

# CONTEMPTS IN EQUITY ACT 1841

ACT No. XXV. OF 1841

(Rep., Act 8 of 1868)

[18<sup>th</sup> October, 1841.]

*Passed by the Right Hon'ble the Governor General of India in Council, on the 18th of October, 1841.*

AN Act for amending the Law concerning imprisonment for contempts of decrees or orders made by Courts of Equity.

I. It is hereby enacted, that when any person shall have been directed by any Decree or Order in Equity of Her Majesty's Supreme Courts to execute any deed or instrument, or make a surrender or transfer, or to levy a fine, and shall have refused or neglected to execute, make or transfer or levy the same, and shall have been committed to prison under process for such contempt or being confined in prison for any other cause shall have been charged with or detained under process for such contempt and shall remain in such prison, the Court may upon motion or petition and upon affidavit that such person has after the expiration of two calendar months from the time of his being committed under or charged with or detained under such process again refused to execute such deed or instrument, or make such surrender or transfer or levy such fine, order or appoint, the Master or Registrar of the Said Courts to execute such deed or other instrument, or to make such surrender or transfer for and in the name of persons, and to levy such fine in his name and to do all acts necessary to give validity and operation to such fine, and to lead or declare the uses thereof, and the execution of the said deed or other instrument, and the surrender or transfer made the execution of the said deed or other instrument, and the surrender or transfer made by the said Master or Registrar, and the fine levied by him, shall in all respects have the same force and validity as if the same had been executed, or made or levied by the party himself, and within ten days after the execution or making of any such deed or other instrument, or surrender or transfer, or levying such fine, notice thereof shall be given by the adverse Solicitor to the party in whose name the same is executed or made, and such party as soon as the deed or other instrument or surrender, transfer or fine, shall be executed, made or levied, shall be considered as having cleared his contempt, except as far as regards the payment of the costs of the contempt, and shall be entitled to be discharged therefrom under any of the provisions of this Act applicable to his case, and the Court shall make such order as shall be just touching the payment of the cost of or attending any such deed, surrender, instrument, transfer or fine.

II. And it is hereby enacted, that where a person shall be committed for a contempt in not delivering to any person or persons, or depositing in Court or elsewhere, as by any order in Equity of Her Majesty's Supreme Courts may be directed, books, papers or any other articles or things, the Sheriff under any writ of sequestration shall have the same power, to seize and take such books, papers, writings or other articles, or things being in the custody or power of the person against whom the sequestration issues, as they would have over his own property, and thereupon such articles or things so seized and taken shall be dealt with by the Court as shall be just, and after such seizure it shall be lawful for the Court upon the application of the prisoner, or any other person in the cause or matter to make such order for the discharge of the prisoner upon such terms as to the Court shall seem proper.

III. And it is hereby enacted, that the discharge of any prisoner adjudicated upon under the authority of an Act passed in the 9<sup>th</sup> G. 4 C. 73, intitule "an Act to provide for the Relief of Insolvent Debtors in the East Indies until the 1<sup>st</sup> day of March 1833," last continued by an Act passed in the 3 and 4 Vic. C. 80, shall and may extend to all process in Equity issuing from Her Majesty's Supreme Courts for any contempt of such Court for non-payment of money, or of costs, charges of expenses in any such Court, and that in such case the said discharge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same and 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 prisoners for the purpose of the recovery of the same, and that all persons as to whose demands, for any such costs, money, or expences, 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 benefits of all the provisions made for creditors by the said last mentioned Act, subject, nevertheless, to such ascertaining of the said demands as may be had by taxation, or otherwise, and to such examination thereof as is in the said last mentioned Act, provided in respect of all claim to a dividend of such Insolvent's Estate and Effects.

IV. And be it further enacted, that in all cases of contempt, where any person or persons are, or is, or shall, at any time hereafter be in prison under or by reason of any commitment or attachment in Equity directed by or issued out of Her Majesty's Supreme Courts, such Court shall (upon the application of the person or persons against whom such commitment or attachment hath been directed or issued,) have the power if it shall so think fit, to discharge such person or person from their, his, or her contempt, except as to the costs thereof, for which costs they, he, or she shall remain in custody, and such costs shall be deemed within the provisions of the last preceding Section of this Act-and they, he, or she shall be discharged therefrom, and from the process of contempts in like manner as in the last preceding Section of this Act provided for in cases of process of contempt for non-payment of money or costs. Provided that this Act shall not weaken any of the other power by this Act given, and that nothing herein contained shall alter or affect the operation of the said Acts for the Relief of Insolvent Debtors.

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