names and Places of Abode of the several Persons from whom such Debts shall be due or growing due, and of the Witnesses who can prove such Debts, so far as such Prisoner can set forth the same; and the said Schedule shall also contain a Balance Sheet of so much of the Receipts and Expenditures of such Prisoner, and of the Items composing the same, as shall be at any Time required by the said Court in that Behalf; and also shall fully and truly describe the Wearing Apparel, Bedding, and other Necessaries of such Prisoner, and his or her Family, and the Working Tools and Implements of such Prisoner, not exceeding in the whole the Value of Twenty Pounds, which may be excepted by such Prisoner from the Operation of this Act, together with the Values of such excepted Articles respectively; and the said Schedule shall be subscribed by such Prisoner, and shall forthwith be filed in the said Court, together with all Books, Papers, Deeds, and Writings in any way relating to such Prisoner's Estate or Effects, in his or her Possession, or under his or her Custody or Control.

Schedule to be filed with Books and Papers.

Court to appoint Time and Place for Prisoner to be brought up.

LXX. And be it enacted, That the said Court for the Relief of Insolvent Debtors shall forthwith, after such Schedule shall have been filed as aforesaid in the said Court by any such Prisoner, appoint a Time and Place for such Prisoner to be brought up before such Court or a Commissioner thereof on his Circuit, or Justices of the Peace, as herein-after mentioned, to be dealt with according to the Provisions of this Act; and the Time so appointed shall in no Case be more than Four Calendar Months after the Date of such Appointment; and where such Prisoner shall be in any Gaol within the Counties of *Middlesex* or *Surrey*, or the City of *London*, or Borough of *Southwark*, the said Court shall order such Prisoner to be brought before the said Court; and where any such Prisoner shall be in any other Gaol in *England* or *Wales*, except in the Town of *Berwick-upon-Tweed*, the said Court shall order such Prisoner to be brought before One of the Commissioners of the said Court, proceeding on his Circuit at such Assize or other Town or Place within the County or County of a City or Town wherein such Gaol shall be situate, as may be directed by the Order of the said Court in that Behalf; and where any such Prisoner shall be in any Gaol within the Town of *Berwick-upon-Tweed*, the said Court shall order such Prisoner to be brought before the Justices of the Peace for the said Town, in open Court at their General or General Quarter Sessions of the Peace, or at some Adjournment thereof.

Manner of proceeding by Commissioner on Circuit.

Notice to be given to Creditors, and advertised.

LXXI. And be it enacted, That the said Court for the Relief of Insolvent Debtors shall cause Notice of the making every such vesting Order as aforesaid, and the filing of every such Schedule, and of the Time and Place so as aforesaid appointed for such Prisoner to be brought up, to be given, by such Means as the said Court shall direct, to the Creditor or Creditors at whose Suit any such Prisoner shall be detained in Custody, or the Attorney or Agent of such

such Creditor or Creditors, and to the other Creditors named in the Schedule of such Prisoner, and resident within the United Kingdom, and whose Debts shall amount to the Sum of Five Pounds, and to be inserted in the *London Gazette*, and also, if the said Court shall think fit, in the *Edinburgh* and *Dublin Gazettes*, or either of them, and also in such other Newspaper or Newspapers as the said Court shall direct.

LXXII. And be it enacted, That upon such Prisoner being brought up as aforesaid the said Court or Commissioner or Justices shall examine into the Schedule of every such Prisoner so brought before the said Court, Commissioner, or Justices upon the Oath of such Prisoner, and of such Parties and other Witnesses as the said Court or Commissioner or Justices shall think fit to examine thereupon; and in case such Notice as the said Court shall direct shall have been given by any Creditor of his Intention to oppose such Prisoner's Discharge, it shall be lawful, both for the said Creditor and any other of the Creditors of such Prisoner, and notwithstanding such Creditor or Creditors may have petitioned for and obtained such vesting Order as aforesaid, to oppose such Prisoner's Discharge, and for that Purpose to put such Questions to such Prisoner, and examine such Witnesses, as the said Court or Commissioner or Justices shall think fit, touching the Matters contained in such Schedule, and touching such other Matters as the said Court or Commissioner or Justices shall be of opinion that it may be fit and proper to inquire into, in order to the due Execution of this Act; but no Creditor shall examine or oppose the Discharge of such Prisoner until he shall make Oath or Affidavit of his Debt, or otherwise give satisfactory Proof of his Right to oppose such Prisoner's Discharge, if required so to do by such Prisoner; and that in case the said Court or Commissioner or Justices shall entertain any Doubt touching any Matter alleged against such Prisoner at such Hearing, to prevent his or her Discharge, or otherwise touching the Schedule or the Examination of such Prisoner, or it shall appear that Amendment is necessary to be made of such Schedule, or in case such Prisoner shall refuse to be sworn, or shall not answer upon Oath to the Satisfaction of the said Court or Commissioner or Justices, it shall be lawful for the said Court or Commissioner or Justices to adjourn the Hearing and Examination of such Prisoner, and of Witnesses thereupon, to some future Sitting of the said Court or Commissioner or Justices, or to some future Circuit to be made by One of the said Commissioners, or to some future General or General Quarter or Adjourned Sessions, as the Case may be; and in every such Case such Prisoner shall upon such Adjournment remain in Custody, and shall and may be again brought up, and such Hearing and Examination be further proceeded in, as often as to the said Court or Commissioner or Justices shall seem fit: Provided always, that when any such Hearing shall be adjourned by the said Court generally, or by such Commissioner or Justices, to some future Circuit, or to some future Sessions as aforesaid, the said Court shall and may, upon the Application of such Prisoner, to be made within such Time as the said Court shall direct, order the said Prisoner to be brought up for Hearing accordingly,

At the Time of hearing, the Schedule to be examined.

Creditors may oppose Prisoner's Discharge.

Hearing may be adjourned.

ingly, and such Notice thereof shall be given, and to such Parties, as the said Court or Commissioner or Justices shall direct.

Affidavits
may be re-
ceived in op-
position to
Prisoner's
Discharge in
certain
Cases.

LXXIII. Provided always, and be it further enacted, That where any Prisoner, whose usual Place of Abode at or lately before his or her Imprisonment was otherwise than in *Middlesex, Surrey, London, or Southwark* aforesaid, shall be so brought before the said Court for the Relief of Insolvent Debtors, it shall be lawful for the said Court to receive the Affidavits of any Creditor or Creditors or other Person or Persons not resident within *Middlesex, Surrey, London, or Southwark* aforesaid, in opposition to the Discharge of such Prisoner under this Act, and also, if such Court shall think fit, to permit Interrogatories to be filed for the Examination or Cross-examination of any Person making or joining in such Affidavits, and to adjourn the Hearing and Examination of such Prisoner until such Interrogatories shall be fully answered to the Satisfaction of the said Court; and where any Prisoner shall be brought before any Commissioner of the said Court on his Circuit, or before any such Justices as aforesaid, at their Sessions aforesaid, and the usual Place of Abode of such Prisoner at or lately before his or her Imprisonment shall have been other than in the County or Riding where such Prisoner shall be brought up, it shall be lawful for such Commissioner or Justices to receive the Affidavits of any Creditor or Creditors, or other Person or Persons, not resident within the County or Riding where such Prisoner shall be brought up, in opposition to the Discharge of such Prisoner under this Act, and also, if such Commissioner or Justices shall think fit, to permit Interrogatories to be filed for the Examination or Cross-examination of any Person making or joining in such Affidavits, and to adjourn the Hearing and Examination of such Prisoner until such Interrogatories shall be fully answered to the Satisfaction of the said Commissioner or Justices.

Schedule and
Prisoner's
Accounts
may be re-
ferred to an
Officer of the
Court, or an
Examiner,
who may or-
der Prisoner
to attend.

LXXIV. Provided always, and it is hereby enacted, That at such Hearing or adjourned Hearing it shall be lawful for the said Court or Commissioner or Justices, if it shall appear fit, upon Application made by some Creditor or Creditors, and supported by Oath or Affidavit, to order that it shall be referred to an Officer of the said Court, or to an Examiner duly appointed according to the Provisions of this Act, to investigate the Accounts of such Prisoner, and to examine into the Truth of his Schedule, and to report thereon to the said Court or Commissioner or Justices; and that the said Court or Commissioner or Justices may at such Hearing proceed on the other Matters in opposition to the Discharge of such Prisoner, or may, if it shall appear just and reasonable so to do, forthwith adjourn the Hearing thereof until such Officer or Examiner shall have made his Report; and that upon such Reference being made as aforesaid it shall be lawful for such Officer or Examiner to order the Attendance of such Prisoner as often as such Officer or Examiner shall think fit, and the Prisoner mentioned in such Order shall be accordingly carried before such Officer or Examiner, for which such Order shall be a sufficient Warrant; and the Keeper of the Prison, or his Deputy, so carrying

carrying any Prisoner before such Officer or Examiner, shall receive for the same the Sum of Ten Shillings, and no more, to be paid by the Person or Persons at whose Requisition the said Reference shall have been had; and such Officer or Examiner shall and may, under such Reference, administer Oaths, and examine all Witnesses and Parties upon their Oaths, touching all Matters relating thereto: Provided always, that no Keeper of any Prison shall be required or compelled to carry any Prisoner a greater Distance than Two Miles from his Prison to or before such Officer or Examiner, except that the Keepers of Prisons in *Middlesex* and *London*, and of the Prisons of the *Queen's Bench* and *Marshalsea*, and in *Horsemonger Lane*, and of and in the Borough of *Southwark*, shall carry their Prisoners before such Officer at the said Court, or at such other Place within the Bills of Mortality as the said Court shall direct; and that in all Cases where such Reference shall have been made as aforesaid it shall be lawful for the said Court or Commissioner or Justices, if just Cause shall appear, to order all the Fees and Expences of such Reference, paid by any Creditor or Creditors, to be repaid to him, her, or them out of the first Money received by the Provisional or other Assignee or Assignees of such Prisoner from or by his Estate or Effects.

Officer and Examiner may administer Oaths.

Court may order Expences of Reference to be paid out of Insolvent's Estate.

LXXV. And be it enacted, That after such Examination of any such Prisoner as herein-before directed it shall be lawful at such Hearing or adjourned Hearing as aforesaid for the said Court or Commissioner or Justices, upon such Prisoner's swearing to the Truth of his Schedule, and executing such Warrant of Attorney as is herein-after directed, to adjudge that such Prisoner shall be discharged from Custody, and entitled to the Benefit of this Act, at such Time as the said Court or Commissioner or Justices shall direct, in pursuance of the Provisions herein-after contained in that Behalf, as to the several Debts and Sums of Money due or claimed to be due at the Time of making such vesting Order as aforesaid from such Prisoner to the several Persons named in his Schedule as Creditors, or claiming to be Creditors, for the same respectively, or for which such Persons shall have given Credit to such Prisoner before the Time of making such vesting Order as aforesaid, and which were not then payable, and as to the Claims of all other Persons, not known to such Prisoner at the Time of such Adjudication, who may be Indorsees or Holders of any negotiable Security set forth in such Schedule so sworn to as aforesaid.

Court, &c. may adjudge a Prisoner to be discharged from Custody, and entitled to the Benefit of this Act.

LXXVI. And be it enacted, That in all Cases where no Cause shall appear to the contrary it shall be lawful for the said Court or Commissioner or Justices, according as shall seem fit, to adjudge that such Prisoner shall be so discharged, and so entitled as aforesaid, forthwith, or so soon as such Prisoner shall have been in Custody at the Suit of One or more of the Persons as to whose Debts and Claims such Discharge is so adjudicated, for such Period or Periods, not exceeding Six Months in the whole, as the said Court or Commissioner or Justices shall direct, to be computed from the making of such vesting Order as aforesaid.

Court may adjudge Discharge, &c. to be forthwith, or not later than Six Months from the filing of the Petition.

In certain Cases Discharge, &c. to be at any Period not later than Three Years from petitioning.

LXXVII. And be it enacted, That in case it shall appear to the said Court or Commissioner or Justices that such Prisoner has fraudulently, with Intent to conceal the State of his Affairs, or to defeat the Objects of this Act, destroyed or otherwise wilfully prevented or purposely withheld the Production of any Books, Papers, or Writings relating to such of his Affairs as are subject to Investigation under this Act, or kept or caused to be kept false Books, or made false Entries in, or withheld Entries from, or wilfully altered or falsified, any such Books, Papers, or Writings, or that such Prisoner has fraudulently, with Intent of diminishing the Sum to be divided among his Creditors, or of giving an undue Preference to any of the said Creditors, discharged or concealed any Debt due to or from the said Prisoner, or made away with, charged, mortgaged, or concealed any Part of his Property, of what Kind soever, either before or after the Commencement of his or her Imprisonment, then it shall be lawful for the said Court or Commissioner or Justices to adjudge that such Prisoner shall be so discharged, and so entitled as aforesaid, so soon as he shall have been in Custody at the Suit of some One or more of the Persons, as to whose Debts and Claims such Discharge is so adjudicated, for such Period or Periods, not exceeding Three Years in the whole, as the said Court or Commissioner or Justices shall direct, to be computed as aforesaid.

In other Cases the Discharge, &c. to be at any Period not later than Two Years from petitioning.

LXXVIII. And be it enacted, That in case it shall appear to the said Court or Commissioner or Justices that such Prisoner shall have contracted any of his or her Debts fraudulently, or by means of a Breach of Trust, or by means of false Pretences, or without having had any reasonable or probable Expectation at the Time when contracted of paying the same, or shall have fraudulently, or by means of false Pretences, obtained the Forbearance of any of his Debts by any of his Creditors, or shall have put any of his Creditors to any unnecessary Expence by any vexatious or frivolous Defence or Delay to any Suit for recovering any Debt or Sum of Money due from such Prisoner, or shall be indebted for Damages recovered in any Action for Criminal Conversation with the Wife or for seducing the Daughter or Servant of the Plaintiff in such Action, or for Breach of Promise of Marriage made to the Plaintiff in such Action, or for Damages recovered in any Action for a malicious Prosecution, or for a Libel, or for Slander, or in any other Action for a malicious Injury done to the Plaintiff therein, or in any Action of Tort or Trespass to the Person or Property of the Plaintiff therein, where it shall appear to the Satisfaction of the said Court that the Injury complained of was malicious, then it shall be lawful for such Court or Commissioner or Justices to adjudge that such Prisoner shall be so discharged, and so entitled as aforesaid, forthwith, except as to such Debt or Debts, Sum or Sums of Money, or Damages as above mentioned; and as to such Debt or Debts, Sum or Sums of Money, or Damages to adjudge that such Prisoner shall be so discharged, and so entitled as aforesaid, so soon as he shall have been in Custody, at the Suit of the Person or Persons who shall be Creditor or Creditors for the same respectively, for a Period or Periods not exceeding Two Years in the whole, as the said Court or Commissioner or Justices shall direct, to be computed as aforesaid.

LXXIX. And

LXXIX. And be it enacted, That the Discharge of any Prisoner so adjudicated as aforesaid shall and may extend to all Process issuing from any Court, for any Contempt of any Court, Ecclesiastical or Civil, for Nonpayment of Money or of Costs or Expences in any Court, Ecclesiastical or Civil; and that in such Case the said Discharge shall be deemed to extend also to all Costs which such Prisoner would be liable to pay in consequence or by reason of such Contempt, or on purging the same; and that every Discharge so adjudicated as aforesaid, as to any Debt or Damages of any Creditor of such Prisoner, shall be deemed to extend also to all Costs incurred by such Creditor before the filing of such Prisoner's Schedule, in any Action or Suit brought by such Creditor against such Prisoner for the Recovery of the same; and that all Persons as to whose Demands for any such Costs, Money, or Expences as aforesaid any such Person shall be so adjudged to be discharged shall be deemed and taken to be Creditors of such Prisoner in respect thereof, and entitled to the Benefit of all the Provisions made for Creditors by this Act, subject nevertheless to such ascertaining of the Amount of the said Demands as may be had by Taxation or otherwise, and to such Examination thereof as is herein provided in respect of all Claims to a Dividend of such Insolvent's Estate and Effects.

Discharge may extend to Process for Contempt in Nonpayment of Money;

and to Costs incurred by Creditor, but subject to Taxation.

LXXX. And be it enacted, That the Discharge of any such Prisoner so adjudicated as aforesaid shall and may extend to any Sum and Sums of Money which shall be payable, by way of Annuity or otherwise, at any future Time or Times, by virtue of any Bond, Covenant, or other Securities of any Nature whatsoever, and that every Person and Persons who would be a Creditor or Creditors of such Prisoner for such Sum or Sums of Money, if the same were presently due, shall be admissible as a Creditor or Creditors of such Prisoner for the Value of such Sum or Sums of Money so payable as aforesaid, which Value the said Court shall, upon Application at any Time made in that Behalf, ascertain, regard being had to the original Price given for such Sum or Sums of Money, deducting therefrom such Diminution in the Value thereof as shall have been caused by the Lapse of Time since the Grant thereof to the Time of making such vesting Order as aforesaid; and such Creditor or Creditors shall be entitled in respect of such Value to the Benefit of all the Provisions made for Creditors by this Act, without Prejudice nevertheless to the respective Securities of such Creditor or Creditors, excepting as respects such Prisoner's Discharge under this Act.

Discharge may extend to Sums payable by way of Annuity, &c.

LXXXI. And be it enacted, That in all such Cases, where it shall be adjudged that any such Prisoner shall be so discharged and so entitled as aforesaid at some future Period, it shall be lawful for the said Court or Commissioner or Justices, if it shall seem fit, to direct that such Prisoner shall be confined during any such Period within the Walls of the Prison, and not within any Rules or Liberties thereof.

Court, &c. may order Prisoner to be confined within the Walls of the Prison.

LXXXII. And be it enacted, That whenever any Creditor or Creditors opposing any such Prisoner's Discharge shall prove to the Satisfaction of the said Court or Commissioner or Justices that such Prisoner

Court, &c. may order Costs, in certain Cases, to

be paid to
opposing
Creditors out
of Insolvent's
Estate.

Where Op-
position fri-
volumous and
vexatious,
Costs may be
awarded to
Prisoner.

Court or
Commissioner
to make
Order, pur-
suant to Ad-
judication,
and issue
Warrant to
Gaoler.

Justices to
certify their
Adjudica-
tion to the
Court, who
shall there-
upon make
Order, and
issue War-
rant to
Gaoler.

Specification
of Debts, &c.
not neces-
sary in Order
of Adjudica-
tion.

Prisoner has done or committed any Act for which, upon such Adjudication as aforesaid, he may be liable to remain in such Custody as aforesaid for a Period not exceeding Three Years, to be computed as aforesaid, the said Court or Commissioner or Justices shall adjudge the taxed Costs of such Opposition to be paid to such opposing Creditor or Creditors out of the Estate and Effects of such Prisoner, by his or her Assignee or Assignees, before any Dividend made thereof; and in all other Cases of Opposition to a Prisoner's Discharge being substantiated or effectual it shall be lawful for the said Court or Commissioner or Justices to adjudge in like Manner, if it shall seem fit; and that in case it shall appear to the said Court or Commissioner or Justices that the Opposition of any Creditor to any such Prisoner's Discharge was frivolous and vexatious, it shall be lawful for the said Court or Commissioner or Justices to award such Costs to such Prisoner as shall appear to be just and reasonable, to be paid by the Creditor or Creditors making such Opposition, which shall be paid accordingly.

LXXXIII. And be it enacted, That where, upon any Prisoner being brought up before the said Court, or a Commissioner thereof on his Circuit, any such Adjudication shall have been made as aforesaid by the said Court or Commissioner, Order shall be made accordingly by the said Court or Commissioner, in pursuance of such Adjudication, and the said Court or Commissioner shall also issue a Warrant or Warrants to the Gaoler accordingly, ordering the Discharge of such Prisoner from Custody as to the Detainers under which he or she shall then be confined, or which shall be lodged against him or her before he or she shall be out of Custody, the same being for Debts in respect of which such Adjudication shall have been made; and where, upon any such Prisoner being brought up before such Justices as aforesaid, any such Adjudication as aforesaid shall have been made by such Justices, the said Justices shall forthwith certify such Adjudication to the said Court, whereupon the said Court shall order that such Prisoner shall be discharged from Custody, and entitled to the Benefit of this Act, according to such Adjudication, at the Period or Periods expressed therein, and shall order such Costs to be paid as shall have been adjudged by the said Justices in pursuance of the Provisions of this Act, and shall issue a Warrant or Warrants to the Gaoler accordingly, ordering the Discharge of such Prisoner from Custody as to the Detainers under which he shall then be confined, or which shall be lodged against him before he shall be out of Custody, the same being for Debts in respect of which such Adjudication shall have been made; and that every such Order of Adjudication shall take effect as from the Day on which the Adjudication shall have been made in that Behalf; and that every such Adjudication, and Certificate thereof and Order thereupon, may be made without specifying therein any such Debt or Debts, or Sum or Sums of Money, or Claims as aforesaid, or naming therein any such Creditor or Creditors as aforesaid, excepting so far as shall be necessary in any Case in order to distinguish between the Creditors as to whom any such Prisoner may be adjudged to be so discharged and entitled as aforesaid forthwith, and the Creditors as to whom he may be adjudged to be so discharged and entitled at some future Period; provided

vided nevertheless, that in all Cases the Detainer or Detainers, with respect to which any such Prisoner shall have been adjudged to be discharged out of Custody, he being then in Custody thereupon, shall be specified in the Warrant of the said Court or Commissioner, to be delivered to the Gaoler in that Behalf.

LXXXIV. And be it enacted, That where it shall appear to the said Court, Commissioner, or Justices at any such Hearing as aforesaid of any such Prisoner that certain Matters or Things ought to be performed by or on behalf of such Prisoner before he is intended to be actually discharged from Custody, but that nevertheless it is expedient not to adjourn the Hearing of the Case absolutely to some future Occasion, without the Opportunity of such Discharge being sooner had by doing such Things as aforesaid, it shall be lawful for the said Court, Commissioner, or Justices to pronounce Adjudication without their 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 Nonperformance thereof the Hearing of such Case shall stand adjourned, according to the Direction made in that Behalf.

Adjudication may be conditional in certain Cases.

LXXXV. Provided always, and be it enacted, That in all Cases where it shall have been adjudged that any such Prisoner shall be so discharged, and so entitled as aforesaid, at some future Period, such Prisoner shall be subject and liable to be detained in Prison, and to be arrested and charged in Custody at the Suit of any One or more of his or her Creditors with respect to whom it shall have been so adjudged, at any Time before such Period shall have arrived, in the same Manner as he would have been subject and liable thereto if this Act had not passed: Provided nevertheless, that when such Period shall have arrived such Prisoner shall be entitled to the Benefit and Protection of this Act, notwithstanding that he may have been out of actual Custody during all or any Part of the Time subsequent to such Adjudication, by reason of such Prisoner not having been arrested or detained during such Time or any Part thereof.

Where Adjudication is a Discharge at a future Period, the Prisoner may be detained or arrested, &c. till that Period arrives.

LXXXVI. And be it enacted, That in all Cases where such Prisoner shall, upon such Adjudication as aforesaid, be liable to further Imprisonment at the Suit of his Creditor or Creditors, or any or either of them, it shall be lawful at any Time for the said Court, on the Application of such Prisoner, to order the Creditor or Creditors at whose Suit he shall be so imprisoned to pay to such Prisoner such Sum or Sums of Money, not exceeding the Rate of Four Shillings by the Week in the whole, at such Times and in such Manner and in such Proportions as the said Court shall direct, and that on Failure of Payment thereof, as directed by the said Court, the said Court shall order such Prisoner to be forthwith discharged from Custody at the Suit of the Creditor or Creditors so failing to pay the same.

Court may order detaining Creditor to pay Prisoner a Sum not exceeding 4s. a Week.

LXXXVII. And be it enacted, That before any such Adjudication shall be made with respect to any such Prisoner the said Court or Commissioner or Justices shall require such Prisoner to execute a Warrant of Attorney to authorize the entering up of a Judgment

Before Adjudication, Prisoner shall execute Warrant of Attorney to

confess Judgment for Amount of Debts in Schedule.

Court may permit Execution to be taken out thereupon, when Insolvent is of Ability to pay, or is dead, leaving Assets.

No Scire facias necessary.

If Application is ill-founded and vexatious, Court may dismiss the same, with Costs.

Where Insolvent shall after Discharge become entitled to Property which cannot be taken in Execution, the Assignee may apply to Court for Relief.

against such Prisoner in some one of the Superior Courts at *Westminster*, in the Name of the Assignee or Assignees of such Prisoner, or of such Provisional Assignee, if no other Assignee shall have been appointed and shall have accepted such Office, for the Amount of the Debts stated in the Schedule of such Prisoner so sworn to as aforesaid to be due or claimed to be due from such Prisoner, or so much thereof as shall appear at the Time of executing such Warrant of Attorney to be due and unsatisfied; and any such Warrant of Attorney is hereby declared not to be within the Meaning of the said Act passed in the Third Year of the Reign of His late Majesty King *George* the Fourth, nor shall it be necessary that the same should be executed in the Presence of an Attorney for such Prisoner according to the Provision herein-before in that Behalf contained; and the Order of the said Court for entering up such Judgment shall be a sufficient Authority to the proper Officer for entering up the same, and such Judgment shall have the Force of a Recognizance; and if at any Time it shall appear to the Satisfaction of the said Court that such Prisoner is of Ability to pay such Debts or any Part thereof, or that he is dead, leaving Assets for that Purpose, the said Court may permit Execution to be taken out upon such Judgment, for such Sum of Money as under all the Circumstances of the Case the said Court shall order, such Sum to be distributed rateably amongst the Creditors of such Prisoner according to the Mode herein-before directed in the Case of a Dividend made after Adjudication; and such further Proceedings shall and may be had upon such Judgment as may seem fit to the Discretion of the said Court from Time to Time, until the whole of the Debts due to the several Persons against whom such Discharge shall have been obtained shall be fully paid and satisfied, together with such Costs as the said Court shall think fit to award; and no Scire facias shall be necessary to revive such Judgment on account of any Lapse of Time, but Execution shall at all Times issue thereon by virtue of the Order of the said Court: Provided always, that in case any such Application against any such Prisoner shall appear to the said Court to be ill-founded and vexatious, it shall be lawful for the said Court, not only to refuse to make any Order on such Application, but also to dismiss the same, with such Costs against the Party or Parties making the same as to the said Court shall appear reasonable, and the said Costs shall be paid accordingly.

LXXXVIII. And be it enacted, That in case any such Person shall, after he has become entitled to the Benefit of this Act by any such Adjudication as aforesaid, become entitled to or possessed of, in his own Right, any Stock in the Public Funds of this Country, or other Property, whether the same be in *England* or elsewhere, which by Law cannot be taken into Execution under the said Judgment so to be entered up in the Names of such Assignee or Assignees as aforesaid, and such Prisoner shall have refused to convey or assign or transfer such Stock or other Property, or so much thereof as may be sufficient to satisfy the said Judgment, then and in such Case it shall be lawful for the Assignee or Assignees of such Prisoner to apply by Petition in a summary Way, setting forth the Facts of the Case, to the said Court, and to pray that the said Prisoner may be taken and committed to Custody notwithstanding any such Adjudication and

Discharge as aforesaid; and thereupon, if upon Examination by the said Court, and hearing as well the said Assignee or Assignees as the said Prisoner, in case he shall appear, or the said Assignee or Assignees only, in case such Prisoner, due Notice having been given to him, shall not appear, it shall appear to the said Court that the Contents of such Petition are true, then and in such Case the said Court shall so declare and adjudge, and shall thereupon order the said Prisoner to be apprehended, and committed to Custody within the Walls of any Prison which the said Court shall direct, and not within any Rules or Liberties thereof, until he shall convey, assign, and transfer such Stock or other Property, or so much thereof as the said Court shall direct, towards the Satisfaction of the said Judgment, to such Assignee or Assignees, for the general Benefit of the Creditors of such Prisoner.

Court may order Prisoner to be remanded to Custody until he transfers such Property.

LXXXIX. And be it enacted, That in case any Person or Persons, Body Politic or Corporate, shall, after any such Insolvent shall have become entitled to the Benefit of this Act by any such Adjudication as aforesaid, become or be possessed of, or have under his or their Power or Control, any Stock in the Public Funds of this Country, or any Legacy, Money due or growing due, Bills of Exchange, Promissory Notes, Bank Notes, Securities for Money, Goods, and Chattels, or any other Property whatsoever belonging to such Insolvent, or held in Trust for him, or for his Use and Benefit, or to which such Insolvent shall be in any way entitled, or in case any such Person or Persons, Body Politic or Corporate, shall be at such Period in any Manner indebted to such Insolvent, it shall be lawful for the said Court, upon the Application of any Assignee or Creditor of such Insolvent, to cause Notice to be given to such Person or Persons, Body Politic or Corporate, directing him or them to hold and retain the said Property till the said Court shall make further Order concerning the same; and thereupon it shall be lawful for the said Court further to order such Person or Persons, Body Politic or Corporate, to deliver over such Property, and to pay such Debts as aforesaid, or any Part thereof, to the Provisional or other Assignee or Assignees of the Estate and Effects of such Insolvent, for the general Benefit of the Creditors of such Insolvent, entitled to claim under such Judgment entered up by Order of the said Court, as aforesaid; and such Delivery and Payment shall be made accordingly, in obedience to such Order; and such Person and Persons, Body Politic and Corporate, shall by such Payment and Delivery, so made in pursuance of such Order of the said Court, be discharged in respect of such Property and Debts against all Persons whatsoever to all Intents and Purposes.

Manner of proceeding where, after the Discharge of a Prisoner, any Person shall be possessed of Stock in Public Funds, &c. belonging to him.

XC. And be it enacted, That no Person who shall have become entitled to the Benefit of this Act by any such Adjudication as aforesaid shall at any Time thereafter be imprisoned by reason of the Judgment so as aforesaid entered up against him or her, according to this Act, or for or by reason of any Debt or Sum of Money, or Costs, with respect to which such Person shall have become so entitled, or for or by reason of any Judgment, Decree, or Order for Payment of the same; but that upon every Arrest or Detainer in Prison upon any such Judgment so entered up as aforesaid, or for

Persons discharged under this Act not liable to Imprisonment for Debts, &c. to which Adjudication extends.

or

If arrested, to be released by Judge of the Court from which Process issued;

who may order Costs to be paid to him.

or by reason of any such Debt or Sum of Money or Costs, or Judgment, Decree, or Order for Payment of the same, it shall be lawful for any Judge of the Court from which any Process shall have issued in respect thereof, and such Judge is hereby required, upon Proof made to his Satisfaction that the Cause of such Arrest or Detainer is such as herein-before mentioned, to release such Prisoner from Custody, unless it shall appear to such Judge, upon Inquiry, that such Adjudication as aforesaid was made without due Notice, where Notice is by this Act required, being given to or acknowledged by the Plaintiff on such Process, or being by him dispensed with by the Acceptance of a Dividend under this Act, or otherwise; and at the same Time, if such Judge shall in his Discretion think fit, it shall be lawful for him to order such Plaintiff, or any Person or Persons suing out such Process, to pay such Prisoner the Costs which he shall have incurred on such Occasion, or so much thereof as to such Judge shall seem just and reasonable, such Prisoner causing a Common Appearance to be entered for him in such Action or Suit.

After Discharge, no Execution to issue against Insolvent for Debts, &c. to which Adjudication extends. Discharge under this Act may be pleaded generally.

XCI. And be it enacted, That after any Person shall have become entitled to the Benefit of this Act by any such Adjudication as aforesaid, no Writ of Fieri facias or Elegit shall issue on any Judgment obtained against such Prisoner, for any Debt or Sum of Money with respect to which such Person shall have so become entitled, nor in any Action upon any new Contract or Security for Payment thereof except upon the Judgment entered up against such Prisoner according to this Act; and that if any Suit or Action shall be brought or any Scire facias be issued against any such Person, his Heirs, Executors, or Administrators, for any such Debt or Sum of Money, or upon any new Contract or Security for Payment thereof, or upon any Judgment obtained against, or any Statute or Recognizance acknowledged by such Person for the same, except as aforesaid, it shall be lawful for such Person, his Heirs, Executors, or Administrators, to plead generally that such Person was duly discharged according to this Act by the Order of Adjudication made in that Behalf, and that such Order remains in force, without pleading any other Matter specially; whereto the Plaintiff or Plaintiffs shall or may reply generally, and deny the Matters pleaded as aforesaid, or reply any other Matter or Thing which may show the Defendant or Defendants not to be entitled to the Benefit of this Act, or that such Person was not duly discharged according to the Provisions thereof, in the same Manner as the Plaintiff or Plaintiffs might have replied in case the Defendant or Defendants had pleaded this Act, and a Discharge by virtue thereof, specially.

When Debts are satisfied, the Court may order Warrant of Attorney to be cancelled, and Satisfaction to be entered on the Judgment;

XCII. Provided always, and be it enacted, That if at any Time after any such Adjudication as aforesaid shall have been made with respect to any such Prisoner in pursuance of this Act, it shall appear to the Satisfaction of the said Court for the Relief of Insolvent Debtors that all the Debts in respect of which such Adjudication was made have been discharged and satisfied, it shall be lawful for such Court, upon Application duly made, to direct the Warrant of Attorney executed by such Prisoner under this Act to be cancelled, or if Judgment shall have been entered up thereon, to order Satisfaction to

to be entered on such Judgment, and the Order of the said Court for entering up such Satisfaction shall be a sufficient Authority to the proper Officer for entering up the same; and that if in any Case it shall appear to the Satisfaction of the said Court that after the Debts of any such Prisoner shall have been so discharged and satisfied as aforesaid there shall remain in the Possession, or subject to the Control of his or her Assignee or Assignees, any Property of any Kind or Description whatsoever which has come to such Assignee or Assignees, or to which he or they may claim Title, by virtue of the Order made in that Behalf or otherwise, by virtue of his or their Office of Assignee or Assignees, it shall be lawful for the said Court, on Application duly made, to order that all such Property so remaining as aforesaid shall be vested in the Person whose Debts shall have been so discharged and satisfied, or his Heirs, Executors, Administrators, or Assigns; and such Order shall have the Effect of vesting the same accordingly; and that any Deed of Release to be recorded in the said Court, by which any such Debt or Debts shall be released or discharged, shall not be liable to any Stamp Duty.

and a Re-assignment to be executed.

XCIII. And whereas it may sometimes happen that a Debt of, or Claim upon, or Balance due from such Prisoner as aforesaid, may be specified in his Schedule so sworn to as aforesaid at an Amount which is not exactly the actual Amount thereof, without any culpable Negligence or Fraud, or evil Intention on the Part of such Prisoner; be it enacted, That in such Case the said Prisoner shall be entitled to all and every Benefit and Protection of this Act; and the Creditor in that Behalf shall be entitled to the Benefit of all the Provisions made for Creditors by this Act, in respect of the actual Amount of such Debt, Claim, or Balance, and neither more nor less than the same, to all Intents and Purposes, such Error in the said Schedule notwithstanding.

Where Error in Schedule, without Fraud, this Act to operate upon the actual Amount of Debt.

XCIV. And be it further enacted, That if on any Prisoner being brought before the said Court for the Relief of Insolvent Debtors it shall appear to the Satisfaction of the said Court that the usual Place of Abode of such Prisoner, lately before his Arrest, was in some County or Place within the United Kingdom other than the Counties of *Middlesex* or *Surrey*, or City of *London* or Borough of *Southwark*, it shall be lawful for the said Court, if it shall think fit, upon the Request of any Creditor or Creditors of such Prisoner, to order such Prisoner to be taken, at the Expence of such Creditor or Creditors, from the Gaol in which such Prisoner shall then be, to the Gaol of the County or Place where such Prisoner had lately, before such Arrest, his usual Place of Abode; and if such late usual Place of Abode was in *Scotland* or *Ireland*, then to the Gaol of such County or Place as to the said Court shall, under the Circumstances of the Case, appear just and reasonable; and the Order of the said Court in that Behalf, directed to the Keepers of the said Gaols respectively, shall be their sufficient Warrant, and they are hereby required, in pursuance thereof, to deliver and receive respectively the Body of such Prisoner, together with a Certificate of the Day or Days, and Cause or Causes of Detainer against such Prisoner, who shall from and after such Removal be deemed to be in Custody of the Sheriff or

Court, at Request of Creditors, may remove Prisoners from the Gaols of London, Middlesex, or Surrey, if their usual Residence was elsewhere, to be heard in the County to which they are removed.

other responsible Officer of the County or Place wherein the Gaol shall be situate to which such Prisoner shall have been so removed; and the said Court shall order such Removal of the said Prisoner from such Gaol as aforesaid to be made on or before a Day to be named in such Order; and if such Prisoner shall not be removed accordingly on or before the said Day, or on or before a Day which the said Court shall name in any Enlargement of the said Order, (which Enlargement it is hereby empowered to make whenever it shall seem just and reasonable so to do,) then the said Court shall, upon Application duly made, appoint a Time for such Prisoner to be brought up before the said Court, and such Advertisement thereof shall be published, and such Notice given, and to such Persons as the said Court shall in any Case direct; and when any such Prisoner shall have been removed, and shall be in Custody in any Gaol in pursuance of such Order, or of any Enlargement thereof, the said Court shall appoint a Time and Place for such Prisoner to be brought up in the County or Place where such Gaol shall be situate, and such Advertisement thereof shall be published, and such Notice thereof given, and to such Persons as the said Court shall in any Case direct: Provided always, that when any such Prisoner shall be brought up to be dealt with according to the Provisions of this Act, after such Removal or Failure of Removal of such Prisoner as aforesaid, it shall be lawful for all the Creditors of such Prisoner to oppose the Discharge of such Prisoner as in other Cases, although no such Creditor shall have opposed or given Notice to oppose the said Discharge at the Time first appointed for the bringing up of such Prisoner; and that in all Cases where any such Prisoner shall be so removed as aforesaid, the Expence incurred by such Removal by the Creditor or Creditors requesting the same shall be repaid to him or them by the Assignee or Assignees of the Estate and Effects of such Prisoner, out of such Estate and Effects, before any Dividend shall be made thereof.

After such Removal, Creditors may oppose the Discharge, as in other Cases.

Expence of Removal of Prisoners.

Benefit of Act not to be allowed to Prisoners removed by Habeas Corpus.

Court may permit such Prisoner to be removed back at the Expence of any Person willing to pay the same;

XCV. Provided always, and be it further enacted, That no Prisoner shall be entitled to be discharged under this Act upon his own Petition, who having been arrested in any County or Place where he had, at or lately before such Arrest, his usual Place of Abode, other than in the Counties of *Middlesex* or *Surrey*, or the City of *London* or Borough of *Southwark*, such usual Place of Abode being distant more than Twenty Miles from the Court House of the said Court, shall be removed by any Writ of Habeas Corpus sued out on his Behalf, or by his Procurement or Request, from Custody in such County or Place to any other Custody: Provided nevertheless, that it shall be lawful for the said Court, if in any Case the said Court shall think fit, at any Time within Ten Days after the filing of the Petition of any such Prisoner, or within such further Time as the said Court shall allow, upon the Request of any such Prisoner, to order such Prisoner to be taken, at the Expence of any Person or Persons who will pay the same, from the Gaol in which such Prisoner shall then be to the Gaol of the County or Place where such Prisoner was arrested as aforesaid, and the Order of the said Court in that Behalf, directed to the Keepers of the said Gaols respectively, shall be their sufficient Warrant, and they are hereby required in pursuance thereof

to deliver and receive respectively the Body of such Prisoner, together with a Certificate of the Day or Days, and Cause or Causes of Detainer against such Prisoner, who shall from and after such Removal be deemed to be in Custody of the Sheriff or other responsible Officer of the County or Place wherein the Gaol shall be situate to which such Prisoner shall have been so removed by such Order; and the said Court shall order such Removal of the said Prisoner from such Gaol as aforesaid to be made on or before a Day to be named in such Order, or in any Enlargement of the same, which Enlargement the said Court is hereby empowered to make whenever it shall seem just and reasonable so to do; and when any such Prisoner shall have been removed, and shall be in Custody in any Gaol in pursuance of such Order, the said Court shall and may appoint a Time and Place for such Prisoner to be brought up to be dealt with according to the Provisions of this Act, whereupon such Proceedings shall be had as if such Prisoner had been in the said last-mentioned Gaol at the Time of filing his Petition.

whereupon the same Proceedings may be had as in other Cases.

XCVI. And be it further enacted, That every such Adjudication as aforesaid by the said Court, Commissioner, or Justices as aforesaid, with respect to any Prisoner, and the Order thereupon, so made as aforesaid, shall be final and conclusive, and shall not be reviewed by the said Court, unless the said Court shall thereafter see good and sufficient Cause to believe that such Adjudication has been made on false Evidence, or otherwise improperly made or fraudulently obtained, in which Case it shall be lawful for the said Court, upon the Application of such Prisoner, or of any Creditor of such Prisoner, to order such Prisoner, upon due Notice to be given to such Persons, and in such Manner as the said Court shall direct, to attend, or to be brought up, and the said Matter to be re-heard before the said Court, or One of the Commissioners thereof on his Circuit, or such Justices as aforesaid, as the Case may require, who shall thereupon re-hear the same, and shall and may, if just Cause shall appear, annul the original Adjudication and Order thereupon made in such Case, and shall have the same Powers and Authorities upon such Re-hearing as upon any original Hearing in pursuance of this Act, and may adjudicate in such Matter accordingly; and thereupon, in case the former Adjudication in the said Matter shall not be confirmed, such Order, Certificate, and Warrant shall be made as required by this Act to be made upon such original Adjudication; and the said Court or Commissioner or Justices shall and may, if necessary, remand the said Prisoner to the same Custody in which he was at the Time of the former Hearing of the Matters of his Petition, there to be subject to Imprisonment as if the former Adjudication therein had not been made; and thereupon all Detainers which were in force against such Prisoner at the Time of his former Discharge from Custody shall be deemed to be still in force against him as if such former Adjudication had not been made; and the Gaoler or Keeper of the Prison to which such Prisoner shall be so remanded shall and is hereby required to receive such Prisoner into his Custody in pursuance of such Remand, for doing which the Order of Remand in such Case shall be his sufficient Warrant; and where in any Case such Prisoner shall refuse or neglect to appear before the said Court

Adjudication and Order to be final, unless obtained on false Evidence, &c., in which Case Court may order a Re-hearing.

Insolvent refusing to appear may be or

apprehended, &c.

In Adjudication of Discharge on Re-hearing, the Time since former Hearing not to be calculated.

Where an Order of Discharge has been issued by Mistake, the Court may revoke and amend the same.

Prisoner may after Discharge, be examined as to Estate and Effects, on Application of Assignee.

or Commissioner or Justices, according to such Order for Re-hearing as aforesaid, a Copy whereof shall have been duly served on such Prisoner, it shall be lawful for the said Court to order such Prisoner to be apprehended, and committed to Custody in such Prison as the said Court shall direct, and to issue its Warrant accordingly, and to cause such Prisoner to be brought up for Examination as often as to the said Court or Commissioner or Justices shall seem fit: Provided always, that where upon such Re-hearing it shall appear to the said Court, Commissioner, or Justices that such Prisoner is not entitled to the Benefit of this Act until some future Period, according to the Provisions herein-before contained, the said Court, Commissioner, or Justices shall and may, if it shall appear reasonable, adjudge the Discharge of such Prisoner at such future Period to be calculated without including the Time during which such Prisoner shall have been out of Custody since the Time appointed for his Discharge by such former Adjudication as aforesaid.

XCVII. Provided always, and be it further enacted, That if in any Case an Order or Warrant for the Discharge of any such Prisoner shall have issued erroneously, and which is not pursuant to the Adjudication made in that Behalf, it shall be lawful for the said Court, on such Error being shown to the said Court, to revoke such Order and Warrant, and to annul, suspend, or amend the same, according to such Adjudication, and if necessary to re-commit such Prisoner to his former Custody, when by such Order or Warrant he shall have been discharged therefrom; and the Gaoler or Keeper of the Prison to whose Custody such Prisoner shall be so re-committed is hereby required to receive such Prisoner into his Custody according to such Re-commitment; and all Detainers which were in force against such Prisoner at the Time of such Discharge as aforesaid shall be deemed to be still in force against him, as if such erroneous Order or Warrant had not issued.

XCVIII. And whereas the Estate, both Real and Personal, of any Person whose Discharge has been adjudicated under this Act may not be sufficiently described or discovered in his Schedule so sworn to as aforesaid, or the Assistance of such Person may be necessary to adjust, make out, recover, or manage his Estate or Effects, for the Benefit of his Creditors; be it therefore enacted, That it shall be lawful for the Assignee or Assignees of the Estate and Effects of any such Person whose Discharge shall have been adjudicated under this Act, from Time to Time to apply to the said Court that such Person may be further examined as to any Matters or Things relating to his Estate and Effects, either by the said Court, or a Commissioner thereof on his Circuit, or by any Justice of the Peace within the Town of *Berwick-upon-Tweed*; and if the said Court shall order any such Examination before any such Justice, such Justice shall send for or call before him such Person by such Warrant, Summons, Ways, or Means as he shall think fit; and if such Person shall appear before such Justice, such Justice shall examine him upon Oath, or otherwise, as to such Matters and Things as such Assignee or Assignees shall desire, relating to the Estate and Effects of such Person; and if any such Person, on Payment or Tender of Payment
of

of such reasonable Charges as such Justice shall judge sufficient, shall neglect or refuse to appear before such Justice, or having come before such Justice shall refuse to be sworn, or to answer such Questions as by such Justice shall be put to him, relating to the Discovery of his Estate and Effects vested or intended to be vested in such Assignee or Assignees as aforesaid, as required by the Order of the said Court, such Justice shall certify such Default to the said Court; and thereupon, and also in case such Person shall neglect or refuse to appear before such Court or Commissioner at such Time and Place as shall be directed by such Order, or appearing shall refuse to be sworn, or to answer such Questions as shall be put to him relating to the Discovery of his said Estate and Effects, then and in any of such Cases it shall be lawful for such Court or Commissioner by Warrant to commit such Person to the Common Gaol of any County or Place, there to remain without Bail or Mainprize until such Time as he shall submit himself to the Order of the said Court in that Behalf, and shall answer upon Oath or otherwise, as shall be required, to all such lawful Questions as shall be put to him in pursuance of the same for the Purposes aforesaid.

Prisoner refusing to appear, or to answer Questions may be committed.

XCIX. And be it enacted, That in case any Prisoner whose Estate shall, by an Order under this Act, have been vested in the said Provisional Assignee, shall, with Intent to defraud the Creditors or Creditor of such Prisoner, wilfully and fraudulently omit in his Schedule, so sworn to as aforesaid, any Effects or Property whatsoever, or retain or except out of such Schedule, as Wearing Apparel, Bedding, Working Tools, and Implements, or other Necessaries, Property of greater Value than Twenty Pounds, every such Person so offending, and any Person aiding and assisting him to do the same, shall, upon being thereof convicted by due Course of Law, be adjudged guilty of a Misdemeanor, and thereupon it shall be lawful for the Court before whom such Offender shall have been so tried and convicted to sentence such Offender to be imprisoned and kept to hard Labour for any Period of Time not exceeding Three Years; and that in every Indictment or Information against any Person for any Offence under this Act it shall be sufficient to set forth the Substance of the Offence charged on the Defendant, without setting forth the Petition, or Order vesting such Prisoner's Estate in the Provisional Assignee, Appointment of Assignee or Assignees, or Balance Sheet, Order for Hearing, Adjudication, Order of Discharge or Remand, or any Warrant, Rule, Order, or Proceeding of or in the said Court, except so much of the Schedule of such Prisoner as may be necessary for the Purpose.

Persons wilfully omitting any thing in the Schedule guilty of a Misdemeanor, and liable to Three Years Imprisonment.

Indictment need only set out Substance of Offence charged.

C. And be it enacted, That if any Prisoner or other Person taking an Oath under the Provisions of this Act shall wilfully forswear and perjure himself in any Oath to be taken under this Act, and shall be lawfully convicted thereof, the Person so offending shall suffer such Punishment as may by Law be inflicted on Persons convicted of wilful and corrupt Perjury; and that in all Cases wherein by this Act an Oath is required the solemn Affirmation of any Person, being a Quaker or other Person by Law allowed to affirm, shall and may be accepted and taken in lieu thereof; and that every Person making

Persons swearing falsely under this Act liable to Punishment inflicted for Perjury.

such Affirmation who shall be convicted of wilful false Affirmation shall incur and suffer such and the same Penalties as are inflicted and imposed upon Persons convicted of wilful and corrupt Perjury.

Provisions
of Act ex-
tended to
Married
Women.

CI. And be it enacted, That the Provisions of this Act shall extend to Married Women, being Prisoners within the Intent and Meaning of this Act, but that the Order of the said Court vesting the Estate and Effects of any such Married Woman in such Provisional Assignee as aforesaid shall operate upon all Property, Real and Personal, to which she may be entitled for her separate Use, or over which she shall have any Power of Disposition, notwithstanding her Coverture, or which shall be vested in any Trustees or Trustee, or other Person or Persons for her Benefit, and upon all Personal Estate and Effects of which she shall have the actual Possession, except her Wearing Apparel, Bedding, and other such Necessaries, not exceeding in the whole the Value of Twenty Pounds, and upon all other Real and Personal Estate and Effects to which she shall be entitled in any Manner whatsoever, in Possession, Remainder, or Reversion, subject only to such Right, Title, or Interest as her Husband may have therein, and without prejudicing any Rights of her Husband in such Real and Personal Estate and Effects respectively; and all Provisions in this Act contained touching the Real and Personal Estate of any Prisoner whose Estate shall under this Act be vested in the said Provisional Assignee shall apply to such Real and Personal Estate and Effects respectively, in the same Manner as the same would apply to such Real or Personal Estate and Effects if such Woman had been sole and unmarried, subject only to the Rights of her Husband therein; and such Married Woman shall also execute a Warrant of Attorney to confess Judgment in one of the Superior Courts aforesaid for the Amount of the Debts remaining unpaid from which she shall be so discharged as aforesaid; and such Warrant of Attorney so executed shall be sufficient Authority for entering up Judgment against such Woman accordingly, notwithstanding her Coverture, but such Judgment shall not in any Manner prejudice or affect the Rights of her Husband, except that the same shall be deemed and taken to be her Debt, in case she shall die in the Lifetime of such Husband, to the end that the same may be discharged out of her Personal Assets in a due Course of Administration, or out of her Real Estate, if any she shall have at the Time of her Death, but without Prejudice to any Estate or Interest of her Husband therein as Tenant by the Curtesy; and in case such Woman shall, during the Lifetime of her Husband, become entitled to any Property for her separate Use, such Judgment may be enforced against such separate Property by Suit in Equity, or otherwise, under the Order of the said Court, for the Purpose of obtaining Payment of so much of the Debts in respect of which such Woman shall have been discharged by the said Court as shall then remain unpaid; and in case such Woman shall survive her said Husband such Judgment may be after his Death enforced against such Woman or her Property, Real and Personal, in such and the same Manner and with the same Effect as it might have been if she had been sole and unmarried at the Time when she executed such Warrant of Attorney, and at the Time when such Judgment shall have been entered up as aforesaid: Provided always,

nevertheless, that the Discharge of any Married Woman under the Authority of this Act shall not operate to discharge her Husband from any Debt in respect of which his Wife shall be so discharged, but such Debt, so far as the same shall remain unpaid or unsatisfied, shall be chargeable upon and in force against such Husband, as fully to all Intents and Purposes as if his Wife had not obtained such Discharge.

CII. And be it enacted, That if any Person who shall at any Time be a Prisoner in any such Prison as aforesaid, upon any such Process as aforesaid, shall be or become of unsound Mind, and therefore incapable of taking the Benefit of this Act in such Manner as he or she might have done if of sound Mind, the Gaoler or Keeper of such Prison shall forthwith require One or more Justice or Justices of the Peace for the County, Riding, Division, or Place wherein such Prisoner shall be to attend at the said Prison, and inquire into the State of Mind of such Prisoner; and thereupon, and also in case any such Justice or Justices shall receive Information by other Means, that any such Prisoner is of unsound Mind as aforesaid, such Justice or Justices shall go to the said Prison, and by his or their own View, and by Examination on Oath of such Person or Persons as he or they shall think fit to examine, shall inquire into the State of Mind of such Prisoner; and if it shall appear to such Justice or Justices upon such Inquiry that such Prisoner is of unsound Mind, and therefore incapable of taking the Benefit of this Act in such Manner as a Person of sound Mind might do, such Justice or Justices shall forthwith make a Record of the Fact, and certify the same to the said Court; and thereupon it shall be lawful for the said Court, at the Instance of any Person or Persons on behalf of such Prisoner, to order Notice to be inserted in the *London Gazette*, and in Two or more public Newspapers usually circulated in the Neighbourhood of such Prison, and in the Neighbourhood of the usual Residence of such Prisoner before he was committed to such Prison, as the said Court shall see fit, that Application will be made to the said Court for the Discharge of such Prisoner on a Day to be specified in such Order and Notice, being Twenty-one Days at least from the Day of Publication of such one of the said Gazette and Newspapers containing such Notice as shall be last published; which Notice, together with the Service of the like Notice on the Creditor or Creditors at whose Suit such Prisoner shall be detained in Custody, or his or their Attorney or Attornies in such Suit, shall be deemed sufficient to authorize the said Court to proceed to the Discharge of such Prisoner, if otherwise entitled to such Discharge, according to the true Intent and Meaning of this Act; and the said Court shall proceed accordingly, and shall discharge such Prisoner from Custody, and do all other Acts under this Act, in case it shall appear that such Prisoner might have obtained his or her Discharge under this Act if he or she had been of sound Mind; and thereupon all and every Estate, Right, Title, Interest in Law and Equity, Real and Personal, Power, Benefit, and Emolument whatsoever, which, if such Prisoner was of sound Mind, could or ought to be vested in the said Provisional Assignee, pursuant to the Provisions of this Act, shall, by force and virtue of the Order of the said Court for the Discharge of such Prisoner, be vested in the Provisional

Mode of proceeding with Prisoners of unsound Mind.

Application may be made by Persons on behalf of such Prisoners.

Court may discharge such Prisoners;

may appoint
Assignees;

visional Assignee of the said Court, or in the other Assignee or Assignees appointed by the said Court, and named in the said Order, or in any other Order of the said Court in that Behalf, as fully and effectually, and in the same Manner, and with all and every the same Consequences and Effects, both in Fact and Law, to all Intents and Purposes whatsoever, as if such Prisoner had been of sound Mind, and such Order as aforesaid had been made vesting the same in such Provisional Assignee at the Time and in the Manner in this Act provided; and that it shall be lawful for the said Court to order Judgment to be entered up against such Prisoner, in the same Manner as if he or she had been of sound Mind, and had executed a Warrant of Attorney to authorize the entering up of such Judgment in the Manner herein-before directed, and such Order shall be a sufficient Authority to the proper Officer for entering up the same; and any Dividend to be made by such Assignee or Assignees shall be made in such Manner, and such Proceedings shall be thereupon had, as are herein-before provided in the Case of a Dividend of the Estate and Effects of any Prisoner made before Adjudication; and the Discharge of every such Prisoner of unsound Mind, so made as aforesaid, shall extend to all Debts and Sums of Money to which the same might have extended if such Prisoner had been of sound Mind, and had duly filed his Schedule, according to the Provisions of this Act: Provided always, that every such Order of Discharge, and of the Appointment of an Assignee or Assignees, in such Case, shall be entered of Record in the said Court, and Proof thereof shall be received by such Copy thereof as is herein-before directed to be received as Proof of Conveyances and Assignments made in pursuance of this Act.

may order
Judgment to
be entered
up.

Discharge
not to extend
to Crown
Debtors,
unless Trea-
sury give
Consent.

CIII. And be it enacted, That this Act shall not extend or be construed to extend to discharge any Prisoner with respect to any Debt due to Her Majesty or Her Successors, or to any Debt or Penalty with which he shall stand charged at the Suit of the Crown, or of any Person for any Offence committed against any Act or Acts of Parliament relative to any Branch of the Public Revenue, or at the Suit of any Sheriff or other Public Officer, upon any Bail Bond entered into for the Appearance of any Person prosecuted for any such Offence, unless Three of the Commissioners of Her Majesty's Treasury for the Time being shall certify under their Hands their Consent to such Discharge.

Prisoners
under Writ
of Capias or
Extent may
apply to the
Barons of
the Exche-
quer to be
discharged.

CIV. And be it enacted, That it shall be lawful for any Person who may now or shall hereafter be imprisoned under or by virtue of any Writ of Capias or Extent, issued and remaining in force at the Instance or for the Benefit and Reimbursement of any Surety or Sureties, or other Person or Persons, or the Inhabitants of any Parish, Ward, or Place, who shall or may have advanced and paid the Debt to the Crown, and by reason whereof the Commissioners of Her Majesty's Treasury may not be authorized to give their Consent as last aforesaid, to apply to the Barons of Her Majesty's Court of Exchequer in *England* or *Scotland* for his Discharge, giving One Month's previous Notice in Writing to the Surety or Sureties, or Person or Persons aforesaid, or to the Churchwardens or Overseers of the Parish, Ward, or Place at whose Instance or for whose Benefit respectively such

such Capias or Extent shall remain in force, of the Intention of such Person so imprisoned to make such Application, and an Enumeration and Description of all and every the Property, Debts, and Effects whatsoever of such Person, in his own Possession or Power, or in the Possession or Power of any other Person or Persons for his or her Use, and for the said Court to whom such Application shall be made to order such Person to be brought before them, or before any Baron of the said Court, to be examined upon Oath touching and concerning his Property and Effects; and if such Person shall upon such Examination make a full Disclosure of all his Property and Effects, and it shall otherwise appear to the Satisfaction of such Court reasonable and proper that such Person should be no longer imprisoned under such Writ, for such Court or Baron to order a Writ of Superseas quoad corpus to be issued out of the said Court for the Liberation of such Person from such Imprisonment: Provided always, that no such Liberation as aforesaid shall be held or deemed to satisfy or supersede such Extent, or any Proceedings thereon, except as to such Imprisonment as aforesaid, or the Debt or Debts seized under and by virtue thereof, and for which such Person shall be so imprisoned.

CV. And be it further enacted, That the proper Officer of the said Court for the Relief of Insolvent Debtors shall, on the reasonable Request of any such Prisoner as aforesaid, or of any Creditor or Creditors of such Prisoner, or his, her, or their Attorney, produce and show to such Prisoner, Creditor or Creditors, and his, her, or their Attorney, at such Times as the said Court shall direct, such Petition, vesting Order, Schedule, Order of Adjudication, and all other Orders and Proceedings made and had in the Matter of such Petition, and all Books, Papers, and Writings filed in such Matter, and permit him, her, or them to inspect and examine the same, and shall provide for any such Prisoner, Creditor or Creditors, or his or their Attorney requiring the same, a Copy or Copies of any such Petition, vesting Order, Schedule, Order of Adjudication, or other Order or Proceeding, or of such Part thereof as shall be so required; receiving such Fee as the said Court shall appoint for so providing the same; and that a Copy of such Petition, vesting Order, Schedule, Order of Adjudication, and other Orders and Proceedings purporting to be signed by the Officer in whose Custody the same shall be, or his Deputy, certifying the same to be a true Copy of such Petition, vesting Order, Schedule, Order of Adjudication, or other Proceeding, and purporting to be sealed with the Seal of the said Court, shall at all Times be admitted in all Courts and Places whatever as sufficient Evidence of the same, without any other Proof whatever given of the same.

Officer of Court to produce Proceedings and give Copies.

A Copy of such Proceedings under Seal to be admitted as Evidence.

CVI. And be it enacted, That when an Order has issued for any such Prisoner to be brought up to be dealt with according to this Act, at any Place other than in *Middlesex, Surrey, London, and Southwark* aforesaid, such Prisoner shall, within Ten Days after such Order issued, or on such earlier Day as shall be named in such Order, cause the Duplicate of such Petition, if any Petition shall have been presented by such Prisoner, and the Duplicate of such Schedule, and

Manner of proceeding when the Hearing takes place before Commissioners on Circuit or Justices in Wales.

all Books, Papers, and Writings relating thereto in his or her Possession or Power, to be lodged with the Clerk of the Peace of the County, or County of a City or Town, or of the Town of *Berwick-upon-Tweed*, where he or she shall be in Custody, or with the Deputy of the said Clerk of the Peace, to be approved of by the said Court, and such Prisoner shall be subject to such Order as the said Court shall make to enforce Compliance with the Directions of this Act in this Behalf; and that the said Clerk of the Peace, or his said Deputy, shall, on the reasonable Request of such Prisoner, or of any Creditor or Creditors of such Prisoner, or of his, her, or their Attorney, produce and show to him, her, or them such Petition and Schedule, and such Books, Papers, and Writings, and permit him, her, or them to inspect and examine the same, and may and shall receive the Fee of One Shilling from each and every Creditor, or his or her Attorney, at each Time of his, her, or their so requesting and having the Production of the same or any Part thereof; and that such Clerk of the Peace or his said Deputy shall provide for any such Creditor or Creditors, or his, her, or their Attorney requesting the same, a Copy or Copies of such Petition and Schedule, or of such Part thereof as shall be so required; and that such Clerk of the Peace, or his said Deputy, shall be entitled to receive Four-pence for every Sheet so copied, containing Seventy-two Words, and no more, unless the same shall be the last or only Sheet, in which Case he shall be entitled to Four-pence for such last or only Sheet although it does not contain Seventy-two Words; and that every such Duplicate as aforesaid, and all the said Books, Papers, and Writings, shall be brought to the Place of such Hearing, and produced at such Hearing by the said Clerk of the Peace or his said Deputy, who shall and is hereby required to attend at the Hearing of every such Prisoner, with proper Officers to preserve Order in the Court House or other Place of such Hearing; and where any such County shall be within the Circuit of one of the said Commissioners, then such Clerk of the Peace or his said Deputy shall and may act as Clerk to such Commissioner, to assist him in the Performance of his several Duties under this Act; and in all such Cases, both before such Commissioner and before such Justices as aforesaid, the said Clerk of the Peace, or his said Deputy, shall, in consideration and recompence of and for his Trouble in this Behalf, be entitled to receive from every such Prisoner so brought up for Hearing as aforesaid the Sum of Five Shillings, which shall be paid previously to the bringing up such Prisoner for Hearing as aforesaid: Provided always, that if it shall at any Time appear to the said Court that it is expedient that the Duplicates of the Petitions and Schedules of Prisoners confined in the Gaol of any City, Borough, Town, or Place at which the Commissioners of the said Court shall give Attendance on their Circuits, so made as aforesaid, should be lodged with the Town Clerk or other Officer of such City, Borough, Town, or Place, and that the Duties herein-before required of such Clerk of the Peace should be performed at such City, Borough, Town, or Place, by such Town Clerk or other Officer of the same, it shall be lawful for the said Court in any such Case to order that the Duplicates of the Petitions and Schedules last aforesaid, and all such Books, Papers and Writings as aforesaid, shall be

lodged with such Town Clerk or other Officer, instead of such Clerk of the Peace as aforesaid, and that all Duties herein-before required of such Clerk of the Peace in respect of the same shall be performed by such Town Clerk or other Officer, instead of such Clerk of the Peace, and that the said Town Clerk or other Officer shall thereupon do and perform all the Duties aforesaid at such City, Borough, Town, or Place in the Matters of all Prisoners confined in the Gaol thereof, and shall be entitled to receive the same Fees and Payments in respect thereof as are herein directed to be paid and made to such Clerk of the Peace or his Deputy as aforesaid.

CVII. And it is hereby enacted, That such Justices as aforesaid shall have such and the same Powers of compelling the Attendance of Witnesses, and of requiring and compelling the Production of Books, Papers, and Writings, for the Purposes of this Act, as are herein-before given to the said Court and the Commissioners thereof, subject to such Provisoos and Limitations as the same are made subject to; and that in all Cases where the Duplicate of any Petition and Schedule shall have been so lodged as aforesaid with any such Clerk of the Peace or his Deputy as aforesaid, or with such Town Clerk or other Officer as aforesaid, such Clerk of the Peace, or his said Deputy, or such Town Clerk or other Officer, is hereby authorized to issue all Subpoenas under this Act as may be requisite, in each of which the Names of not more than Four Persons shall be inserted, and to receive for such Subpoena from the Person requiring the same the Sum of Two Shillings and Sixpence, and no more.

Power of Justices to compel the Attendance of Witnesses.

Clerk of the Peace may issue Subpoenas.

CVIII. And be it enacted, That the said Court for the Relief of Insolvent Debtors in all Cases, or any Commissioner thereof on his Circuit, or such Justices as aforesaid in open Court at such Sessions as aforesaid respectively, may from Time to Time, as Occasion shall require, appoint as many fit Persons as shall be requisite to be Examiners for the Purposes of this Act within any County or Division thereof, or any City or Town; and that such Examiner shall and may receive for his Trouble the Sum of One Pound, and no more, for every Meeting held by him in pursuance of this Act, to be paid by the Person or Persons requiring the same.

Examiners to be appointed for Counties.

Their Fees.

CIX. And be it enacted, That the Keepers of the several Prisons in *London* and *Middlesex*, and of the Prisons of the *Queen's Bench*, *Marshalsea*, *Horsemonger Lane*, and of the Borough of *Southwark*, shall be entitled to receive the Sum of Three Shillings, and no more, from every Prisoner in the Custody of such Keepers respectively, for carrying him before the said Court on the Hearing of such Prisoner as aforesaid; and that all Keepers of Prisons shall be entitled to receive the Sum of One Shilling and Sixpence, and no more, from every Prisoner in the Custody of such Keepers respectively, for carrying him before a Commissioner of the said Court on his Circuit, or before such Justices as aforesaid at their Sessions aforesaid, on the Hearing of such Prisoner: and that the Expence of conveying any Prisoner to any Assize or other Town appointed as the Place of hearing the Matters of his or her Petition as aforesaid, in every Case where the

Fee to Keeper for carrying each Prisoner before the Court.

For paying the Expence of conveying Prisoners to Gaol

the Assize
Towns;

Gaol in which such Prisoner shall be confined shall not be situate within such Assize or other Town, not exceeding One Shilling a Mile, shall be paid to the Keeper or Gaoler or other Officer who shall bring such Prisoner to such Assize, or other Town, in obedience to the Order of the said Court, out of the Estate and Effects of such Prisoner, if the same shall be sufficient to pay such Expence, and if not, then such Expence shall be paid by the Treasurer of the County, or County of a City or Town, in which such Prisoner shall be imprisoned, as the same shall be directed or ordered by the Commissioner or Justices before whom such Prisoner shall be so brought in pursuance of such Order; and in all such Cases the reasonable Expence of such Clerk of the Peace or his Deputy as aforesaid, and of such proper Officers to preserve Order, as herein-before mentioned, and all other Expences necessary for making ready such Court House or other Place as aforesaid for the Despatch of Business, in pursuance of this Act, shall be paid by such Treasurer as aforesaid; and the Justices of the Peace of every such County, or County of a City or Town, are hereby empowered and required to order such Treasurer to pay the same at their General or General Quarter Sessions next ensuing the Day when such Hearing shall have taken place: Provided nevertheless, that where the Duties at any City, Borough, Town, or Place shall be performed by any Town Clerk or other Officer, in pursuance of such Order of the said Court as above mentioned in that Behalf, the reasonable Expences of such Town Clerk or other Officer, and of such proper Officers as aforesaid, and of such Court House or other Place as aforesaid, shall be defrayed by the said City, Borough, Town, or Place in the same Manner as such like Expences are defrayed therein upon other Occasions.

and also the
other Ex-
pences in
pursuance of
this Act.

Sheriffs and
other Per-
sons indem-
nified for
obeying the
Orders of
the Court.

CX. And be it further enacted, That every Sheriff, Gaoler, Keeper, or other Officer of any Prison, who shall do any thing in obedience to any Order of the said Court for the Relief of Insolvent Debtors, or of any Commissioner thereof, or of any Justice or Justices of the Peace, Officer of the said Court, or such Examiner as aforesaid, authorized by the said Court, by virtue of this Act, shall be and is and are hereby indemnified for whatsoever shall be done by them respectively in obedience thereto; and that if any Action of Escape, or any Suit or Action, be brought against any Judge, Commissioner, Justice of the Peace, Sheriff, Gaoler, Keeper of any Prison, or any Person, for performing the Duty of his Office, in pursuance of this Act, such Judge, Commissioner, Justice of the Peace, Sheriff, Gaoler, Keeper of Prison, and other Person may plead the General Issue, and give this Act and the special Matter in Evidence; and if the Plaintiff be nonsuited, or discontinue his or her Action, or a Verdict shall pass against him or her, or Judgment shall be had for the Defendant upon Demurrer, the Defendant shall have Treble Costs.

If Action for
Escape, &c.
brought, the
General
Issue may be
pleaded, and
this Act
given in Evi-
dence.

What shall
be sufficient
to be set
forth in the
Rules and

CXI. And be it enacted, That in all Rules, Orders, Warrants, and other Proceedings of the said Court, or of any Commissioner thereof, under this Act, it shall be sufficient to set forth such Rule, Order, or Warrant, or in case of a Warrant for the Apprehension

or

or Detention of any Person for a Contempt, in disobeying any Order or Rule of the said Court, or for the Apprehension or Detention of any Person for the Appearance of such Person before the said Court, or any Commissioner thereof, or any Justice or Justices of the Peace, according to this Act, or for the enforcing any Rule or Order of the said Court, it shall be sufficient to set forth such Rule or Order, and the Warrant thereon, and that the Insolvent, in any Order, Rule, Warrant, or other Proceeding mentioned, has been duly discharged under this Act, or some other Act for the Relief of Insolvent Debtors, if he has been so discharged, or if he has not been so discharged, that he has applied by Petition to the said Court for his or her Discharge from Custody, according to the Provisions of this Act, without setting forth in any such Order, Rule, Warrant, or other Proceeding the Petition, Order vesting the Estate of any such Prisoner in the Provisional Assignee, Appointment of Assignee, or Assignee or Assignees, or the Schedule, Balance Sheet, Order for Hearing, Adjudication, Order for Discharge, or any other Rule, Order, or Proceeding of or in the said Court, or any Part thereof, except as aforesaid.

Proceedings
of the Court.

CXII. And be it enacted, That all Affidavits to be used before the said Court, or any Commissioner thereof, or any Justices of the Peace, or any Officer of the said Court, or any Examiner appointed as aforesaid under this Act, shall and may be sworn before the said Court, or any Commissioner thereof, or any Commissioner appointed by the said Court for the Purpose of taking Affidavits, or any Master Extraordinary in Chancery, or Commissioner for taking Affidavits in any of the Superior Courts of *Westminster*, or in *Scotland* or *Ireland* before a Magistrate of the County, City, Town, or Place where any such Affidavit shall be sworn.

Before whom
Affidavits are
to be sworn.

CXIII. And be it enacted, That in all Cases in which the said Court, or any Commissioner thereof, or any Justices, is or are by this Act authorized to award Costs against any Person or Persons, it shall be lawful for the said Court to cause such Costs to be recovered from such Person or Persons in the same Manner as Costs awarded by a Rule of any of the Superior Courts at *Westminster* may be recovered.

Recovery of
Costs.

CXIV. And be it enacted, That the said Court for the Relief of Insolvent Debtors shall and may admit, at their Discretion, any Number of fit Persons, being Attornies of any of the Superior Courts at *Westminster*, to practise in the said Court as Attornies on behalf of such Prisoners in such actual Custody as aforesaid, which Admissions shall in all Cases be made without the Payment of any Fee or Gratuity whatsoever, and shall be filed of Record in the said Court; and that all Persons now admitted as Attornies in the Court now established for the Relief of Insolvent Debtors shall be deemed to be effectually admitted in the said Court hereby continued as aforesaid; and that in case any Person not so admitted on the Files of the said Court, or having after such Admission been removed from the said Files, or ceased to be an

Court to ad-
mit Attor-
nies to prac-
tise therein.

Persons not
duly appoint-
ed, practising
as Attornies,

guilty of
Contempt.

Attorney of any of the Superior Courts at *Westminster*, shall practise in the said Court as an Attorney on behalf of any Prisoner in such actual Custody as aforesaid, he shall be deemed and taken to be guilty of a Contempt of the said Court, and that every Person so guilty of any such Contempt as aforesaid shall be liable to Fine as well as Imprisonment for the same.

What shall
be paid for
Insertion of
Advertisements.

CXV. And be it enacted, That the Sum of Three Shillings and no more shall be paid to any Printer or Proprietor of any Newspaper for the Insertion of any Advertisement by this Act directed to be inserted in any Newspaper; and all Printers and Proprietors of Newspapers are hereby required to insert the same, on Payment of the said Sum of Three Shillings for the Insertion thereof, in such Form as the said Court or any Commissioner thereof shall from Time to Time direct.

Proceedings
not liable to
Stamp Duty,
nor Sales to
Auction
Duty.

CXVI. And be it enacted, That no Letter of Attorney, Affidavit, Certificate, or other Proceeding, Instrument, or Writing whatsoever, before or under any Order of the said Court, or before or under any Order of any Commissioner thereof, or before any Justice or Justices of the Peace acting in the Execution of this Act, nor any Copy thereof, nor any Advertisement inserted in any Newspaper by the Direction of the said Court, relating to Matters within the Jurisdiction of the said Court, shall be liable to or chargeable or charged with the Payment of any Stamp or other Duty whatsoever; and that no Sale of any Real or personal Estate of any such Prisoner as aforesaid for the Benefit of his or her Creditors, under this Act, shall be liable to any Auction Duty.

Court may
invest un-
claimed
Money, and
apply Profit
towards Ex-
pences of the
Court.

CXVII. And whereas it may happen that Money may remain in the said Court, produced by the Estates and Effects of Insolvent Debtors, who have taken the Benefit of this or some other Act for the Relief of Insolvent Debtors, which has not been or may not be claimed by the Assignees or Creditors of such Insolvents; be it further enacted, That it shall be lawful for the said Court to cause the same or any Part thereof to be invested in Government Securities, and to apply the Interest and Profit arising therefrom towards defraying the Expences of the said Court: Provided always, that no such Money shall be so invested until the same shall have been in the Hands of the said Court for Twelve Months at the least.

Court em-
powered out
of Profit
arising from
unclaimed
Money to
direct the
Payment of
Expences of
Prisoners
Discharge.

CXVIII. And be it enacted, That it shall be lawful for the said Court for the Relief of Insolvent Debtors, in its Discretion, to direct that the Expences of applying for and obtaining the Discharge of any Prisoner under this Act, or any Part of such Expences, may and shall be paid out of the Estate and Effects of such Prisoner which may be in the Hands of the Provisional or other Assignee or Assignees under this Act; and if the same shall not be sufficient for that Purpose, then that such Expences or any Part thereof may and shall, in Cases where the said Court shall be satisfied that the Prisoner has not the Means of defraying the same, be paid and advanced out of the Interest and Profit arising from any Government Securities,
upon

upon which any unclaimed Money produced by the Estates and Effects of Insolvent Debtors may be invested; and in every such last-mentioned Case the Estate and Effects of such Prisoner, which may then be, or may thereafter come to the Hands and be vested in the Provisional or other Assignee or Assignees under this Act, shall be liable, in the first place, to repay the Money so advanced and paid, and the said Court is hereby authorized to make such Order or Orders as shall be necessary for the Purpose.

CXIX. And be it further enacted, That from and after the passing of this Act no Prisoner for Debt shall petition any Court for his or her Discharge under the Provisions of an Act passed in the Thirty-second Year of the Reign of His late Majesty King *George the Second*, intituled *An Act for the Relief of Debtors with respect to the Imprisonment of their Persons, and to oblige Debtors who shall continue in Execution in Prison beyond a certain Time, and for Sums not exceeding what are mentioned in the Act, to make Discovery of and deliver upon Oath their Estates for the Creditors Benefit*; nor shall any Creditor of any Prisoner petition any Court for the Exercise of the compulsory Powers given against Debtors under the Provisions of the Act above mentioned.

Prisoners for Debt, or their Creditors, not to petition any Court, for certain Purposes, under 32G. 2. c. 28.

CXX. And be it enacted, That all the Records, Papers, Documents, and Money of and belonging to or received under the Authority of the said Court now established for the Relief of Insolvent Debtors, and hereby continued as aforesaid, shall, from and after the passing of this Act, remain and continue in the Custody of the Officers of the said Court now duly having the Custody of the same respectively, or of such Officer or Officers as the said Court shall at any Time direct to receive the same, and that the said Records shall be deemed and taken to be the Records of the said Court so hereby continued as aforesaid.

Records of the Court.

CXXI. And be it enacted, That this Act shall extend to Aliens, Denizens, and Women, both to make them subject thereto and to entitle them to all the Benefits given thereby; and all Powers given to or Duties directed to be performed by the Lord Chancellor may be performed by the Lord Keeper or Lords Commissioners of the Great Seal; and all Powers given to or Duties directed to be performed by the Court of Review may be performed by any One of the Judges of the same Court; and that whenever this Statute hath used Words importing the Singular Number or the Masculine Gender only it shall be understood to include several Matters as well as one Matter, and several Persons as well as one Person, and Females as well as Males, and Bodies Corporate as well as Individuals, unless it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction; and that this Act shall not extend either to *Scotland* or *Ireland*, except where expressly mentioned.

Construction of Act.

CXXII. And be it enacted, That this Act may be amended, altered, or repealed during this Session of Parliament.

Act may be altered.

CXXIII. And

Commence-
ment of Act.

CXXIII. And be it enacted, That this Act shall, as to all Matters not otherwise provided for, commence and come into operation on the First Day of *October* One thousand eight hundred and thirty-eight.

SCHEDULE to which this Act refers.

No. 1.—*Writ of Capias.*

VICTORIA, &c. To the Sheriff of or To
the Constable of Dover Castle, or To the Mayor and Bailiffs
of Berwick-upon-Tweed, [*or as the Case may be*], Greeting.

WE command you that you omit not by reason of any Liberty in your Bailiwick, but that you enter the same, and take *C.D.* if he shall be found in your Bailiwick, and him safely keep until he shall have given you Bail, or made Deposit with you according to Law, in an Action on Promises [*or, of Debt, &c.*] at the Suit of *A.B.* , or until the said *C.D.* shall by other lawful Means be discharged from your Custody. And we do further command you that on Execution hereof you do deliver a Copy hereof to the said *C.D.* And we hereby require the said *C.D.* to take notice, that within Eight Days after the Execution hereof on him, inclusive of the Day of such Execution, he should cause Special Bail to be put in for him in Our Court of to the said Action, and that in default of so doing such Proceedings may be had and taken as are mentioned in the Warning written or endorsed hereon. And we do further command you, that immediately after the Execution hereof you do return this Writ to Our said Court of , together with the Manner in which you shall have executed the same, and the Day of the Execution thereof; or if the same shall remain unexecuted, then that you do so return the same at the Expiration of One Calendar Month from the Date hereof, or sooner if you shall be thereto required by Order of the said Court or by any Judge thereof. Witness at Westminster, [*or as the Case may be,*] the Day of .

Memorandum to be subscribed to the Writ.

This Writ is to be executed within One Calendar Month from the Date thereof, including the Day of such Date, and not afterwards.

A Warning to the Defendant.

If a Defendant, having given Bail on the Arrest, shall omit to put in Special Bail as required, the Plaintiff may proceed against the Sheriff or on the Bail Bond.

1° & 2° VICTORIÆ, Cap.110.

Indorsements to be made on the Writ.

Bail for Pounds by Order of [*naming the Judge making
the Order,*] dated this Day of .

This Writ was issued by *E.F.* of Attorney for the
Plaintiff [*or Plaintiffs*] within named.

Or,

This Writ was issued in person by the Plaintiff within named, who
resides at [*mention the City, Town, or Parish, and
also the Name of the Hamlet, Street, and Number of the House of
the Plaintiff's Residence, if any such there be.*]

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