
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 Reading, Tuesday, 26th Sept., 1854.

HON. MR. CAMERON.

QUEBEC :

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

WHEREAS, it is expedient that amicable modes of arrangement between 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 who is unable to meet his engagements with his creditors, with the concurrence of one-third in number and value of his creditors, (certified by their signing his petition,) to present a petition to the Judge of the County Court of the County or united Counties in which such debtor is residing
- 10 at the time of presenting his petition, setting forth a full account of his debts, and the names, residences and occupations of his creditors, and also a full account of his estate and effects, whether in possession, reversion or expectancy, and of all debts and rights due to or claimed by him, and of all property of what kind soever held in trust for him, and also setting
- 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 modification 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.

A debtor unable to meet his engagements may petition the County Judge with the consent of a certain portion of his creditors; what the petition shall contain.

- 25 **II.** Upon the presentation of the said Petition, the Judge of the said Court shall privately examine into the matter of the said Petition, and for that purpose shall have power to examine upon oath such petitioning debtor, and any creditor concurring in his petition, and any witness produced by 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 fraud or breach of trust; and with reasonable probability, at the time of contract, of being able to pay the same, and that such petitioning 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
- 35 that his proposal to that effect is reasonable, it shall be lawful for such Judge to direct that a meeting of all the creditors of such petitioning 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 order under which it is to be held, shall be given personally to every creditor or left at his last place of abode or business, by or on behalf of such
- 40 petitioning debtor, not less than fourteen days before the same is held.

Judge to examine privately into the matter of such petition.

And if satisfied may order a meeting of the creditors.

Who shall pre-
side 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
certain pro-
portion of the
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
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 10
all persons who were his creditors at the date of his said petition, and who 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 agree-
ment to be
fyled within a
certain time;
debtor protect-
ed from arrest.

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 fyling, and shall from time to time endorse on such certificate the protec-
tion of such debtor from arrest, and such debtor shall be free from arrest 20
at the suit of any person being a creditor at the date of his said petition 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
may be grant-
ed.

Debtor to give
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 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
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 protec-
tion from arrest when going to, remaining in and returning from, his neces-
sary 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 debt-
or to vest in
any trustee
appointed
under such
agreement.

VII. From and after the date of the filing of such resolution and agree-
ment 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 40
resolutions; and without any deed, as fully as if such trustee were an assignee 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
Bankruptcy.

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 the terms of such resolution or agreement as aforesaid. Judge may order payments.

IX. If at any time it shall appear to the said Judge, on the representation of such trustee as aforesaid, or of any two creditors as aforesaid, that 5 such petitioning debtor has not made a true discovery of his estate and effects, or has not duly accounted for any subsequently acquired property, (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. Debtor may be called up and examined on oath in certain cases

X. If any difficulty shall arise in the execution of such resolution or agreement, it shall be lawful for the said Judge to cause a special meeting 15 of the creditors of such petitioning debtor to be assembled, and the resolution of the majority of the creditors at such meeting, to confirm, alter or annul the whole or any part of the said original resolution or agreement, shall be as valid as if it had been part of such original resolution or agreement: Provided however, that if one-third in number and value of the 20 creditors of such petitioning debtor, do not attend such meeting in manner aforesaid, the resolution thereof shall not be valid unless the same be approved and confirmed by the said Judge. How the agreement may be altered or annulled if difficulties arise in executing it. Proviso.

XI. So soon as the said resolution or agreement shall have been carried into effect, and the creditors of the said petitioning debtor shall have been 25 satisfied according to the terms of the same, the said Judge shall cause a meeting of the said creditors to be had before him, and on being satisfied 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 always, that it shall be lawful for such trustee, or the said petitioning debtor, to receive for his services in the execution of his said trust, such sum of money as the majority of the said creditors in number and value at such last mentioned meeting shall appoint. When and how the trustee shall be discharged from his trust. Proviso. Remuneration of Trustee &c.

XII. At or after such last mentioned meeting, the said Judge shall give 35 to the said petitioning debtor a certificate under the hand of the said Judge, and the seal of the said Court, of the fying of such petition, of the making of the said resolution or agreement, and that the same has been fully carried into effect; and such certificate shall from thenceforth 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. Final discharge how and when granted. Its effect.

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

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