

# MAINE STATE LEGISLATURE

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*Charles F. Rice*

DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1840.

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AUGUSTA:

WM. R. SMITH & CO., PRINTERS TO THE STATE.

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1840.

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**TWENTIETH LEGISLATURE.**

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**NO. 2.**

**SENATE.**

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**A N A C T**

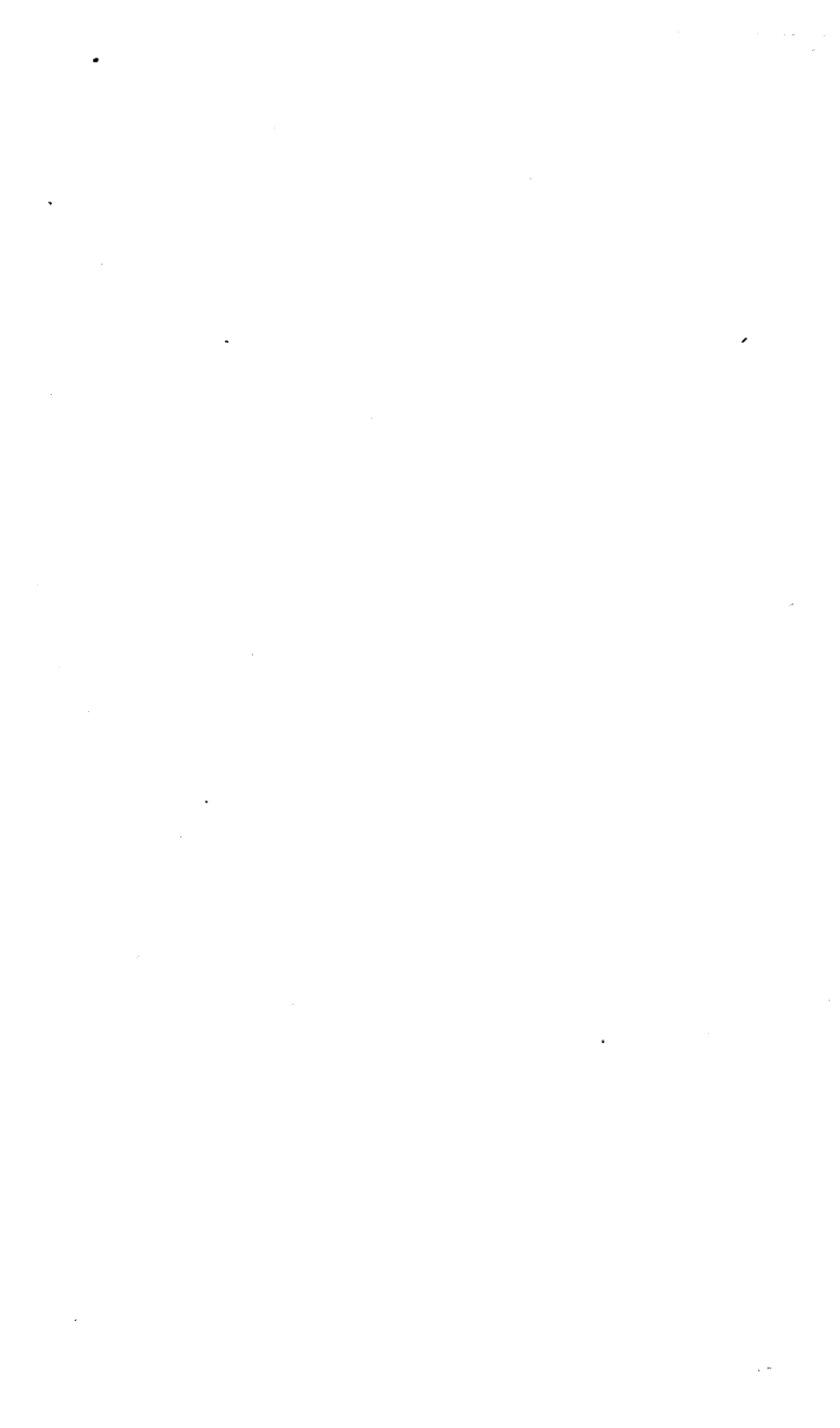
FOR THE RELIEF OF

**INSOLVENT DEBTORS.**

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[SMITH & ROBINSON,.....Printers to the State.]



# REPORT.

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*To the Honorable the Senate and House of Representatives  
in Legislature assembled.*

PURSUANT to an order of the two branches of the Legislature, passed on the 18th day of March last, "that the Board of Commissioners, appointed to Revise the Laws of this State, be directed to prepare a Bill for the relief of Insolvent Debtors, and for the more equal distribution of their effects, and report the same to the next Legislature, on the first week of its session," the board have had the subject under their careful consideration, and have agreed on the following

## REPORT.

Experience seems to prove the necessity of some Legislation upon the subject in question, both as a protection against the success of fraudulent arrangements respecting property, having in view the concealment of it from the reach and knowledge of creditors, and also as a matter of importance to guard, as far as possible, the morals of the community against dangers to which they are exposed.

An Insolvent Law is designed to befriend both the creditor and the debtor; to secure the rights of the former as far as they can be secured, by a prudent and economical management of the property of the debtor, and, for

this purpose, placing it beyond his control, in the hands of assignees, so that it may be divided among all his creditors in proportion to their respective demands, instead of having it conveyed to preferred creditors whose aid may have tempted the insolvent to go on in dangerous and ruinous experiments. An Insolvent Law is also designed and adapted to promote the real interests of the debtor, enabling him, by pursuing a fair, honest and honorable course, to obtain relief from embarrassment and a discharge from all future liability on such contracts as are embraced in the Bill which accompanies this Report : and after all the debtor's property has been surrendered, still the debtor is allowed, while proceedings are pending, a certain sum out of such surrendered property, for the support of himself and family.

With these views the Board of Commissioners have examined and compared the Insolvent Laws of New York and Massachusetts, and their provisions, and they have given the preference to that of Massachusetts, as being more in accordance, than that of New York, with principles and proceedings with which the people of this State have been long acquainted.

It is distinctly understood, that in the Commonwealth the Insolvent Law is in useful and acceptable operation ; and in addition to the reasons above stated they would observe that the intimate commercial connection between this State and Massachusetts seems to render it advisable that the Insolvent Laws of both should be so framed as that their principles and provisions should resemble each other as far as circumstances may render it convenient. The Commissioners therefore have made the Massachusetts Act, the basis of the reported bill, with variances in the following particulars :

*First.* In Massachusetts each Judge of Probate and Master in Chancery is constituted a Commissioner, but as in this State there are no Masters in Chancery, appointed under its authority, except in particular cases the reported Bill vests the appointment of Commissioner and Messenger in Judges of Probate.

*Second.* One Commissioner only is contemplated, being less expensive and one seems sufficient, as his decisions are not final. Some few other changes have been made.

With these remarks the Commissioners respectfully submit the Bill which accompanies this Report, to the disposal of the Legislature.

PRENTISS MELLEN,  
SAM'L E. SMITH,  
EBEN'R EVERETT.

JANUARY 1, 1840.





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## STATE OF MAINE.

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IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND FORTY.

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AN ACT for the relief of insolvent Debtors, and for the more equal distribution of their effects.

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SEC. 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled,* That any person residing in this State who shall desire to take the benefit of this act, may apply by petition to the Judge of Probate for the County in which he resides, or in which he has his usual place of business, setting forth his inability to pay all his debts, and his willingness to assign all his estate and effects for the benefit of his creditors, and praying that such proceedings may be had in the premises, as in this act is provided.

SEC. 2. If it shall appear to the satisfaction of the said Judge that the debts due from such applicant amount to not less than five hundred dollars, the said Judge shall forthwith, by warrant under his hand and seal, appoint some suitable person as messenger to take possession of all the estate, real and personal, of such debtor, excepting such as now are or may be

8 hereafter exempted from attachment, and of all deeds,  
9 books of account and papers of such debtor, and to  
10 keep the same safely, until the appointment of assignees,  
11 as hereinafter mentioned.

SEC. 3. And said Judge of Probate shall also on such  
2 application, as soon as may be, afterwards, appoint  
3 some suitable person to be Commissioner of Insol-  
4 vency, who shall have and exercise the powers and  
5 perform the duties hereinafter mentioned, after he shall  
6 have been duly sworn before such Judge, or some Jus-  
7 tice of the Peace, whose certificate of the oath shall  
8 be deposited with the Judge of Probate within thirty  
9 days after his appointment.

SEC. 4. The said messenger shall forthwith give  
2 public notice, by advertisement, in such newspaper as  
3 shall be designated by the Judge of Probate, and also  
4 such other notice to any persons interested as he may  
5 prescribe, which notice shall state that a warrant has  
6 been issued against the estate of such debtor, and that  
7 the payment of any debts, and the delivery of any  
8 property belonging to such debtor, to him or for his  
9 use, and the transfer of any property by him, are for-  
10 bidden by law.

SEC. 5. The messenger, in the same notice, shall  
2 call a meeting of the creditors of such debtor to prove  
3 their debts before such person as is or may be  
4 appointed Commissioner, and to choose one or more

5 assignees of his estate ; which meeting shall be held  
6 at some convenient time and place to be designated  
7 in the said warrant, the time to be not less than ten  
8 days nor more than thirty days after the issuing of said  
9 warrant.

SEC. 6. The said Commissioner shall attend the said  
2 meeting, and shall allow all the debts that shall be  
3 duly proved before him, and shall cause a list thereof  
4 to be made, which shall be certified by himself, and  
5 shall be recorded and filed with the other papers and  
6 proceedings in the case.

SEC. 7. The creditors shall then proceed in the  
2 presence of the Commissioner, to choose one or more  
3 assignees of the estate of the debtor the choice to be  
4 made by the greater part in value of the creditors,  
5 according to the debts then proved : *Provided*, That  
6 when the number of creditors shall amount to five and  
7 less than ten the votes of two at least, shall be neces-  
8 sary for a choice, and when the number of creditors  
9 shall amount to ten or more, the votes of three at least  
10 shall be necessary for a choice ; and in case no choice  
11 shall be made by the creditors at the meeting, the  
12 said Commissioner shall appoint one or more assignees ;  
13 and in case any assignee, so chosen, shall fail to  
14 express in writing, his acceptance of the trust, within  
15 four days, the Commissioner may fill any vacancy  
16 thereby occasioned.

SECT. 8. All debts due and payable from such debtor  
2 at the time of the first publication of notice of the  
3 issuing of said warrant, may be proved and allowed  
4 against the estate assigned as aforesaid, and all debts  
5 then absolutely due, although not payable till after-  
6 wards, may be proved and allowed, as if payable pre-  
7 sently with a discount or rebate, when no interest is  
8 payable in the contract, until the time when the debt  
9 would become payable : and all monies due from such  
10 debtor on any bottomry or respondentia bond, or on  
11 any policy of insurance, may be proved and allowed  
12 in case the contingency should happen before the  
13 making of the first dividend, in like manner as if the  
14 same had happened before the first publication of said  
15 notice.

SECT. 9. In case the debtor shall be liable for any  
2 debt, in consequence of having made or endorsed any  
3 bill of exchange or promissory note before the first  
4 publication of the said notice or in consequence of  
5 the payment by any party to any bill or note, of the  
6 whole or any part of the money secured thereby or of  
7 the payment of any sum by any surety of the debtor  
8 in any contract whatever, although such payment in  
9 either case, shall be made after the first publication,  
10 provided it be made before the making of the first  
11 dividend, such debt shall be considered for the purpo-  
12 ses of this act, as contracted at the time when such  
13 bill or note or other contract shall have been so made

14 or endorsed : and may be proved and allowed, as if  
15 the, said debt had been due and payable by the said  
16 debtor before the said first publication.

SECT. 10. All demands against the debtor for or on  
2 account of any goods or chattels wrongfully obtained,  
3 taken or withheld by him may be proved and allowed  
4 as debts to the amount of the worth of the property  
5 thus taken ; and no debts other than those above men-  
6 tioned shall be proved or allowed against the estate  
7 assigned as aforesaid.

SECT. 11. When it shall appear that there has been  
2 mutual credit given by the debtor and any other per-  
3 son, or that there are mutual debts between them, the  
4 account between them shall be stated, and one debt  
5 shall be set off against the other, and the balance of  
6 such account and no more, shall be allowed or paid  
7 on either side respectively.

SECT. 12. When any creditor shall have any mort-  
2 gage or pledge of any real or personal estate of the  
3 debtor, or any lien thereon for securing the payment  
4 of any debt claimed by him, the property so held as  
5 security shall, if he require it, be sold, and the pro-  
6 ceeds shall be applied towards the payment of his  
7 debt, and he shall be admitted as a creditor for the  
8 residue thereof, if any ; and such sale shall be made  
9 in such manner as the Commissioner shall order ; and  
10 the creditor and the assignee respectively shall execute

11 all such deeds and papers as may be necessary for  
12 effecting the conveyance.

SECT. 13. If the creditor shall not require such sale,  
2 and join in effecting the conveyance as aforesaid, he  
3 may release and deliver up to the assignees the prem-  
4 ises so held as security, and shall thereupon be admit-  
5 ted as a creditor for the whole of his said debt ; but if  
6 the said property shall not be either sold or released  
7 and delivered as aforesaid, the creditor shall not be  
8 allowed to prove any part of his said debt.

SECT. 14. The said Commissioner may, at his discre-  
2 tion, require proof on oath of any of the debts claimed  
3 before him, and may examine the party claiming the  
4 same, or the agent who shall present the claims in his  
5 behalf, and also the debtor, on their respective oaths  
6 or affirmations, on all matters relating to such claim.

SECT. 15. Any supposed creditor, whose claim, in  
2 whole or in part shall be rejected by the Commis-  
3 sioner, may appeal from his decision, and have the  
4 same determined at law ; and if the debt demanded  
5 shall exceed the sum of two hundred dollars, such  
6 appeal may be made to, and heard and determined in  
7 the Supreme Judicial Court ; otherwise, in the District  
8 Court ; and the appeal shall be entered in the proper  
9 Court which shall be first held, in and for the County  
10 in which the proceedings are had, next after the expir-  
11 ation of fourteen days from the time of claiming the  
12 appeal.

SECT. 16. But no such appeal shall be allowed unless  
2 the same be claimed and notice thereof be given to  
3 said Commissioner or his Clerk, to be entered on the  
4 record of the proceedings, and also to the assignees,  
5 or one of them, within ten days after the decision of  
6 the Commissioner appealed from. And upon entering  
7 such appeal, the creditor shall file in Court a state-  
8 ment in writing of his claim, setting forth the same  
9 substantially, as in a declaration for the same cause of  
10 action at law, and the assignees shall plead or answer  
11 to the same in like manner; and the like proceedings  
12 shall be had upon the joining of any issue in law or  
13 fact, or upon default or nonsuit of either party, as in  
14 an action for the same cause in the usual form, except-  
15 ing only that no execution shall be awarded against  
16 the assignees for the amount of the debt, if any, re-  
17 covered by the creditor.

SECT. 17. If the assignees shall be dissatisfied with  
2 the allowance of any claim by the Commissioner, they  
3 may appeal from his decision, and have such claim  
4 determined by law—and such appeal shall be claimed,  
5 notified, heard and determined in like manner, and the  
6 like proceedings shall be had thereon in all respects,  
7 as are before prescribed in the case of an appeal by a  
8 creditor; and in both cases the final judgment of the  
9 Court appealed to, shall be conclusive in the premises;  
10 provided, however, that any party aggrieved by the  
11 judgment of the District Court, upon any matter of

12 law, arising in the trial of such appeal, may except  
13 thereto in like manner as in civil actions, commenced  
14 in common form, and decided in the District Court;  
15 and like proceedings shall be had by the Supreme  
16 Judicial Court thereon; except that the judgment of  
17 said Court shall be duly certified to the Commissioner,  
18 and shall decide the amount, if any, due to the plain-  
19 tiff; and the list of debts shall be altered, if neces-  
20 sary, so as to conform thereto.

SECT. 18. The party prevailing in such suit shall be  
2 entitled to costs, to be taxed and recovered as in com-  
3 mon actions, against the adverse party; and such costs,  
4 if recovered against the assignees, shall be allowed to  
5 them out of the estate of the debtor.

SECT. 19. The said Commissioner shall, by an instru-  
2 ment under his hand and seal, assign and convey to the  
3 persons chosen or appointed assignees as aforesaid, all  
4 the estate, real and personal, of the debtor, excepting  
5 such as then may by law be exempted from attachment,  
6 with his books, papers and deeds relating thereto:  
7 which assignment shall vest in the assignees all the  
8 property of the debtor, both real and personal, which  
9 he could by any way or means have lawfully sold,  
10 assigned or conveyed, or which might have been taken  
11 in execution on any judgment against him, at the time  
12 of the first publication of the notice of issuing the  
13 above mentioned warrant, although the same may then  
14 be attached on mesne process as the property of the



15 debtor, and such assignment shall be effectual to pass  
16 all the said estate and dissolve any attachment so  
17 made; and the said assignment shall also vest in said  
18 assignees all debts due to the debtor, or to any person  
19 for his use, and all liens and securities therefor, and  
20 all his rights of action for any goods or estate, real or  
21 personal, and all his rights of redeeming any such  
22 goods or estate.

SECT. 20. The assignees shall have power to redeem  
2 all mortgages, conditional contracts, pledges and liens  
3 of or upon any goods or estate of the debtor, or to  
4 sell the same, subject to such mortgage or other  
5 incumbrance.

SECT. 21. The debtor shall likewise, at the expense of  
2 the estate, make and execute all such deeds and writ-  
3 ings, and endorse all such bills, notes and other nego-  
4 tiable paper, and draw all such checks and orders for  
5 monies deposited in banks or elsewhere, and do all  
6 such other lawful acts as the assignees shall at any  
7 time reasonably require, and which may be necessary  
8 or useful for confirming the assignment so made by  
9 the Commissioner, and for enabling the assignees to  
10 demand, recover, and receive all the estate and effects  
11 assigned as aforesaid; and especially such part thereof,  
12 if any, as may be without the State.

SECT. 22. The assignees shall have the like remedy  
2 to recover all the said estate, effects and debts, in their  
3 own names, as the debtor might have had, if no such  
4 assignment had been made.

SECT. 23. If at the time of such assignment, any  
2 action shall be pending in the name of the debtor, for  
3 the recovery of any debt or other thing which might  
4 or ought to pass to the assignees by the said assign-  
5 ment, the court may on suggestion that a process of  
6 insolvency had been instituted, continue the cause for  
7 the assignees to come in and assume the prosecution  
8 of the cause, and the assignees if they require it, shall  
9 be admitted to prosecute such action in their own  
10 names and to the like effect as if the same had been  
11 originally commenced by them as assignees: and no  
12 suit pending in the name of the assignees shall be abated  
13 by death, resignation or removal of any assignee; but  
14 on motion of the remaining or surviving assignee or of  
15 the new assignee, as the case may be, he shall be  
16 admitted to prosecute the suit in like manner and to  
17 the like effect, as if the same had been originally  
18 commenced by him.

SECT. 24. In all suits prosecuted by the assignees,  
2 for any debt, right, demand, title or interest, due or  
3 belonging to the insolvent debtor, the certificate of  
4 the Judge of Probate of the appointment of the Com-  
5 missioner and the assignment made to them by the  
6 Commissioner of Insolvency, shall be conclusive evi-  
7 dence of their authority to sue as such assignees.

SECT. 25. If the debtor shall die after the issuing of  
2 the before mentioned warrant, the proceedings shall,  
3 notwithstanding, be continued and concluded in the

4 like manner and with the same validity and effect as if  
5 he had lived; and in such case the allowance to the  
6 debtor, on the net produce of his estate, if any shall  
7 become due, according to the provision hereinafter  
8 contained; and if the same shall not have been paid  
9 to him in his life time, shall be paid to his executors  
10 or administrators, and shall be disposed of and dis-  
11 tributed in like manner as any other property of which  
12 he may be possessed at the time of his decease.

SECT. 26. The Messenger shall, as soon as may be after  
2 his appointment, demand and receive from the debtor  
3 and from all other persons, all the estate in his or their  
4 possession respectively which is herein before ordered  
5 to be assigned, with all the deeds, books of accounts  
6 and papers of the debtor, relating thereto: and the  
7 debtor shall accordingly deliver to the Messenger such  
8 part of the estate, and other things above specified, as  
9 may be within his possession or power, and shall dis-  
10 close the situation of such parts thereof, as then may  
11 be in the possession of any other person or persons, so  
12 as to enable the Messenger to demand and receive the  
13 same.

SECT. 27. The debtor shall also make a schedule  
2 containing a true and full account of all his creditors,  
3 with the place of residence of each creditor, if known  
4 to the debtor, and the sum due to each of them: and  
5 said schedule shall also set forth the nature of each  
6 debt, whether founded on written security, on account

7 or otherwise, and also the true cause and considera-  
8 tion thereof, and a statement of any existing mort-  
9 gage, pledge or other collateral security given for the  
10 payment of the same ; which schedule he shall produce  
11 at the first meeting of his creditors, to be delivered to  
12 the assignees, who shall then be chosen.

SECT. 28. The debtor shall at all times before the  
2 granting of his certificate, as herein after provided,  
3 upon reasonable notice, attend before the Commis-  
4 sioner and the assignees and submit to an examination  
5 on oath upon all matters relating to the disposal of his  
6 estate and to his trade and business with others, and  
7 his accounts concerning the same and relating to all  
8 debts due or claimed from him, and to all other matters  
9 concerning his estate and the due settlement thereof  
10 according to law. Such examination to be in writing  
11 when so required by the Commissioner, and to be  
12 signed by the debtor and filed with the other papers  
13 and proceedings in the case.

SECT. 29. The debtor shall receive from the assign-  
2 ees one dollar per day for his attendance on the Com-  
3 missioner, or assignees, when required as aforesaid ;  
4 and shall also be allowed out of his estate, for the  
5 necessary support of himself and his family, such sum  
6 not exceeding                      dollars per week for each  
7 member of his family, and for such time, not exceeding  
8 two months, as the Commissioner shall order.

SECT. 30. The Commissioner shall appoint a second  
2 meeting of said creditors to be held at such time, not  
3 more than three months after the date of the warrant  
4 to the Messenger, as the Commissioner shall think fit,  
5 regard being had to the distance at which the creditors  
6 or any of them may reside, at which meeting any  
7 creditors who have not before proved their debts shall  
8 be allowed to prove them; and the debtor shall then  
9 be allowed to amend his schedule of his creditors and  
10 to correct any errors therein. And he shall then make  
11 and subscribe on oath before the said Commissioner,  
12 which shall be certified by him and filed in the case,  
13 in substance as follows :

I ——— ———, do swear that the account of my  
2 creditors, contained in the schedule made and signed  
3 by me, now in the hands of the assignees chosen by  
4 my creditors, is in all respects just and true according  
5 to my best knowledge and belief. And I do further  
6 swear that I have delivered to ——— ———, the  
7 Messenger appointed in that behalf, all my estate,  
8 (excepting such parts thereof as are by law exempt  
9 from attachment and such as have been lawfully and  
10 necessarily expended for the support of myself and  
11 my family) and all my books of account and papers  
12 relating to my said estate, that were in my possession  
13 or power, when the same were demanded of me, by  
14 the said Messenger; that I have delivered to my

15 assignees all such of my estate, books and papers, as  
16 have since come to my possession ; and that if any  
17 other estate, effects or other things, which shall or  
18 ought to be assigned and delivered to said assignees,  
19 shall hereafter come to my knowledge or possession, I  
20 will forthwith disclose or deliver the same to the said  
21 assignees. And I do further swear that there is not  
22 any part of my estate or effects made over or disposed  
23 of in any manner for the future benefit of myself or  
24 my family or in order to defraud my creditors.”

SECT. 31. If it shall then appear to the said Com-  
2 missioner, that the debtor has made a full disclosure  
3 and delivery of all his estate as herein before required,  
4 and that he has in all things conformed himself to the  
5 directions of this Act, the Commissioner shall grant to  
6 him a certificate thereof, and the debtor shall there-  
7 upon be absolutely and wholly discharged from all his  
8 debts which shall be at any time actually proved  
9 against his estate assigned as aforesaid ; and from all  
10 debts which are proveable under this Act, and which  
11 are founded on any contract made by him after this  
12 Act shall go into operation, if made in this State or to  
13 be performed within the same, and from all debts  
14 which are proveable as aforesaid and which are  
15 founded on any contract made by him after this Act  
16 shall go into operation and due to any persons who  
17 shall be resident within this State at the time of the

18 first publication of the notice of the issuing of the  
 19 warrant mentioned in the second section of this Act ;  
 20 and from all demands for or on account of any goods  
 21 or chattels wrongfully obtained, taken or withheld by  
 22 the debtor as mentioned in the tenth section of this  
 23 Act ; and the said debtor shall also be forever dis-  
 24 charged and exempted from arrest and imprisonment  
 25 in any suit or on any proceeding for, or on account of,  
 26 any debt or demand whatever, which might have been  
 27 proved against his estate as aforesaid.

SECT. 32. The certificate above mentioned, to be  
 2 granted by the Commissioner, as provided in the pre-  
 3 ceding section, shall be, in substance as follows :

“STATE OF MAINE.

———, ss.

To all people to whom these Presents shall come, I  
 2 ——— ———, Commissioner of Insolvency (appointed  
 3 by the Judge of Probate in and for said County) on  
 4 the estate of A. B. of ——— (addition) an insolvent  
 5 debtor, send greeting.

6 Whereas it has been made to appear to me that the  
 7 said A. B. of ——— (addition) whose estate has been  
 8 assigned for the benefit of his creditors, according to  
 9 provisions of an Act made and passed on the ———  
 10 day of ——— in the year one thousand eight hundred  
 11 and ———, entitled “an Act for the relief of insol-  
 12 vent debtors and for the more equal distribution of  
 14 their effects,” has made a full disclosure and delivery

15 of all his estate, as in said Act is required, and that he  
16 has in all things conformed himself to the directions  
17 of the said Act: I do accordingly certify that by  
18 force of the Act aforesaid the said A. B. is abso-  
19 lutely and wholly discharged from all his debts, which  
20 have been or shall be proved against his estate, assigned  
21 as aforesaid, and from all debts which are proveable  
22 under the said Act, and which are founded on any  
23 contract made by him within this State or to be per-  
24 formed within the same, and made since the passage  
25 of the Act aforesaid; and from all debts which are  
26 proveable as aforesaid, and which are founded on any  
27 contract, made by him since the passing of said Act,  
28 and due to any persons who were resident within this  
29 State on the —— day —— last, being the day of  
30 the first publication of the notice of the warrant issued  
31 for the seizure of the estate of the said A. B., and  
32 from all demands against him for or on account of any  
33 goods or chattels wrongfully obtained, taken or with-  
34 held by him, according to the Act aforesaid. And I  
35 do further certify that the said A. B. is, by force of  
36 the Act aforesaid, forever discharged and exempted  
37 from arrest or imprisonment, in any suit, or upon any  
38 proceeding for or on account of any debt or demand  
39 whatever, which might have been proved against his  
40 estate assigned as aforesaid. Given under my hand  
41 and seal, on this —— day of —— in the year one  
42 thousand eight hundred and ——.



43 Provided however, that one half, in number or in  
44 value, of the creditors, who shall be creditors respec-  
45 tively for not less than fifty dollars, and who shall have  
46 duly proved their debts, shall, by writing under their  
47 hands, signify to the said Commissioner their dissent  
48 and objection to the granting of such certificate, the  
49 same shall not be granted ; and in such case the debtor  
50 shall not be entitled to his discharge unless he shall  
51 obtain the same upon appeal to the Supreme Judicial  
52 Court, as herein after prescribed ; and provided further,  
53 that no discharge of any debtor under this Act shall  
54 release or discharge any person who may be liable for  
55 the same debt, as a partner, joint contractor, endorser,  
56 surety, or otherwise for or with the debtor.

SECT. 33. In case the Commissioner of Insolvency  
2 shall not see cause to grant such certificate, or if the  
3 granting thereof shall be prevented by the objection  
4 of the creditors as above provided, the debtor may  
5 appeal to the Supreme Judicial Court, which shall be  
6 first held in and for the same County, next after the  
7 expiration of fourteen days from the time of claiming  
8 the appeal ; provided that such appeal be claimed and  
9 notice given thereof to the said Commissioner or his  
10 Clerk, to be entered upon the record of the proceed-  
11 ings, within ten days next after the decision appealed  
12 from.

SECT. 34. The said appeal may be heard and deter-  
2 mined by the Supreme Judicial Court, whether held

3 by one Justice thereof, or by a\* majority of such Jus-  
4 tices : and any of said creditors may appear and object  
5 to the allowance of the certificate : and if, after a full  
6 hearing of the parties, it shall appear to the satisfac-  
7 tion of the Court, that the debtor has made a full  
8 disclosure and delivery of all his estate, as herein  
9 above required, and that he has in all things conformed  
10 himself to the directions of this Act, the Court shall  
11 cause a certificate thereof, in substance like that pre-  
12 scribed in the thirty-second section, to be made under  
13 the seal of the Court and signed by the Clerk thereof,  
14 and to be delivered to said debtor : which certificate  
15 shall have the same effect and force, as herein provided  
16 with regard to the certificate when granted by the said  
17 Commissioner.

SECT. 35. Every debtor so discharged, shall be  
2 allowed five per cent. on the net produce of all his  
3 estate that shall be received by the assignees, in case  
4 such net produce, after such allowance made, shall be  
5 sufficient to pay the creditors, entitled to a dividend,  
6 the amount of fifty per cent. on their debts respect-  
7 ively : and so as the said allowance shall not exceed  
8 in the whole, the sum of five hundred dollars.

SECT. 36. If the debtor shall be in prison, either on  
2 mesne process or on execution, in any suit or proceed-  
3 ing, for or on account of any debt or demand, what-  
4 ever, that is proveable against his estate, at any time  
5 before the granting of his certificate, and when his

6 attendance may be required before the Commissioner  
7 or the assignees, or at any meeting of his creditors, as  
8 provided in this Act, the said Commissioner may, in  
9 his discretion, by warrant under his hand and seal,  
10 require of the prison keeper to produce the debtor  
11 for the purposes aforesaid, at such time and place as  
12 may be specified in the warrant; and in case the  
13 debtor, by reason of imprisonment or sickness, or any  
14 other cause which the Commissioner shall deem suffi-  
15 cient, be unable to attend before the Commissioner or  
16 assignees, or at any meeting of his creditors, as provid-  
17 ed in this Act, then the said Commissioner or some  
18 person to be deputed by him or that purpose, and the  
19 assignees or some person appointed by them, shall  
20 attend the debtor in prison or elsewhere, if he be in  
21 the State, in order to take his examination; and the  
22 examination thus taken shall be of the same force and  
23 effect, as if the debtor had attended in person before  
24 the Commissioner or the assignees, or at the meetings  
25 aforesaid and had there undergone the same examina-  
26 tion.

SECT. 37. If the debtor shall be without the State  
2 and unable to return and give his personal attend-  
3 ance at any of the times and for the purposes in this  
4 Act above specified, and if it shall appear that such  
5 absence was not caused by any wilful default of the  
6 debtor, and if he shall, as soon as may be after the removal  
7 of such impediment, offer to attend and submit to an  
8 examination on oath before the Commissioner and the

9 assignees, as before provided, and shall do and perform  
10 all things by this Act required for the purpose of obtain-  
11 ing his certificate, he shall be entitled thereto in like  
12 manner as if he had done all the same things at the  
13 times respectively first above prescribed.

SECT. 38. If the debtor, at the time of his obtaining  
2 his certificate, be in prison for any cause before men-  
3 tioned in the thirty-sixth section, he shall be discharged  
4 from such imprisonment, upon producing to the prison  
5 keeper his certificate granted pursuant to the provi-  
6 sions of this Act.

SECT. 39. Every certificate of discharge granted  
2 to a debtor under this Act, shall be of no effect, if he  
3 shall have wilfully sworn falsely to any material fact in  
4 the course of the proceedings under this Act; or if he  
5 shall have fraudulently concealed any part of his estate  
6 or effects or any books, writings or deeds relating  
7 thereto: or if, after this Act shall go into operation,  
8 he shall in contemplation of his becoming insolvent,  
9 and of obtaining a discharge under the provisions of  
10 this Act, make any payment or assignment, sale or  
11 transfer, either absolute or conditional, of any part of  
12 his estate, with a view to give a preference to any of  
13 his creditors, or to any person who may be liable as an  
14 endorser or surety for such debtor, or to any other  
15 person who has or may have a claim or demand against  
16 him: provided that this clause shall not apply to any  
17 security given for the performance of any contract,

18 when the agreement for such security is a part of the  
19 original contract, and the security is given at the time  
20 of making such contract ; but this proviso shall not be  
21 construed to include any renewal of a former contract.

SECT. 40. And all such payments, assignments, sales  
2 and transfers shall, as to other creditors of such debtor,  
3 be void in like manner and to the same effect, as con-  
4 veyances made by any debtor to the intent, or whereby  
5 his creditors may be delayed, hindered or defrauded,  
6 are now by law void as to such creditors ; and the  
7 assignees shall and may, by an action in their own  
8 names, recover from the creditor, so preferred, the  
9 money or other things, so paid, assigned, sold or  
10 transferred to him, or the value thereof, for the use of  
11 the other creditors ; and the creditor so preferred, if  
12 he shall have accepted such payment or security,  
13 knowing that the same was given or made by the  
14 debtor, contrary to the provisions of this and the pre-  
15 ceding section, shall not be allowed to prove the debt,  
16 on account of which payment or security was made or  
17 given, nor to receive any dividend therefor out of the  
18 estate assigned by force of this Act.

SECT. 41. The assignees shall forthwith cause the  
2 said assignment to be recorded in the registry of deeds  
3 in each county and registry district in the State, in  
4 which there may be any real estate of the debtor on  
5 which the same may operate : and shall also give  
6 public notice of their appointment in such manner as

7 the Commissioner shall order : and shall demand and  
8 receive from the Messenger, and from all other persons,  
9 all the estate in his or their possession respectively,  
10 which shall have been assigned or intended to be  
11 assigned, according to the provisions of this Act ; and  
12 they shall sell all the said estate real and personal,  
13 which shall come to their hands on such terms as they  
14 shall think most for the interest of the creditors : and  
15 shall keep a regular account of all monies received by  
16 them as assignees, to which every creditor shall at all  
17 reasonable times have free resort.

SECT. 42. The assignees, as soon as may be after  
2 receiving any monies belonging to the estate, shall  
3 deposit the same in some bank, in their names as  
4 assignees or otherwise keep the same distinct and  
5 apart from all other monies in their possession, and  
6 they shall likewise, as far as practicable, keep all the  
7 goods and effects belonging to the estate, separate and  
8 apart from all other goods in their possession, or desig-  
9 nated by certain appropriate marks, so that all such  
10 monies, goods and effects, belonging to the estate may  
11 be easily and clearly distinguished from other like  
12 things in the possession of the assignees, and may not  
13 be exposed or liable to be taken as their property, or  
14 for the payment of their debts ; and they shall be  
15 allowed and retain out of the monies in their hands all  
16 the necessary disbursements made by them in the  
17 discharge of their duty, and a reasonable compensa-

18 tion for their services at the discretion of the Commis-  
19 sioner.

SECT. 43. The assignees shall have power, under the  
2 direction of the Commissioner to submit any contro-  
3 versy that shall arise in the settlement of any demand  
4 against the estate of the debtor, or of debts due to his  
5 estate, to the determination of one or more arbitrators  
6 to be chosen by the assignees and the other party to  
7 such controversy: and the assignees shall likewise  
8 have power under the direction of the Commissioner  
9 to compound and settle any such controversy by  
10 agreement with the other party thereto, as they shall  
11 think proper and most for the interest of the creditors.

SECT. 44. It shall be in the power of the creditors,  
2 by such a vote as is provided in the seventh section of  
3 this Act for the choice of assignees, at a regular meet-  
4 ing called by order of the Commissioner for that  
5 purpose, which meeting may be called by the Com-  
6 missioner at his discretion, and shall be called by him  
7 upon the application of a majority of said creditors,  
8 either in number or value, to remove all or any of the  
9 assignees; and upon such removal or upon any  
10 vacancy by death or otherwise, to choose one or more  
11 assignees in his or their place: and all the estate of  
12 the debtor, not before lawfully disposed of, shall forth-  
13 with as effectually and legally vest in such new  
14 assignee or assignees, as if the original assignment

15 had been made to him or them ; and the former assignee  
16 or assignees, and his or their executors or administra-  
17 tors shall, upon the request and at the expense of the  
18 estate in the hands of the new assignee or assignees,  
19 make and execute to him or them all such deeds, con-  
20 veyances and assurances, and do all such other lawful  
21 acts and things, as may be needful or proper to enable  
22 the new assignee or assignees to demand, recover and  
23 receive all the said estate ; and when only one assignee  
24 shall be originally appointed, or when by death or  
25 otherwise, the number shall be reduced to one, all the  
26 provisions in this Act contained in reference to several  
27 assignees, shall apply to such one.

SECT. 45. The assignees shall, at such time as shall  
2 be appointed by the Commissioner, within six months  
3 from the time of their appointment, call a meeting of  
4 all the creditors of the debtor, by a notice to be pub-  
5 lished in such manner as the Commissioner shall  
6 direct, at which meeting the creditors who have not  
7 before proved their debts shall be allowed to prove the  
8 same : and the assignees shall produce to the Commis-  
9 sioner and the creditors then present fair and just  
10 accounts of all their receipts and payments touching  
11 the estate of the debtor, and shall, if required by the  
12 Commissioner, be examined on oath, as to the truth of  
13 their accounts.

SECT. 46. The Commissioner shall thereupon make  
2 an order in writing, under his hand for a dividend of



3 the said estate and effects, or of such part thereof, as  
4 he shall think fit, among such of the creditors of the  
5 said debtor as shall have proved their debts, in propor-  
6 tion to their respective debts, which order shall be  
7 recorded with the other proceedings in the case : pro-  
8 vided however, that all debts due to the United States  
9 from the debtor, or to any person, who by the laws of  
10 the United States or of this State are or may be entitled  
11 to a priority or preference with respect to such debts,  
12 out of the estate assigned as aforesaid, shall have the  
13 benefit of such priority or preference in like manner as  
14 as if this Act had not been passed.

SECT. 47. If at the time of ordering such dividend,  
2 it shall appear probable, that there are just claims  
3 against the estate, which by reason of the distant resi-  
4 dence of the creditor, or for other sufficient reason,  
5 have not been proved, the Commissioner shall, in  
6 ordering such dividend, leave in the hands of the  
7 assignees a sum sufficient to pay to every such absent  
8 creditor, a proportion equal to what shall be then paid  
9 to the other creditors; which sum shall remain thus  
10 unappropriated in the hands of the assignees until the  
11 final dividend shall be declared, or until the Commis-  
12 sioner shall order its distribution.

SECT. 48. The said assignees shall, at such time  
2 as shall be appointed by the Commissioner, within  
3 eighteen months after the appointment of the assign-  
4 ess, make a second dividend of the said estate, in case

5 the same was not wholly distributed upon the first  
6 dividend, and shall give notice of a meeting for that  
7 purpose to all the creditors of the debtor in such man-  
8 ner as the Commissioner shall direct ; at which meeting  
9 the creditors, who have not proved their debts, shall be  
10 allowed to prove the same, and the accounts of the  
11 assignees shall then be produced and examined as pro-  
12 vided in the forty-fifth section, and shall be settled by  
13 the Commissioner : and what, upon the balance thereof,  
14 shall appear to be in their hands, shall by a like order  
15 of the Commissioner, be divided among all the credi-  
16 tors, who shall then have proved their debts in pro-  
17 portion to their respective debts : provided, that no  
18 creditor whose debt shall be proved at the time of the  
19 second or any after dividend, shall be allowed to dis-  
20 turb any prior dividend, but he shall be paid so far only  
21 as the funds remaining unappropriated in the hands  
22 of the assignees shall be sufficient therefor.

SECT. 49. If at the time of appointing the meeting  
2 for the second dividend, there shall remain in the  
3 hands of the assignees any outstanding debts, or other  
4 property due or belonging to the estate, which cannot,  
5 in the opinion of the Commissioner, be collected and  
6 received by the assignees without unreasonable or  
7 inconvenient delay, the assignees may, under the direc-  
8 tion of the Commissione, rsell and assign such debts or  
9 other property in such manner as shall be ordered by  
10 the Commissioner.

SECT. 50. Such second dividend shall be final, unless  
2 any suit relating to the estate be then depending or  
3 any part of the estate be outstanding, or unless some  
4 other estate or effects of the said debtor shall after-  
5 wards come to the hands of the assignees, in which  
6 cases another dividend shall be made by order of the  
7 Commissioner in the manner before provided : and  
8 further dividends shall be made in like manner as often  
9 as occasion shall require : and at every regular meet-  
10 ing of the creditors, those who have not before proved  
11 their debts, shall be allowed to prove the same ; and if  
12 after the payment of all debts proved as aforesaid, any  
13 surplus shall remain in the hands of the assignees,  
14 the same shall be paid or reconveyed to, or revert in  
15 the debtor or his legal representatives.

SECT. 51. At the commencement of the proceedings  
2 in each case under this Act, the Commissioner shall  
3 appoint a Clerk, who shall be duly sworn to the faithful  
4 discharge of his duty : and the Clerk shall keep a  
5 record of all the regular meetings of the creditors, and  
6 of all the proceedings at the same, and shall preserve  
7 all papers duly filed in the course of the proceedings,  
8 and perform such other duties appertaining to his office  
9 as shall be prescribed by the Commissioner ; and the  
10 record of the proceedings in each case, with all the  
11 papers filed therein, shall be enclosed together, and at  
12 the termination of the proceedings, shall be deposited

13 in the probate office of the County and be there pre-  
14 served under the care of the Register of Probate.

SECT. 52. The Commissioner may remove the Clerk  
2 for any cause which he may deem sufficient; and upon  
3 such removal, or upon the death, resignation or absence  
4 of the Clerk, may appoint another in his place; and the  
5 certificate of discharge when granted by the Commis-  
6 sioner shall be recorded at full length by the Clerk,  
7 with the other proceedings; and copies of all parts of  
8 the said record, duly certified by the Register of Pro-  
9 bate, shall in all cases be admissible as evidence, *prima*  
10 *facie*, of the facts therein stated and contained.

SECT. 53. The Commissioner shall attend and pre-  
2 side at all meetings of the creditors and shall regulate  
3 the proceedings thereat: and he may adjourn any  
4 meeting from time to time as occasion shall require,  
5 and all things lawfully done at any such adjourned  
6 meeting shall be of like force and effect as if done at  
7 the original meeting; and he shall have power to  
8 administer all oaths that shall be required in the course  
9 of the proceedings; and if any creditor shall reside  
10 more than ten miles from the place of the meeting of  
11 the creditors, and shall be required to make oath in  
12 support of his claim, such oath may be administered  
13 by any justice of the peace or any other person duly  
14 qualified to administer oaths in the place or County  
15 where the debtor may be; and every creditor who has  
16 proved his debt may appear, vote and act at all meet-

17 ings of the creditors, by his Attorney duly constituted,  
18 in like manner as if he were personally present.

SECT. 54. There shall be allowed and paid, out of  
2 the estate and effects of the debtor, the following fees  
3 for the respective services hereinafter mentioned ; that  
4 is to say :

5 To the Judge of Probate for receiving and allowing  
6 the original petition and appointing a Messenger  
7 and issuing a warrant to him and for appointing a  
8 Commissioner of Insolvency and administering to him  
9 the oath of office, the sum of five dollars.

10 To the Commissioner for every day which he may be  
11 employed in the duties of his office, as prescribed in  
12 this Act, the sum of five dollars, to be apportioned  
13 among the several causes, if there be more than one,  
14 on which he may act the same day.

15 To the Clerk for every day's attendance upon or with  
16 the Commissioner, on any business arising in such  
17 causes, a sum not exceeding two dollars per day to be  
18 apportioned as aforesaid ; and such further sum, by  
19 way of compensation for keeping a record of the pro-  
20 ceedings and for other services performed by him, as  
21 the Commissioner shall allow.

22 To the Messenger such compensation as the Com-  
23 missioner shall see fit to allow, regard being had to the  
24 fees allowed to Sheriffs for like services.

25 To every witness the same fees as are or may be  
26 allowed to witnesses in the district court.

SECT. 55. In case of the death, resignation or incapacity of any Commissioner, pending the settlement of the estate of any debtor under the provisions of this Act, it shall be the duty of the Judge of Probate, who appointed him, or of his successor in office, to appoint another Commissioner, who shall be duly sworn, and perform those duties which such former Commissioner might and ought to do, had he continued in office; and if by death, resignation or otherwise, a vacancy happen in the office of Messenger, the Commissioner shall appoint another suitable person in his place, who shall do such duties as the former Messenger might and ought to do, had he remained in office: and no Judge of Probate or Commissioner, shall in any way be the Counsel or Attorney of any party, in relation to any matters connected with the proceedings under any assignments, over which they may have exercised any of the powers in this Act given.

SECT. 56. The Supreme Judicial Court shall have a general superintendence and jurisdiction, as a Court of Chancery, in all causes arising under this Act; and may from time to time, make such general rules and forms as they shall judge necessary to establish and maintain a regular and uniform course of proceedings therein, in all the different Counties: and they shall also have power, in all cases which are not herein otherwise specially provided for, upon the bill, petition or other proper process, of any party aggrieved by

11 any proceedings under this Act, to hear and determine  
12 the case as a Court of Chancery, and to make such  
13 order or decree therein as law and justice may require :  
14 and all the powers granted in and by this section, may  
15 be exercised, either by said Court, at any law term  
16 thereof, or by any one Justice thereof respectively in  
17 like manner in all respects as other Chancery powers  
18 vested in said Court may by law be exercised, except-  
19 ing the power of making general rules and forms as  
20 aforesaid, which latter power shall be exercised only  
21 at a law term of said Court.

SECT. 57. If any person arrested on mesne process  
2 in any civil action for the sum of one hundred dollars  
3 or upwards, founded upon a demand which in its nature  
4 is proveable against the estate of an insolvent debtor,  
5 according to the foregoing provisions of this Act, shall  
6 not give bail or other bond such as is authorized in  
7 such cases under the provisions of the chapter  
8 of the revised statutes thereon, on or before the return  
9 day of such process : or if any person shall be actually  
10 imprisoned for more than thirty days, either upon  
11 mesne process or execution in any civil action founded  
12 on such contract, for the sum of one hundred dollars  
13 or upwards ; or if any person whose goods or estate  
14 are attached on mesne process in any civil action  
15 founded on such contract for the sum of one hundred  
16 dollars or upwards, shall not, on or before the last day  
17 of the term of the Court, to which process is returna-

18 ble, dissolve the attachment in the manner hereinafter  
19 provided : then and in each of the cases aforesaid, any  
20 creditor, having a demand against such person to the  
21 amount of one hundred dollars, for which a suit might  
22 then be brought, and which is in its nature proveable  
23 against the estate of an insolvent debtor, according to  
24 the foregoing provisions of this Act, may, within ninety  
25 days, and not after, apply by petition to the Judge of  
26 Probate for the County in which such debtor resides,  
27 setting forth such facts, and praying that warrant may  
28 issue to take possession of the estate of said debtor,  
29 and that such further proceedings may be had, as are  
30 herein above provided for dividing and distributing the  
31 same among all the creditors of said debtor : and if the  
32 facts set forth in said petition appear to the Judge to  
33 be true, and that the debtor owes not less than five  
34 hundred dollars, he shall forthwith by warrant under  
35 his hand and seal, appoint some suitable person as  
36 Messenger to take possession of all the estate real and  
37 personal of such debtor, in like manner as above pro-  
38 vided in the second section of this Act, with respect  
39 to the warrant therein mentioned ; and also on such  
40 application said Judge shall appoint some suitable  
41 person as Commissioner of Insolvency, as mentioned  
42 in the second and third sections of this chapter, which  
43 Commissioner shall be duly sworn before said Judge of  
44 Probate or some justice of the peace, and a certificate  
45 of the oath left with the Judge of Probate as aforesaid.



SECT. 53. The Messenger shall in addition to the  
2 notice above required in the fourth and fifth sections,  
3 give notice to the debtor of the issuing of said warrant,  
4 in such manner as the Judge of Probate shall direct,  
5 and thereupon the estate of the debtor shall be taken,  
6 disposed of and divided among creditors in like man-  
7 ner as it would or ought to be, by force of a warrant,  
8 issued according to the second section of this Act, and  
9 all the proceedings, after the execution of the warrant  
10 issued by force of the preceding section, shall be con-  
11 ducted in the same manner as in this Act is provided,  
12 in reference to proceedings commenced upon the peti-  
13 tion of the debtor himself.

SECT. 59. Any person whose goods or estate shall be  
2 attached on mesne process in any civil action, may at  
3 any time before final judgment therein, dissolve such  
4 attachment, by giving bond with sufficient sureties, to  
5 be approved by the court in which the action is pend-  
6 ing, or by any justice thereof, or by any Justice of the  
7 Supreme Judicial Court, with condition to pay to the  
8 plaintiff in such action the amount, if any, that he shall  
9 recover therein, within sixty days after the final judg-  
10 ment in such action; and no sureties shall be deemed  
11 sufficient for this purpose, unless they are satisfactory  
12 to the plaintiff in the action, or it shall be made clearly  
13 to appear that each of the sureties, if there are only two,  
14 is worth a sum equal to that for which is laid, or if  
15 there are more than two sureties, that they are all

16 together worth twice the sum, for which the attach-  
17 ment was laid, over and above what will pay all their  
18 debts.

SECT. 60. Where two or more persons who are part-  
2 ners in trade, become insolvent, a warrant may be  
3 issued as provided in this Act, either on the petition of  
4 such partners, or of any one of them, or on the petition  
5 of any creditor of the partners : upon which warrant  
6 all the joint stock and property of the company and  
7 also all the separate property of each of the partners,  
8 shall be taken, excepting such parts thereof as may be  
9 by law exempted from attachment : and all the credit-  
10 ors of the company and the separate creditors of each  
11 partner shall be allowed to prove their debts.

SECT. 61. In such case the assignees shall be chosen  
2 by the creditors of the company and of the individual  
3 partners : the former voting according to the amount  
4 of their debts then proved ; and the latter according to  
5 the amount of their debts then proved, divided by the  
6 number of partners, and they shall keep separate  
7 accounts of the joint stock or property of the company  
8 and of the separate estate of each member thereof ;  
9 and after deducting out of the whole amount received  
10 by the assignees, the whole of the expenses and dis-  
11 bursements paid by them, the net proceeds of the joint  
12 stock shall be appropriated to pay the creditors of the  
13 company, and the net proceeds of the separate estate

14 of each partner shall be appropriated to pay his sepa-  
15 rate creditors.

SECT. 62. If there shall be any balance of the sep-  
2 arate estate of any partner after the payment of his  
3 separate debts, such balance shall be added to the  
4 joint stock, for the payment of the joint creditors, and  
5 if there shall be any balance of the joint stock, after  
6 payment of the joint debts, such balance shall be  
7 divided and appropriated to and among the separate  
8 estates of the several partners, according to their  
9 respective rights and interests therein, and as it would  
10 have been if the partnership had been dissolved with-  
11 out any insolvency; and the sum so appropriated to  
12 the separate estate of each partner, shall be applied to  
13 the payment of his separate debts.

SECT. 63. In all such proceedings against partners,  
2 each one of them shall be entitled to the allowance,  
3 before provided, for the maintenance of himself and his  
4 family, and the allowance on the net produce of the  
5 estates, as provided in the thirty-fifth section of this  
6 Act, shall be computed on the joint estate, and also on  
7 the separate estates, as if there had been a separate  
8 warrant against each, *provided*, that neither of the  
9 partners shall receive in the whole more than five  
10 hundred dollars, and the certificate of discharge shall  
11 be granted or refused to each partner, as the same  
12 would or ought to be, if the proceedings had been

13 against him alone, and in all other respects the pro-  
14 ceedings against partners, shall be conducted in like  
15 manner, as if they had been commenced and prose-  
16 cuted against one person alone.

SECT. 64. When the general partners in any limited  
2 partnership, formed agreeably to the principles and  
3 provisions of chapter                    become insolvent, the  
4 same proceedings may be had in all respects as are  
5 provided in the four preceding sections, except that the  
6 separate estate and separate debts of the special part-  
7 ner in such limited partnership, shall not be subject to  
8 any of the proceedings against such partnerships.

SECT. 65. If any insolvent shall refuse or unreason-  
2 ably neglect to execute any instrument which he shall  
3 be lawfully required by virtue of this act, to execute,  
4 pursuant to an order of the Commissioner, or shall dis-  
5 obey an order of the Commissioner in relation to the  
6 settlement of his estate, pursuant to this Act, the Com-  
7 missioner shall issue his warrant to any civil officer,  
8 commanding him to arrest and commit such debtor to  
9 the common jail, in the county where such debtor may  
10 be found, or where he dwelt at the time of his insol-  
11 vency; and the said debtor shall remain in close custody  
12 until he shall obey such order of the Commissioner,  
13 unless he shall be released therefrom by the Supreme  
14 Judicial Court, or some Justice thereof, pursuant to  
15 law.

SECT. 66. Any assignee appointed by virtue of this  
2 Act, who shall refuse or unreasonably neglect to exe-  
3 cute any instrument, which he shall be lawfully  
4 required by the Commissioner to execute, or shall dis-  
5 obey the lawful order of such Commissioner in the  
6 premises, shall be liable to be committed to and  
7 detained in the common jail of the county where he  
8 may be found, or he dwelt, at the time when he was  
9 appointed assignee, until he shall obey the said order,  
10 unless he shall be released therefrom in the manner  
11 aforesaid.

SECT. 67. Any person who shall have performed any  
2 labor as an apprentice in the service of any insolvent,  
3 shall be entitled to receive from the assignee of such  
4 insolvent, the full amount of the wages due him for  
5 such labor, not exceeding the sum of twenty-five dol-  
6 lars; *Provided*, That such labor shall have been per-  
7 formed within sixty-five days before the insolvency of  
8 his employer; and such debts shall be deemed to be  
9 preferred debts, next after debts due the United States  
10 and to this State.

SECT. 68. All the provisions of law inconsistent with  
2 the provisions of this act, are hereby repealed, saving  
3 all rights which have accrued to any person by virtue  
4 of the same, which shall be judged and decided upon  
5 in the same manner as if this Act had never been  
6 passed.

**STATE OF MAINE.**

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IN SENATE, January 3, 1840.

ORDERED, That 2000 copies of the foregoing Bill of  
Insolvency, be printed for the use of the Legislature.

[Extract from the Journal.]

Attest :                    WILLIAM TRAFTON, *Secretary.*