

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSIONS

A. D. 1851--2.

Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1852.

THIRTY-FIRST LEGISLATURE.

No. 50.]

[HOUSE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
FIFTY-TWO.

AN ACT for the relief of Insolvent Debtors.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECTION 1. Whenever any person shall present to
2 the judge of Probate, in and for the county in which
3 he resides, a true and accurate schedule of all debts
4 due from him, and of all his assets to pay the same,
5 and the value of each item in said schedule, and shall
6 make oath to the truth thereof, and shall also make
7 oath that he is insolvent and unable to pay his just
8 debts, the said judge shall thereupon issue an order
9 of notice to all persons interested to appear before

10 him and show cause why such person should not be
11 declared to be an insolvent debtor.

SECT. 2. Said notice shall be published and made
2 returnable as nearly as may be in conformity with
3 other probate notices, and if upon return thereof, and
4 after hearing all persons who are interested and may
5 then appear, and fully examining the said debtor,
6 under oath, the said judge shall decree that said
7 debtor is insolvent, and is then entitled to the benefit
8 of this act, then all the estate, of every kind, which
9 said debtor had at the time of filing said schedule,
10 shall be disposed of as nearly as may be according
11 to the provisions of chapter one hundred and nine of
12 the revised statutes of this State, and other acts and
13 parts of acts, which relate to, or are applicable to,
14 the course of probate proceedings on the estates of
15 persons deceased, intestate and insolvent, leaving no
16 widow or children, with this difference, that no appeal
17 shall be made from the probate court, except from
18 the final decree made there; and the reasons of
19 appeal to be filed in the case may embrace every
20 reason going to show that the debtor ought not to be
21 discharged from any one or more of his debts.

SECT. 3. The said judge shall then appoint some
2 suitable, disinterested and responsible person to be
3 assignee of all the said debtor's estate, who shall have
4 all the powers and be subject to all the duties, liabilities
5 and obligations of an administrator on an insol-
6 vent estate, *mutatis mutandis*, and in him shall be
7 vested, by force of said decree, all said debtor's pro-
8 perty and rights of property of every name and nature,
9 and the right to sell the same in such manner as he
10 may think best, without further authority from said
11 judge ; and the said judge shall at the same time
12 appoint two or more suitable persons to be commis-
13 sioners on said debtor's estate, who shall be subject
14 to the same duties and obligations as if the said
15 debtor had died intestate and insolvent, and they had
16 been appointed commissioners on his estate, and all
17 subsequent proceedings in relation to such estate
18 whether it was held by the debtor in severalty, or as
19 copartner or otherwise, shall be conducted in the
20 same manner as if said debtor had died intestate and
21 insolvent at the time when he filed his aforesaid
22 schedule.

SECT. 4. If any person shall dispose of any of his

2 property in contemplation of taking the benefit of
3 this act, or shall be guilty of any falsehood, fraud,
4 concealment or neglect, in relation to his proceed-
5 ings under this act, then he shall not be entitled to a
6 discharge ; but if the said judge, after said commis-
7 sioners have made their final return, and after causing
8 to be issued a suitable notice to all persons interested
9 to appear and show cause why said debtor should not
10 be discharged from his debts, and hearing all their
11 pleas, proofs and allegations, and fully examining said
12 debtor under oath, shall be satisfied that said debtor
13 has not been guilty as aforesaid, and has well and
14 truly complied with all the orders of said judge, and
15 has delivered possession to said assignee of all his
16 property and assets of every kind that could be made
17 available to pay his debts, then the said debtor shall
18 be thereupon fully discharged from all debts and claims
19 against him proved under this act, or which might
20 have been presented for allowance before said com-
21 missioners in case of said debtor's decease as afore-
22 said ; and the said judge shall pass a decree to that
23 effect, and no action shall thereafter be maintained in
24 any court for recovery of said debts or claims included

25 in said discharge, and the property of said debtor
26 shall thereafter be exempt from attachment or levy,
27 and his body from arrest on mesne process, in any
28 suit brought to recover any such debt or claim, and
29 on execution issued on any judgment recovered in
30 any such suit.

SECT. 5. The judge of probate may allow to the
2 insolvent debtor all necessary wearing apparel for him-
3 self and his family, and other specific articles of his
4 personal estate, not exceeding in the whole the sum
5 of three hundred dollars.

SECT. 6. No mortgages or liens upon any property,
2 real or personal, created by contract or operation of
3 law, except by attachment, shall be impaired, but the
4 assignee shall have full authority to redeem and dis-
5 charge the same, if the incumbrance shall be less than
6 the cash value of such property. Neither shall said
7 debtor be released from liability to pay any sum due
8 from him in any fiduciary capacity.

SECT. 7. All costs and expenses incurred in the
2 settlement of the insolvent debtor's estate, shall be
3 deducted from his assets, and if there be not assets
4 sufficient for the purpose, then the whole or the

5 balance of said costs and expenses shall be paid by
6 said insolvent debtor before he shall be entitled to his
7 discharge.

SECT. 3. It shall be the duty of the supreme court
2 of probate, as soon as possible after the passage of
3 this act, to prescribe a table of fees and charges, to
4 be taxed by and paid to the officers of the probate
5 court and other persons, for services under this act,
6 which fees shall be as low as practicable with refer-
7 ence to the nature and character of such services.
8 And the said supreme court is also authorized from
9 time to time, to prescribe and promulgate suitable
10 rules and forms of proceedings, if any such may
11 become necessary, in order to perfect the operation
12 of this act, according to its true spirit and intention.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, April 12, 1852.

ORDERED, That 500 copies of the foregoing bill, be printed for the use of the Legislature.

EDMUND W. FLAGG, *Clerk.*