

## CAP. VII.

*An act touching orders for bankrupts.*

**F**ORASMUCH as notwithstanding the statute made against bankrupts in the thirty-fourth year of the reign of our late sovereign lord King Henry the Eighth, those kind of persons have and do still increase into great and excessive numbers, and are like more to do, if some better provision be not made for the repression of them, and for a plain declaration to be made and set forth, who is and ought to be taken and deemed for a bankrupt: (2) therefore be it enacted and established by the authority of this present parliament, That if any merchant or other person, using or exercising the trade of merchandize by way of bargaining, exchange, rechange, bartry, chevifance, or otherwise, in gross or by retail, (3) or seeking his or her trade of living by buying and selling, (4) and being subject born of this realm, or of any the Queen's dominions, or denizen, (5) sithence the first day of this present parliament hath, or at any time hereafter shall depart the realm; (6) or begin to keep his or her house or houses, or otherwise to absent him or herself; (7) or take sanctuary; (8) or suffer him or herself willingly to be arrested for any debt or other thing, not grown or due for money delivered, ware sold, or any other just or lawful cause, or good consideration or purposes, (9) hath or will suffer him or herself to be outlawed, or yield him or herself to prison, or depart from his or her dwelling-house or houses, (10) to the intent or purpose to defraud or hinder any of his or her creditors, being also a subject-born as is aforesaid, of the just debt or duty of such creditor or creditors, shall be reputed, deemed and taken for a bankrupt.

II. And be it enacted by the authority aforesaid, That the lord chancellor of *England*, or lord keeper of the great seal of *England*, for the time being, upon every complaint made to him in writing, against any such person or persons being bankrupt as is before defined, shall have full power and authority by commission under the great seal of *England*, to name, assign and appoint such wise and honest discreet persons as to him shall seem good: (2) who or the most part of them, by virtue of this act and of such commission, shall have full power and authority to take by their discretions such order and direction with the body and bodies of such person wheresoever he or she may be had, either in his or her house or houses, sanctuary or elsewhere, as well by imprisonment of his or her body or bodies; (3) as also with all his or her lands, tenements, hereditaments, as well copy or customary hold as freehold, which he or she shall have in his or her own right before he or she became bankrupt; (4) and also with all such lands, tenements and hereditaments, as such person shall have purchased, or obtained for money or other recompence, jointly with his wife, children or child, to the only use of such offender or offenders (5) or of or for such use, interest, right or title as such offender or offenders then shall have in the same, which he or she may lawfully depart withal;

Who is a bankrupt, how and by whom his body, lands and goods shall be ordered for payment of the creditors.

34 & 35 H. 8. c. 4.

4 Inst. 277.

Cro. Eliz. 13.

1 Bulstr. 134.

Who shall be said a bankrupt.

1 Jac. 1. c. 15.

21 Jac. 1. c. 19.

5 Geo. 2. c. 30.

The lord chancellor may grant a commission to take order for bankrupts bodies, lands and goods.

The authority of the commissioners,

2 Bulst. 26.

236, &c.

The commis-  
sioners may  
sell bankrupts  
lands, goods,  
&c.  
March 36.

Against what  
persons the  
commissioners  
sale of a bank-  
rupt's lands,  
goods, &c.  
shall be avail-  
able.  
2 Co. 25.  
Cro. Car. 149.  
Hob. 287.

Vendees of  
copyhold lands  
shall com-  
pound with the  
lord of the  
manor for  
their fines.

The commis-  
sioners shall  
declare to the  
bankrupt how

withal; (6) or with any person or persons of trust to any secret use of such offender or offenders; (7) and also with his or her money, goods, chattels, wares, merchandises and debts, where-soever they may be found or known; (8) and cause the said lands, tenements, fees, annuities, offices, goods, chattels, wares, merchandises and debts to be searched, viewed, rented and appraised to the best value they may; (9) and by deed indented, inrolled in one of the Queen's majesty's courts of record, to make sale of the said lands, tenements and hereditaments, and of all deeds, writings and evidences touching only the same, belong- ing to such offender or offenders, debtor or debtors; and also of all fees, annuities, offices, goods and chattels; (10) or other- wise to order the same for true satisfaction and payment of the said creditors; that is to say, to every of the said creditors a por- tion, rate and rate like, according to the quantity of his or their debts: (11) and that every direction, order, bargain, sale and other things done by the said persons so authorised as is afore- said, in form aforesaid, shall be good and effectual in the law, to all intents, constructions and purposes, against the said of- fender or offenders, debtor or debtors, his or their wife or wives, heir or heirs, child and children, and such person and persons as by such joint purchase with the said offender or offenders as is aforesaid have or shall have any estate or interest in the pre- mises; (12) and against all other person or persons claiming by, from or under such offender or offenders, debtor or debtors, by any act or acts had, made or done after any such person shall become bankrupt as is aforesaid; (13) and also against the lords of the manors, whereof the said copyhold or customary lands been holden, their heirs, successors and assigns, and every of them.

III. Provided always, and be it enacted by the authority a- fore said, That all and every person or persons, to whom any such sale of copyhold or customary lands or tenements shall be made, shall before such time as they or any of them shall enter or take any profit of the same lands or tenements, agree and compound with the lords of the manors of whom the same shall be holden, for such fines or incomes as heretofore hath been most usual and accustomed to be yielded or paid therefore: (2) and that upon every such agreement or composition, the said lords for the time being, at the next court to be holden at or for the said manors, shall not only grant unto the said vendee or vendees upon request, the same copy or customary lands or te- nements by copy of court-roll of the same manors for such estate or interest as to them shall be so sold, and reserving the ancient rents, customs and services, but also in the same court admit them tenants of the same copy or customary lands, as other co- pyholders of the same manors have been wont to be admitted, and to receive their fealty accordingly.

IV. Provided always, and be it enacted by the authority a- fore said, That such of the said commissioners as shall put the said commission in execution, shall upon lawful request to them made



made by the said bankrupts, not only make a true declaration they have bestowed his lands and goods to the same bankrupt, of the employing and bestowing of their said lands, tenements, offices, fees, goods, chattels and debts so paid and satisfied to their said creditors, but also make payment of the overplus of the same, if any such shall be, to the said bankrupts, their executors, administrators or assigns.

V. And be it further enacted by authority aforesaid, That The remedy if after any such act or offence committed, and complaint there- where goods or debts of bankrupts be in the hands of others. of made to the said commissioners so to be appointed as is aforesaid, or the more part of them, by any party grieved as is aforesaid, concerning the premisses, knowing, supposing or suspecting any of the goods, chattels, wares, merchandises or debts of such offender or offenders, debtor or debtors, to be in the custody, use, occupying, keeping or possession of any person or persons, or any person or persons to be indebted to any such offender or offenders, do make relation thereof to the said commissioners so to be appointed or the more part of them; that then the said commissioners, or the most part of them, shall by virtue hereof and of the said commission have full power and authority to send for and call before them by such process, ways or means as they shall think convenient by their discretions, all and every such person and persons so known, suspected or supposed to have any such goods, chattels, wares, merchandises or debts in his or their custody, use, occupation, keeping or possession, or supposed or suspected to be indebted to such offender or offenders; (2) and upon their appearance to examine them and every of them, as well by their oaths as otherwise, by such ways and means as the said commissioners or the more part of them by their discretions shall think meet and convenient, for and upon the specialty, certainty, true declaration and knowledge of all and singular such goods, chattels, wares, merchandises and debts of any such offender or offenders, as be supposed or suspected to be in his or their custody, use, occupation or possession, and all such debts as by them or any of them shall be supposed or suspected to be owing to any such offender or offenders.

VI. And if any such person or persons upon such examination do not disclose and plainly declare, and shew the whole truth of such things as he or they shall be examined of concerning the premisses to his knowledge, or do deny to swear; then every such person or persons so denying to swear, or being examined do not declare the plain and whole truth concerning the premisses, upon due proof thereof to be made before the said commissioners, or the more part of them so to be appointed as is aforesaid, by witness, examination or otherwise, as to the said commissioners or the more part of them shall seem sufficient in that behalf, shall lose and forfeit double the value of all such goods, chattels, wares, merchandises and debts by them or any of them so concealed, and not wholly and plainly declared and shewed: (2) which forfeiture shall be levied by the said commissioners or the more part of them, of the lands, tenements, hereditaments, goods and chattels of such person so denying

The penalty of such as be examined that will not disclose the truth, or refuse to swear.

Farther provision relating hereto.

1 Jac. 1. c. 15. s. 10.

How the forfeiture shall be recovered and employed.

nying to swear, or not disclosing the whole truth as is aforesaid, by such ways and means, and in such manner and form, as is before limited and appointed for the principal offender or offenders, debtor or debtors; (3) and the same forfeiture or forfeitures to be distributed or employed to and for the satisfaction and payment of the debts of the said creditor or creditors, in such like manner, rate and form, as is before declared concerning the ordering of the lands and tenements, offices, fees, goods and chattels of such offender or offenders, debtor or debtors, as is aforesaid.

A remedy against them who detain the goods of bankrupts.

VII. And be it further enacted, That if at any time before or after that any such person or persons departeth the realm, or shall keep his or their house or houses, or otherwise absent him or themselves, or take sanctuary, or suffer him or themselves to be arrested, outlawed, or yield his or their bodies to prison as is aforesaid, any person or persons do fraudulently by covin or collusion, claim, demand, recover, possess or detain any debts, duties, goods, chattels, lands or tenements, by writing, trust or otherwise, which were or shall be due, belonging or appertaining to any such offender or offenders, other than such as he or they can and do prove to be due by right and conscience in form aforesaid for money paid, wares delivered, or other just consideration or cause reasonable, to the just value thereof, before the said commissioners so to be appointed, or the more part of them, as is aforesaid, and the same to proceed *bona fide*, without fraud or covin: That then every such person or persons so craftily demanding, claiming, having, possessing or detaining any such debt, duty or other thing as is aforesaid, shall forfeit and lose double as much as he or they shall so claim, demand, detain or possess; which said forfeiture shall be levied, recovered and employed in manner and form as is afore rehearsed.

How the forfeitures shall be bestowed after the bankrupt's debts be paid.

VIII. Provided also, and be it enacted by the authority aforesaid, That if it shall fortune the creditors of any such bankrupt as is aforesaid, to be satisfied and paid off their debts and duties of or with the proper lands, tenements, goods, chattels and debts of the said bankrupts, or of or with the same and some part of the forfeitures of the said double values to be forfeited as is aforesaid, and that there shall remain an overplus of the said forfeitures of the said double values; that then the one moiety of the said overplus of the said forfeitures of the double values so remaining shall be by the said commissioners so executing the said commission, within convenient time after the levying thereof, paid unto the Queen's majesty, her heirs and successors; and the other moiety thereof shall be by the said commissioners employed and distributed to and amongst the poor within the hospitals in every city, town or county, where any such bankrupt shall happen to be; any thing in this act to the contrary thereof notwithstanding.

A remedy against him who withdraweth

IX. And be it further enacted by authority aforesaid, That if any such person or persons which is or shall be indebted, do of purpose withdraw him or themselves out of or from his or their usual



usual mansion house or houses; that then upon complaint thereof made to the said commissioners, having authority as is aforesaid, the same commissioners or the more part of them shall by virtue and authority of this present act have full power and authority to award five proclamations to be made in the Queen's name, upon five sundry market-days, in such places near the place where such bankrupt hath most commonly dwelled or made his abode, commanding him or them by the same proclamation in the Queen's name, to return with all convenient speed, and to yield his or their body before the said commissioners having authority as is aforesaid, or one of them, at such time and place as by the said proclamation shall be appointed: (2) and if the said person do not according to such proclamation, repair and yield his or their body as is aforesaid, that then the body of all and every such offender or offenders shall be adjudged, taken and deemed, to all intents and purposes, out of the Queen's protection: (3) and that also every person and persons that shall willingly and wittingly help to hide or convey, or shall willingly and wittingly receive, detain or keep secretly, any person or persons so demanded by proclamation, as is aforesaid, shall suffer such pains by imprisonment of his or their bodies, or pay such fine to our sovereign lady the Queen's majesty, her heirs and successors, as to the said lord chancellor or lord keeper of the great seal (being informed thereof by the commissioners so to be appointed, as is aforesaid, or the more part of them) shall seem meet and convenient for their said offence or offences.

himself from his dwelling-place.

The penalty of a bankrupt not yielding himself after proclamation, and of such as do hide or receive him. F. N. B. 232.

X. Provided always, and be it further enacted, That if the creditors of any such offender or offenders, debtor or debtors, which so do depart the realm, keep his or their house or houses, or otherwise absent or withdraw him or themselves into places unknown, or take sanctuary, or will suffer him or themselves to be arrested or outlawed, or yield his or their bodies into prison purposely and for the causes aforesaid, be not fully satisfied, or otherwise contented for their debts and duties, by the ways and means before specified and declared: that then the said creditor or creditors, and every of them, shall and may have their remedy for the recovery and levying of the residue of their said debts or duties whereof they shall not be fully satisfied, paid or otherwise contented in form aforesaid, against the said offender or offenders, in like manner and form as they should and might have had before the making of this act: (2) and that the said creditor or creditors, and every of them, shall be only barred and excluded by virtue of this act, of and for every such part and portion of the said debts and duties as shall be paid, satisfied, distributed or delivered unto him or them, by order of the said persons, as is aforesaid, and of no more portion or parcel thereof; any thing herein specified that may be taken or construed to the contrary notwithstanding.

A remedy for the creditor if he be not satisfied for his whole debt.

XI. Provided always, and be it also enacted by the authority aforesaid, That if any person or persons which is or shall be published and declared to be a bankrupt by virtue of this act, shall at any time after purchase any lands, tenements, hereditaments,

Lands, &c. extendable which he purchased, or do descend

to a bank-  
rupt.  
Cro. Car. 568.

free or copy, offices, fees, goods or chattels : (2) Or that any lands, tenements, hereditaments, free or copy, offices, fees, goods or chattels, shall descend, revert or by any means come to any such person or persons, being bankrupts as is aforesaid, before such time as their debts due to their creditors shall be fully satisfied and paid, or otherwise agreed for ; (3) that then the said lands, tenements, hereditaments, as well free as copy, offices, fees, goods and chattels, shall by virtue of this act, by the said commissioners to be appointed, as is aforesaid, or the more part of them, be bargained, sold, extended, delivered and used for and towards the payment of the said creditors, in such like manner and form as other the lands, tenements, hereditaments, free or copy, offices, fees, goods and chattels of the said bankrupts, which they had when they were declared first to be bankrupts, should or might have been bargained, sold, disposed or used by virtue of this act.

Lands convey-  
ed away be-  
fore the party  
become bank-  
rupt.  
Moor 594. pl.  
805.  
2 Co. 26.

XII. Provided always, That this act shall not extend to any lands, tenements or hereditaments, free or copyhold, which heretofore have been assured by any such bankrupt, or hereafter shall be assured by any bankrupt before he become bankrupt : So always that such assurance be made *bona fide*, and not to the use of the bankrupt himself only, or of his heirs : (2) And that the parties to whose use such assurance hath or shall be made, be not at or before the making of such assurance, privy or consenting to the fraudulent purpose of any such bankrupt, to deceive his creditors. 21 Jac. 1. c. 19.

## CAP VIII.

### *An act against usury.*

The statute of  
37 H. 8. c. 9.  
revived, and  
the statute of  
5 & 6 Ed. 6.  
c. 20. repealed;  
both which  
were made a-  
gainst usury,  
&c.

3 Inst. 151.  
2 Roll. 240.

**W**HEREAS in the parliament holden the seven and thirtieth year of the reign of our late sovereign lord King Henry the Eighth, of famous memory, there was then made and established one good act for the reformation of usury : By which act the vice of usury was well repressed, and especially the corrupt chivisance and bargaining by way of sale of wares, and shifts of interest : And where since that time by one other act made in the fifth and sixth years of the reign of our late sovereign lord King Edward the Sixth, the said former act was repealed, and new provisoes for repressing of usury devised and enacted : Which said latter act hath not done so much good as was hoped it should, but rather the said vice of usury, and especially by way of sale of wares and shifts of interest, hath much more exceedingly abounded, to the utter undoing of many gentlemen, merchants, occupiers and others, and to the importable hurt of the common wealth, (2) as well for that in the said later act there is no provision against such corrupt shifts and sales of wares, as also for that there is no difference of pain, forfeiture or punishment upon the greater or lesser exactions and oppressions by reason of loans upon usury :

The statute of  
5 & 6 Ed. 6.  
c. 20. repealed,  
and the stat. of  
37 H. 8. c. 9.  
revived.

II. Be it therefore enacted, That the said later statute made in the fifth and sixth years of the reign of King Edward the Sixth, and every branch and article of the same, from and after the five and twentieth day of June next coming, shall be utterly abrogated,