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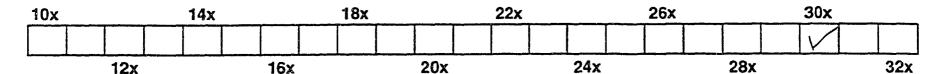
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1st Session, 5th Parliament, 17 Victoria, 1854.

BILL.

An Act for the relief of Merchants, Traders and others.

Received and Read first time, Friday, 15th Sept., 1854.

Second Rending, Tuesday, 26th Sept., 1854.

Hon. Mr. Cameron.

QUEBEC:

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

1854

BILL.

No.

An Act for the Relief of Merchants, Traders, and others.

HEREAS, it is expedient that amicable modes of arrangement be- Preamble. tween debtors and their creditors should be facilitated, and that better means should be provided for carrying the same into effect: Be it therefore enacted, &c., that-

5 From and after the passing of this Act, it shall be lawful for any debtor A debtor who is unable to meet his engagements with his creditors, with the con- unable to meet currence of one-third in number and value of his creditors, (certified by ments may their signing his petition,) to present a petition to the Judge of the County petition the Court of the County or united Counties in which such debtor is residing County Judge with the condebts, and the names, residences and occupations of his creditors, and also tain portion of a full account of his estate and effects, whether in possession, reversion or his creditors;

expectancy, and of all debts and rights due to or claimed by him, and of tion shall con-

all property of what kind soever held in trust for him, and also setting tain. 15 forth that he is unable to meet his engagements with his creditors, and the true cause of such inability, and also setting forth such proposal as he is able to make for the future payment or compromise of such debts or engagements, and that one-third in number and value of his creditors have assented to such proposal, and praying that such proposal (or such modifi-

20 cation thereof as by the majority of his creditors shall be determined,) may be carried into effect under the superintendence and control of the said Court, and that he, the said petitioning debtor, may, in the mean time, be protected from arrest, by order from the said Court.

II. Upon the presentation of the said Petition, the Judge of the said Judge to ex25 Court shall privately examine into the matter of the said Petition, and for ly into the that purpose shall have power to examine upon oath such petitioning debtor, matter of such and any creditor concurring in his petition, and any witness produced by petition. such petitioning debtor, and if such Judge shall be satisfied of the truth of the several matters alleged in such Petition, and that the debts of such 30 petitioning debtor have been contracted bona fide and honestly, without frzud or breach of trust; and with reasonable probability, at the time of contract, of being able to pay the same, and that such peritioning debtor has made a full disclosure of his debts and credits and estate and effects, and is desirous of making a bona fide arrangement with all his creditors, and Andifsatished 25 that his proposal to that effect is reasonable, it shall be lawful for such may order a Judge to direct that a meeting of all the creditors of such petitioning meeting of the debtor shall be convened at such time and place as the said Judge shall

appoint, notice of which meeting and of the purpose thereof, and of the

petitioning debtor, not less than fourteen days before the same is held.

order under which it is to be held, shall be given personally to every cre-49 ditor or left at his last place of abode or business, by or on behalf of such

Who shall preside at the meeting.

III. At such meeting of creditors, the creditor present whose debt, from such petitioning debtor, is of the largest amount as stated in his said petition, shall preside, and report the resolution thereof to the said Judge.

Agreement entered by a creditors to bind the rest and the debtor.

IV. If at such meeting of creditors, the major part in number and value, or three-fourths in value or three-fourths in number whose debts exceed 5 portion of the twenty-five pounds, shall assent to the proposal of such petitioning debtor, or some modification thereof, and shall reduce the terms thereof to writing and sign the same, such resolution or agreement shall thenceforth be binding and of full force, as well against the said petitioning debtor as against all persons who were his creditors at the date of his said petition, and who 10 had notice of the said meeting of creditors; provided however that such resolution or agreement shall not be valid, unless one full third in number and value of all the creditors of such debtor were present at such meeting, either in person or by an authorized agent.

Such agreement to be fyled within a certain time:

V. Within one week after the passing of such resolution or agreement, 15 the same shall be fyled and entered of record in the said Court, and the Judge thereof shall grant to the said petitioning debtor a certificate of such debtor protect- fyling, and shall from time to time endorse on such certificate the proteced from arrest tion of such debtor from arrest, and such debtor shall be free from arrest at the suit of any person being a creditor at the date of his said petition 20 and having had such notice as aforesaid: Provided, however, that no such petition shall be valid in favor of any such debtor, who shall be proved to the satisfaction of such Judge, to have been about to abscond from this Province, or who has concealed or is concealing any part of his estate or effects, nor against any creditor whose debt has been contracted by reason 25 of any manner of fraud or breach of trust.

Temporary protection from arrest

bail.

VI. It shall be lawful for such Judge as aforesaid, upon the examination of such petition as aforesaid, to grant to such petitioning debtor a limited may be grant- and temporary protection from arrest, and such debtor shall accordingly be free from arrest for such time and within such limits and conditions as 30 Debtor to give shall be specified in the said protection; and it shall be lawful for such Judge to require such debtor to give bail for his appearance at the several. meetings of his creditors, and any petitioning debtor shall have such protection from arrest when going to, remaining in and returning from, his necessary attendance on the said Judge, or the said meetings of creditors, as is 35 enjoyed by any party or witness attending any Court of Record.

Estate of debtor to vest in any frustee appointed under such agreement.

VII. From and after the date of the filing of such resolution and agreement as aforesaid, all the estate and effects of such petitioning debtor shall vest in the trustee (if any such shall be appointed) by virtue of such resolutions, and without any deed, as fully as if such trustee were an 40 assignce under the statutes relating to Bankruptcy in force in England, and every such trustee may sue and be sued as if he were such assignee in Bankruptey.

Trustee or debtor to fylo accounts from time to time.

VIII. Every such trustee as aforesaid, or petitioning debtor if his estate and effects have been left in his own management without any trustee, once 45 at least in every six months, or oftener if any two or more of the creditors of such debtor whose debts amount to one-tenth of the amount of the debts of such debtor, require it, shall produce to the said judge, on oath, a full and true account of all moneys, property and effects of such debtor, which have come to his hands and of his disposal thereof, and the said Judge 50 shall examine the same and certify the result of such examination, and if

need be shall order payment to the creditors of such debtor according to Judge may order paythe terms of such resolution or agreement as aforesaid.

IX. If at any time it shall appear to the said Judge, on the representa- Debtor may tion of such trustee as aforesaid, or of any two creditors as aforesaid, that be called up 5 such petitioning debtor has not made a true discovery of his estate and and examined on eath in effects, or has not duly accounted for any subsequently acquired property, certain cases (if required by the true intent and meaning of the said resolution or agreement,) or has wilfully made any false return of creditors it shall be lawful for the said Judge to summon such debtor to be examined before him. 10 on oath touching such matters, and such summons and examination shall be enforced in the same manner as is practised in England in the summoning and examination of Bankrupts.

X. If any difficulty shall arise in the execution of such resolution or How the agreement, it shall be lawful for the said Judge to cause a special meeting agreement may be altered for the creditors of such petitioning debtor to be assembled, and the resortion of the majority of the creditors at such meeting, to confirm, alter or difficulties annul the whole or any part of the said original resolution or agreement, arise in exeshall be as valid as if it had been part of such original resolution or agree-cuting it ment: Provided however, that if one-third in number and value of the proviso. 20 creditors of such petitioning debtor, do not attend such meeting in manner aferesaid, the resolution thereof shall not be valid unless the same be ap-

proved and confirmed by the said Judge.

XI. So soon as the said resolution or agreement shall have been carried When and into effect, and the creditors of the said petitioning debtor shall have been how the trus-25 satisfied according to the terms of the same, the said Judge shall cause tee shall be a meeting of the said creditors to be had before him, and on being satisfied from his trust. that the trustee has fully performed his trust, shall give to such trustee a certificate thereof, under his hand and the seal of such Court, and such certificate shall be a full release and discharge to such trustee, both in 30 law and equity, for all matters done by him as such trustee: Provided Proviso. always, that it shall be lawful for such trustee, or the said petitioning Remuneration debtor, to receive for his services in the execution of his said trust, such of Trustee &c. sum of money as the majority of the said creditors in number and value at such last mentioned meeting shall appoint.

XII. At or after such last mentioned meeting, the said Judge shall give Final disto the said petitioning debtor a certificate under the hand of the said charge how Judge, and the seal of the said Court, of the fyling of such petition, of and when the making of the said resolution or agreement, and that the same has been fully carried into effect; and such certificate shall from thenceforth Its effect 40 operate to all intents and purposes as a full discharge of such debtor from all debts due by him at the date of his said petition, excepting only that no debt herein excepted from the operation of this Act shall be barred by the said certificate.

XIII. For the better carrying into effect the several purposes of this Courtof Chan 45 Act, it shall be lawful for the Court of Chancery of Upper Canada, from cery to make time to time, to make such rules, regulations and orders as the said Court under this shall think fit.

XIV. This Act shall extend to aliens, denizens and women, and shall Extent of Act be in force only in Upper Canada.