

# MAINE STATE LEGISLATURE

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# Fifty-Seventh Legislature.

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HOUSE.

No. 4.

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## STATE OF MAINE.

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

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AN ACT in relation to Insolvent Laws of the State of  
Maine.

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

SECTION 1. A court of insolvency is hereby estab-  
2 lished, consisting of three judges who shall be inhabi-  
3 tants of the State of Maine, of sobriety of manners  
4 and learned in law, and one of whom shall be selected  
5 by his associates as the presiding judge. They shall  
6 be appointed and qualified as provided by the consti-  
7 tution, in the case of judges of the supreme judicial  
8 court.

SECT. 2. For the purposes of this act, the state  
2 shall be divided into three districts, denominated the  
3 western, middle and eastern districts. The western

4 district shall comprise the counties of Cumberland,  
5 York, Androscoggin, Oxford and Franklin. The mid-  
6 dle district shall comprise the counties of Kennebec,  
7 Somerset, Knox, Lincoln and Sagadahoc; and the  
8 eastern district shall comprise the counties of Penob-  
9 scot, Waldo, Hancock, Washington, Piscataquis and  
10 Aroostook.

SECT. 3. There shall be provided by the county, in  
2 which each is situated, in the manner now provided by  
3 law, in each of the cities of Portland, Augusta and  
4 Bangor, suitable court rooms, offices and accommoda-  
5 tions for the holding of the courts and the safe-keeping  
6 of its records and papers. A court of insolvency shall  
7 be held by any one, or all three of said judges, within  
8 and for each of said districts, as follows:

9 In the western district, at Portland, on the first  
10 Tuesday of each month, except July and August.

11 In the middle district, at Augusta, on the second  
12 Tuesday of each month, except June and July.

13 In the eastern district, at Bangor, on the third Tues-  
14 day of each month, except August and September.

15 At each of said cities shall be kept the records and  
16 the office of the clerk of the court for the district in  
17 which it is situated.

SECT. 4. Said judges or a majority of them, shall  
2 establish a seal for said court, with a suitable device.

3 All assignments, warrants, orders of notice and proces-  
4 ses issuing from said court, shall be under the seal  
5 thereof, and shall bear the test of one such justices,  
6 and be signed by the clerk, and they shall be executed  
7 and obeyed throughout the state, and shall be served  
8 in any county by any officer or person to whom they  
9 shall be directed. The return of such officer or person  
10 shall state the manner of such service and show proof  
11 thereof. In absence of express direction therein, pro-  
12 cess may be served by reading the same aloud in the  
13 presence and hearing of the person upon whom service  
14 is to be made, or by giving to him in hand, or leaving  
15 at his place of last and usual abode a true and attested  
16 copy thereof.

SECT. 5. Said court shall have original jurisdiction  
2 in all cases of insolvency arising under the provisions  
3 of this act, and of all proceedings thereunder, and  
4 jurisdiction in equity concurrent with the supreme  
5 judicial court in the following cases :

6 1. To set aside any gift, payment, pledge, mortgage,  
7 sale, assignment, transfer or conveyance, made by the  
8 insolvent contrary to, or in fraud of the provisions of  
9 this act, or in fraud of his creditors, and to recover  
10 back the money, goods, chattels, securities, lands or  
11 other property, so conveyed or transferred, or the value  
12 thereof, and to set aside any assignment for the benefit.

13 of any of his creditors, made in violation of the provis-  
14 ions of this act ; and to recover back the property so  
15 assigned or the value thereof.

16 2. To set aside any judgment which the insolvent  
17 has suffered or procured to be recovered against him for  
18 the purpose of preferring a creditor, contrary to the  
19 provisions of this act, or of evading any of the provis-  
20 ions of this act, and to recover back any property levied  
21 on or sums collected under such judgment, when such  
22 levy in collections are made within two months prior  
23 to the commencement of proceedings in insolvency.

24 3. To compel discovery; to restrain by injunction  
25 any disposition of or intermeddling with any property  
26 in which the insolvent had an interest, at the time of  
27 the commencement of proceedings in insolvency;  
28 or respecting which any dispute shall have arisen  
29 between the assignee and any other person, and to  
30 restrain foreclosure by any secured creditor, or a sacri-  
31 fice by him, of the property, whereby he may be  
32 secured.

33 4. And in all other cases where the supreme judicial  
34 court has jurisdiction in equity between other parties so  
35 far as the same shall be applicable to proceedings aris-  
36 ing out of, or resulting from proceedings in insolvency,  
37 and in all cases in equity provided for by this act.

38 And said court shall have the same powers to make

39 and enforce its orders and decrees that said supreme  
40 judicial court now has. Suits at law by and against  
41 an assignee relating to the estate of an insolvent, shall  
42 be brought in the courts now established by law, and  
43 having jurisdiction of other like civil actions. Ques-  
44 tions of law arising upon final hearing in equity shall  
45 be certified to the chief justice by the judge before  
46 whom such hearing is had, and argued and decided in  
47 like manner as provided in section 10 of this act.

SECT. 6. Each judge may keep order in his court,  
2 punish any contempt of his authority, orders and  
3 decrees, and administer oaths, issue commissions to take  
4 testimony, compel the attendance of witnesses and the  
5 giving of testimony, and may appoint such officers to  
6 attend upon the court as are necessary for the trans-  
7 action of its business, and the keeping of order therein,  
8 and may adjourn any court meeting or hearing from  
9 time to time as occasion requires.

SECT. 7. The judge of one district may do all acts  
2 in the place of the judges of any other district. Each  
3 judge may, in vacation, perform all official acts arising  
4 under this act with like effect, as if performed in term  
5 time.

SECT. 8. The judges, or a majority of them may  
2 make rules in writing for legislating and conducting  
3 the business of the courts, and submit the laws to the

4 supreme judicial court for approval, amendment, or  
5 alteration.

SECT. 9. The proceedings in courts of insolvency  
2 shall be deemed matters of record, and the petition, as-  
3 signment and certificate of discharge shall be recorded  
4 in full. The other proceedings need not be recorded at  
5 large, but shall be carefully filed, numbered and kept  
6 in the office of the clerk. Copies of all parts of the  
7 records and papers and of records of prior proceedings  
8 in insolvency deposited in this office, duly certified  
9 by the clerk, shall in all cases be admissible as evi-  
10 dence, the same as the originals would be.

SECT. 10. In all cases of allowance or disallowance  
2 of claims against any estate, in part or in whole, there  
3 shall be an appeal by the claimant, assignee, or any  
4 other creditor of the estate, to the supreme judicial  
5 court next to be holden not less than ten days after  
6 the decision appealed from, within and for any county  
7 in the district, in which the insolvency court from which  
8 such appeal is taken shall be held. Where an appeal  
9 is so taken, notice thereof shall be given to the clerk  
10 of the insolvent court, to be entered on the record of  
11 proceedings within ten days from and after the rendi-  
12 tion of the judgment or decision appealed from, and  
13 notice thereof to the party against whom such decision  
14 is rendered, and such appeal shall be entered on the

15 first day of the session of the appellate court ; when  
16 not so entered, or when the appellant waives his appeal  
17 in writing before the day of entry, proceedings shall  
18 be had in the court of insolvency as if no appeal had  
19 been taken. Such appeal may be heard and determined  
20 by any justice of said supreme judicial court, in term  
21 time or vacation. Upon the application of either party,  
22 such justice may direct issues of fact to be framed, to  
23 be tried by the jury at the term, or the next term  
24 thereafter, to which the appeal is taken. Upon the  
25 hearing of such appeal exceptions shall be to the rul-  
26 ings of such justice in matters of law, which excep-  
27 tions shall be certified to the chief justice of the  
28 supreme judicial court forthwith, and an argument in  
29 writing by the party excepting, shall be sent to said  
30 chief justice, and a copy thereof furnished to the  
31 opposing party, or his attorney, within ten days after  
32 the allowance of the exceptions, and the opposing  
33 party shall in like manner send his argument to said  
34 chief justice within ten days after the argument of the  
35 excepting party is so furnished, and said exceptions  
36 may be considered and decided by the justices of said  
37 supreme judicial court, as soon thereafter as may be,  
38 and their decision certified to the clerk of the court  
39 where the appeal is pending. In case either party  
40 shall not furnish the court with his argument within

41 the time herein prescribed, the exceptions shall be  
42 decided without his argument, unless the time for  
43 argument is enlarged, for good cause, by the justice  
44 allowing the exceptions, which additional time shall  
45 not exceed ten days. The clerk of the appellate court  
46 shall forthwith certify to the clerk of the court of  
47 insolvency all final decisions upon appeal, and upon  
48 request, the fact that any appeal taken has not been  
49 duly entered. The prevailing party on such appeal  
50 shall receive costs, and execution shall be issued there-  
51 for by the court of insolvency.

SECT. 11. In this act the words "assignee," "creditor," and  
2 "debtor," shall include the plural also; the word "messenger"  
3 shall include his assistants.

SECT. 12. There shall be appointed by the judge a suitable  
2 person to be the clerk of the court of insolvency for each dis-  
3 trict, who shall reside in the city where the court is held, and  
4 hold his office for the term of three years from the first day of  
5 January succeeding his appointment. In case of a vacancy in  
6 said office, it shall be supplied by some person appointed there-  
7 for by the judge of the court of insolvency in the district, until  
8 a new clerk shall be appointed and qualified.

SECT. 13. The clerk may administer all oaths required in the  
2 course of proceedings before the court, except the oath pro-  
3 vided by section                    hereof, and in the absence of a judge  
4 may adjourn a court or meeting, and may do all other things  
5 necessary to the discharge of the duties of a clerk of said court.  
6 He shall keep a docket with an alphabetical index of all cases

7 in insolvency, with docket entries of all papers filed and pro-  
8 ceedings had in each case.

SECT. 14. Any inhabitant of this state owing debts contracted  
2 while such inhabitant, may apply by petition in writing to the  
3 judge for the district within which he resides, and has resided  
4 for three months, setting forth his inability to pay all his debts,  
5 and his willingness to assign all his estate and effects for the  
6 benefit of his creditors, and praying that such proceedings may  
7 be had in the premises as are provided in this act.

SECT. 15. If it appears to the satisfaction of the judge that  
2 the debts due from the applicant amount to not less than three  
3 hundred dollars, he shall forthwith issue a warrant under his  
4 hand to the sheriff of the county where the insolvent resides,  
5 or either of his deputies, directing him forthwith as messenger  
6 to take possession of all the estate, real and personal, of the  
7 debtor, except such as may be by law exempt from attachment  
8 and seizure upon executions, and of all his deeds, books of  
9 account and papers, and keep the same safely until the election  
10 or appointment of an assignee, to publish notice in such news-  
11 papers as the warrant specifies, and give such other notice as  
12 the judge shall direct, to all creditors upon the schedule fur-  
13 nished him by the debtor, which notice shall state :

14 1st. That a warrant has issued against the estate of the  
15 debtor.

16 2d. That the payment of any debts, the delivery and trans-  
17 fer of any property by him, are forbidden by law.

18 3d. That a meeting of the creditors of the debtor to prove  
19 their debts and choose one or more assignees of his estate will  
20 be held at a court of insolvency to be holden at a time and

21 place designated in the warrant, not less than ten nor more  
22 than thirty days after the issuing of the same.

SECT. 14. When two or more creditors of a debtor shall make  
2 application under oath, by petition by them signed, to the judge  
3 of the district within which the debtor resides or has a place  
4 of business, setting forth that they believe their aggregate  
5 debts provable under this act amount to more than one-fourth  
6 part of the debts provable against such debtor, and that they  
7 further believe and have reason to believe that said debtor is  
8 insolvent, and that it is for the best interests of all the creditors  
9 that the assets of such debtor shall be divided as provided by  
10 this act, and it shall be satisfactorily made to appear to the  
11 judge that the allegations contained in such application are  
12 true, and that such debtor is insolvent, it shall be the duty of  
13 the judge to issue his warrant and cause such other proceed-  
14 ings to be had as are provided in Section thirteen of this act.

15 Upon the issuing of such warrant the clerk shall cause an  
16 attested copy of such application and warrant to be served upon  
17 the debtor, or such other notice as the judge may order to be  
18 given, who thereupon may appear, and upon his request a hear-  
19 ing shall be had upon such application by the judge who shall  
20 thereupon revoke such warrant, unless the allegations of such  
21 petition are proved.

SECT. 15. One or more creditors owning a claim or claims  
2 provable under this act due or becoming due, and amounting to  
3 the sum of at least one hundred dollars exclusive of interest,  
4 may make application by petition in writing under oath to the  
5 judge of the district within which the debtor resides or has an  
6 established place of business, setting forth any of the following  
7 causes to be substantiated by proofs to the satisfaction of such  
8 judge:

9 1st. That such debtor, within four months next prior to the  
10 making of said application, being insolvent or in contemplation

11 of insolvency, has made any gift, pledge, transfer or payment,  
12 for the purpose of preferring any creditor, or for the purpose  
13 of hindering or delaying the operation of this act.

14 2nd. That such debtor has within four months next prior to  
15 the making of such application, removed, transferred or con-  
16 cealed any of his property or estate for the purpose of prevent-  
17 ing its attachment or seizure upon execution, or for the purpose  
18 of preventing its distribution under the provisions of this act,  
19 or with the intent to defraud, hinder or delay any of his credi-  
20 tors.

21 3rd. That within four months next prior to the making of  
22 such application, such debtor being insolvent or in contempla-  
23 tion of insolvency, has purchased upon credit any goods, wares  
24 or merchandise, such debtor having reasonable cause to believe  
25 at the time of such purchase that he would be unable to pay for  
26 the same at the expiration of such credit.

27 4th. That within four months next prior to the making of  
28 such application, such debtor has permitted or procured the  
29 attachment on mesne process or seizure upon execution, of any  
30 of his property or estate, with the intent thereby to prefer any  
31 of his creditors, or to delay the operation of this act.

32 5th. That the debtor being a trader, merchant, manufac-  
33 turer, banker, broker or miner, and being insolvent, has suffered  
34 an attachment of his real or personal estate, or who has  
35 stopped, suspended and not resumed payment of his commer-  
36 cial paper, or upon demand has refused to pay or is unable to  
37 pay his bills or accounts for goods and merchandise purchased  
38 in the course of his business, for a period of ten days after such  
39 commercial paper, bill or account becomes due and payable.

40 If it shall appear to the judge that the allegations set forth  
41 in the petition are true, he shall issue his warrant the same as  
42 provided in section thirteen of this act. Upon the issuing of  
43 such warrant the clerk shall cause an attested copy of such

44 application and warrant to be served upon the debtor, or such  
45 other notice as the judge may order to be given, who there-  
46 upon may appear, and upon his request, a hearing shall be had  
47 upon such application by the judge, who shall thereupon revoke  
48 such warrant, unless the allegations of said petition are proved.

SECT. 16. When the warrant is issued as provided by this act  
2 the messenger shall proceed forthwith and demand and receive  
3 from the debtor and other persons all the estate of the debtor,  
4 with all deeds, books of accounts and papers relating thereto.  
5 In case such warrant is revoked, such estate, deeds, books and  
6 papers shall be returned to the debtor or his legal representa-  
7 tives.

SECT. 17. Upon demand made by the messenger, the debtor  
2 shall forthwith deliver to him all his estate, all deeds, books of  
3 accounts and papers, and shall also furnish him within five  
4 days, a full schedule of all his creditors with their places of  
5 residence and the sum due to each so far as the same shall be  
6 known to the debtor, together with the consideration of the  
7 indebtedness, and a statement of any existing mortgage, pledge,  
8 or other collateral security given to secure the same, and a full  
9 list of all his assets, with a brief description of all real estate or  
10 interest in real estate which he may own, and the place where  
11 the same is situated.

SECT. 18. Upon the application in writing of any party inter-  
2 ested, the judge, after such notice as he shall direct, may order  
3 the messenger to sell for cash in such manner as he may direct,  
4 any part of the debtor's estate, and collect and receive debts  
5 due such insolvent, and such messenger shall keep a correct  
6 account of the names of the purchasers, the articles sold and  
7 the prices received therefor, and of all debts collected by him.

SECT. 19. Upon the election of an assignee the messenger  
2 shall deliver to him all the property held by him, and cash for  
3 goods sold by him, and received by him from the collection of

4 debts, together with an account of the same, and shall return  
5 to the clerk his warrant with a record of all his doings thereon.

SECT. 20. If the debtor dies after issuing of the warrant, the  
2 proceedings shall be continued and concluded in like manner,  
3 and with like validity and effect as if he had lived. The judge  
4 may make an allowance to the widow or minor children of the  
5 deceased, out of such estate as the judge of probate might do  
6 were no proceedings in insolvency pending.

SECT. 21. When a creditor has a mortgage or pledge of real  
2 or personal estate of the debtor, he cannot vote for assignee  
3 unless he shall file with the clerk a discharge of his security,  
4 and shall prove his claim against the estate as an unsecured  
5 debt. All debts due and payable from the insolvent at the time  
6 of the commencement of proceedings in insolvency, and all  
7 debts then existing but not payable until a future day, a rebate  
8 of interest being made. When no interest is payable by the  
9 terms of the contract may be proved against the estate of the  
10 insolvent, as hereinafter provided, the value of goods or prop-  
11 erty wrongfully converted or withheld by him, with interest,  
12 may be so proved and allowed. Unliquidated damages arising  
13 from breach of contract only, and the value of property so  
14 wrongfully converted may be assessed as the court shall direct,  
15 and the sum so assessed may be so proved. The present values  
16 of contingent debts and liabilities contracted by the insolvent  
17 before the commencement of proceedings, may be ascertained  
18 in such manner as the court shall direct, and the creditor may  
19 be allowed to prove the amount so ascertained. In case the  
20 insolvent is bound as drawer, indorser, surety, bail or guaran-  
21 tee upon any bill, bond, note or other specialty or contract, or  
22 for any debt for another person, but his liability does not be-  
23 come absolute until after the adjudication of insolvency, the  
24 creditor may prove the same at any time after the liability be-  
25 comes fixed and before a final dividend is declared. Any per-



21 Such proof may be made, and said oath may be taken before  
22 the clerk of any court of insolvency, or at the creditor's own  
23 expense, may be proved in like manner before any justice of  
24 the peace or notary public, and such clerk, justice of the peace  
25 or notary public, shall forward such demand and proof to the  
26 clerk of the court of insolvency where the proceedings in  
27 insolvency are pending. Such oath or affidavit shall be taken  
28 as prima facie evidence of the facts therein stated; and in the  
29 absence of further proceedings, shall be sufficient to admit the  
30 claim described therein to be proved if the same is provable  
31 under this act. The assignee or any other persons interested  
32 may at any time before final dividend, file objections in writing  
33 to the allowance of such claim, and thereupon the judge may  
34 upon such notice as he shall direct to the claimant or his attor-  
35 ney, order a hearing upon the same, and thereupon may admit  
36 the claim to be proved or may disallow the same in whole or in  
37 part, and at such hearing the judge may require the examina-  
38 tion under oath of the claimant or other persons, touching said  
39 claims, and all matters connected therewith; whenever the  
40 party to be so examined shall not reside in the district where  
41 such hearing is to be had, such examination may be had before  
42 the judge or clerk of the court of insolvency of the district  
43 where the witness to be examined resides, and such examina-  
44 tion shall be taken upon oral or written interrogatories, as the  
45 case may be. The notice to be given to the person to be ex-  
46 amined shall be at least one day for every twenty miles travel  
47 of the witness to the place of examination. If the claimant or  
48 person making the original proof of debt, after due notice,  
49 shall, without good cause, neglect or refuse to appear and sub-  
50 mit to such examination, the judge may reject such claim with-  
51 out further hearing thereon.

SECT. 23. Any creditor may prove his claim at any time be-  
2 fore the final meeting.

SECT. 24. For the purpose of making the application provided 2 by section , of effecting the composition provided by sec- 3 tion , and of proving claims against an estate of any in- 4 solvent under this act, a creditor who holds security shall be 5 considered a creditor only for the amount of his debt above 6 the value of his security.

7 1. In case of such application, such value shall be made to 8 appear in the first instance by the creditor to the satisfaction 9 of the judge, and be formally determined by him upon the hear- 10 ing upon said application, if any shall be had.

11 2. In case of composition, such value shall be determined 12 by the judge upon application of either the creditor or debtor.

13 3. In case of proof of claims, such value may be determined 14 by agreement between the creditor and assignee, or by the 15 judge upon application of either the creditor or assignee, either 16 by an adjudication thereof, or by decreeing a sale of such secu- 17 rity, in such manner and upon such notice as he may order.

SECT. 25. The judge may postpone the proof of any disputed 2 debt until after an assignee is elected or appointed.

SECT. 26. A person who has accepted any preference, know- 2 ing the debtor was insolvent or in contemplation of insolvency, 3 shall not prove the debt on which the preference was given, 4 nor receive any dividend thereon.

SECT. 27. Any creditor may act at all meetings by his authorized 2 attorney the same as though personally present.

SECT. 28. The creditors shall, at the first meeting, in the 2 presence of the judge, choose one or more assignees of the 3 estate of the debtor; such choice shall be made by three or 4 more in number of the unsecured creditors present at the meet- 5 ing, in person or by attorney, whose debts amount collectively 6 to one-half in amount of the debts proved, and such election 7 shall be subject to the approval of the judge, who may appoint 8 additional assignees or order a new election. If no choice is

9 made by the creditors at said meeting, the judge shall appoint  
10 one or more assignees, and the judge may at any time for good  
11 cause shown, remove any assignee and appoint another in his  
12 place.

SECT. 29. Upon the application in writing of one or more  
2 creditors, representing one-fourth part of the amount of debts  
3 proved, the judge shall require the assignee to give a bond for  
4 the faithful performance of his duties, in such sum as he shall  
5 direct, and with such sureties as he shall approve.

SECT. 30. The judge shall, by an instrument under his hand,  
2 assign and convey to the assignee all the estate, real and per-  
3 sonal, of the debtor, except such as is by law exempt from  
4 attachment, and seizure on execution, together with all deeds,  
5 books of account, and papers relating thereto, which assign-  
6 ment shall be recorded forthwith in the registry of deeds for  
7 the county where the court in which such proceedings in in-  
8 solvency are pending is holden, and in the registry of deeds in  
9 each county in which there may be real estate of the debtor,  
10 and such assignee shall give such public notice of his election  
11 or appointment as the judge shall order; such assignment shall  
12 relate back to the commencement of proceedings in insolvency,  
13 and by operation of law shall vest the title to all the property  
14 and estate of the debtor not exempt by law from attachment  
15 and seizure on execution, in the assignee, although the same is  
16 then attached on mesne process as the property of the debtor,  
17 and such assignment shall dissolve any such attachment made  
18 within four months next preceding the commencement of pro-  
19 ceedings in insolvency, except as hereinafter provided. Such  
20 assignee may sue for and recover by an action at law, or by a  
21 bill in equity, any sums of money paid by the debtor to any  
22 creditor upon any writ, judgment or execution, when such pay-  
23 ment is made within two months prior to the commencement of  
24 the proceedings in insolvency.

25 Whenever any creditor of a debtor, by or against whom pro-  
26 ceedings in insolvency shall be commenced, shall at any time  
27 within four months prior to the commencement of such pro-  
28 ceedings, commence against such debtor any suit at law or in  
29 equity, for the recovery of any debt or claim against such  
30 debtor, and upon such suit the good effects or estate of the  
31 debtor shall be seized or attached, the assignee of such debtor  
32 when chosen or appointed, may be admitted to prosecute such  
33 suit to final judgment or decree, and may in his own name levy  
34 upon or sell the property, effects or estate so attached, in the  
35 same manner as the creditor might have done had no proceed-  
36 ings in insolvency been commenced; and such attachment and  
37 the proceeds of the property so attached shall be held for the  
38 benefit of the estate of such insolvent, and when such attach-  
39 ment is made in good faith, the creditor shall be paid out of the  
40 estate the costs and expenses arising from such suit and attach-  
41 ment, and the safe keeping or sale of the property so seized and  
42 attached, and the expenses of any levy made upon the same,  
43 incurred prior to the appearance of such assignee in such suit,  
44 and such creditor shall be allowed to prove his debt or claim  
45 upon which such suit is brought, in the same manner as if a  
46 suit had not been commenced. In case the assignee shall elect  
47 not to appear and prosecute such suit, if it shall appear to the  
48 court that it was commenced in good faith for the benefit of all  
49 the creditors, he shall order the said costs, and expenses in-  
50 curred prior to the assignment of the estate to the assignee, to  
51 be paid out of the estate.

SECT. 31. The assignee shall sell and dispose of all the prop-  
2 erty and estate coming to his hands, and upon petition the  
3 judge may make such order concerning the sale or disposition  
4 of the insolvent estate as he may deem proper, and any assignee  
5 shall have power to maintain in his own name all suits at law  
6 and in equity, for the recovery and preservation of the insol-

7 vent estate, and for the recovery of all dues and claims belong-  
8 ing thereto, whether the same arose prior to the commencement  
9 of proceedings in insolvency, or arise under the provisions of  
10 this act, and shall be admitted to prosecute and defend all suits  
11 relating to said estate, and may with the consent of the judge  
12 settle any demand or controversy by compromise or arbitration,  
13 and sell and assign all uncollected or disputed claims, and the  
14 purchaser may commence or prosecute a suit thereon in his own  
15 name, and the assignee shall not be liable for any costs thereon.

SECT. 32. Whenever upon petition of the assignee it appears  
2 that the title to any portion of the estate which has come to his  
3 possession is in dispute, the judge may, after such notice to the  
4 claimant, his agent, or attorney, as the judge shall deem reason-  
5 able, order the sale thereof in such manner as the judge shall  
6 direct, and the assignee shall hold the funds received therefor  
7 in place of the estate so sold, and the proceeds of the sale shall  
8 be considered the measure of the value of the property in any  
9 suit between the parties in any court. But this provision shall  
10 not prevent the recovery of the property from the possession  
11 of the assignee by an action of replevin commenced at any  
12 time before the judge orders the sale.

SECT. 33. The assignee shall deposit in his name, as assignee,  
2 in such bank as the judge shall approve, all money coming to  
3 his hands belonging to the insolvent estate, and shall account  
4 for all interest received thereon.

SECT. 34. Whenever an assignee shall receive from the estate  
2 assets available to pay a dividend equal to twenty-five per cent.  
3 of the debt proved, exclusive of expenses, he shall declare and  
4 pay such dividend and render an account thereof to the judge.  
5 In all cases of contingent or disputed claims the assignee may  
6 reserve an amount equal to the dividend which would be due  
7 upon such claim if finally allowed, unless otherwise ordered by  
8 the judge; if such disputed or contingent claim shall be finally

9 allowed, such reserved amount shall be paid to the owner of  
10 such claim, otherwise it shall be accounted for when the final  
11 distribution of the estate is made. And for each twenty-five  
12 cent. of assets received a like dividend shall be made. A  
13 final dividend shall be made at such time as the judge shall  
14 direct, and when the same is made the assignee shall exhibit  
15 an account of the full settlement and disposition of the estate  
16 coming to his hands, and of the fees and expenses arising  
17 therefrom, which shall be examined by the judge, and if found  
18 correct, shall be by him approved, and thereupon the assignee  
19 shall be discharge from his trust.

SECT. 35. In making a dividend under the preceding section  
2 the following claims shall first be paid in full in their order :

3 1st. The fees, costs and expenses of suits and proceedings  
4 in insolvency under this act.

5 2nd. All debts and taxes due to the State and the United  
6 States.

7 3rd. Wages due to any operative, clerk, or house servant,  
8 to an amount not exceeding fifty dollars for labor performed  
9 within six months next preceding the issuing of the warrant.

SECT. 36. An assignee may, with the consent of the judge,  
2 resign his trust and be discharged therefrom and from any  
3 personal liability, provided he has acted in good faith. Vacan-  
4 cies, caused by death or otherwise, in the office of assignee,  
5 may be filled by appointment of the judge, or at his discretion  
6 by an election at a meeting called for the purpose by such  
7 notice to all known creditors, as the judge shall direct, and  
8 such assignee shall receive a certificate of his election or ap-  
9 pointment under the hand of the judge, and shall give such  
10 notice thereof as the judge shall direct, and he shall succeed to  
11 all the rights of property, powers, and duties of the assignee  
12 in whose place he is so elected or appointed.

SECT 37. The debtor shall at all times before the granting  
2 of his certificate, upon reasonable notice, attend and submit to  
3 an examination on oath before the judge or some person ap-  
4 pointed by him to take such examination, upon all matters  
5 relating to his insolvency, and upon application of any party  
6 interested the judge may in like manner order the examination  
7 of any other person upon any matters concerning the insolvent  
8 estate, which examination shall be reduced to writing and  
9 signed by the person examined and placed upon the files of the  
10 court.

SECT. 38. The judge shall appoint a second meeting of the  
2 creditors to be held within the district where the proceedings  
3 are pending, at such place by himself or such person as he  
4 shall appoint for that purpose and as he may designate, not  
5 more than three months after the date of the warrant, the  
6 debtor may then amend and correct his schedule of creditors,  
7 and shall take and subscribe an oath before the judge in sub-  
8 stance as follows :

9 I,                   do swear that the account of my assets and  
10 creditors contained in the schedule made and signed by me is  
11 true, according to my best knowledge and belief, and I do  
12 further swear that I have delivered to                   the messenger  
13 all my estate, except such as was by law exempt from attach-  
14 ment, and seized upon execution, and all my books of accounts,  
15 and papers relating to said estate that were within my posses-  
16 sion or power when the same were demanded of me by the  
17 messenger, that I have delivered to my assignee all such of my  
18 estate, books and papers as have since come to my possession,  
19 and will deliver any other estate, books, and papers which  
20 ought to be assigned and delivered to my assignee, and which  
21 shall come to my possession or knowledge, and I do further  
22 swear that there is not any part of my estate or effects made  
23 over, concealed or disposed of in any manner for the future

24 benefit of myself, my family, or any other individual, or in  
25 order to defraud my creditors.

SECT. 39. At any time after the expiration of four months  
2 from the time of issuing the warrant the debtor may apply in  
3 writing to the judge for a discharge from his debts. The judge  
4 shall order notice to be given to the creditors by mail not less  
5 than twenty days before the time of hearing, to appear on a  
6 day appointed for that purpose, and show cause why a dis-  
7 charge should not be granted to the debtor. Any creditor  
8 opposing the discharge may within ten days after his appear-  
9 ance file a specification in writing of the grounds of his opposi-  
10 tion, and a hearing shall be had thereon at such time as the  
11 judge appoints.

SECT. 40. A discharge shall not be granted to a debtor a  
2 second time insolvent, unless the assent in writing of a majority  
3 in number and in value of his known creditors shall first be  
4 filed in the case, to be verified by proof satisfactory to the  
5 judge. And a discharge shall not be granted to a debtor a  
6 third time insolvent, unless the assent in writing of three-  
7 fourths of all his creditors in number and in value shall first be  
8 filed in the case, to be verified in like manner.

SECT. 41. A discharge shall not be granted, or if granted be  
2 valid, if the debtor has sworn falsely, or if he has concealed  
3 any property, books or papers relating to his estate and business,  
4 or if having reasonable cause to believe himself insolvent, or  
5 in contemplation of insolvency he has within four months of  
6 the issuing of the warrant paid or secured directly or indirectly,  
7 in whole or in part, any borrowed money or pre-existing debt,  
8 or any liability of his or for him, or if he has caused his effects  
9 to be attached, or if he has destroyed, altered, mutilated or  
10 falsified any of his books, documents, papers, writings or  
11 securities, or has made or been privy to the making of any false  
12 or fraudulent entry in any book of account or other document,

13 with intent to defraud his creditors, or to give a preference  
14 contrary to the provisions of this act, or has removed, or  
15 allowed to be removed, any property with a like intent, or has  
16 made any fraudulent payment, gift, transfer, conveyance or  
17 assignment of any part of his property, or if having knowledge  
18 that any person has proved a false debt against his estate he  
19 has not disclosed the same to the assignee within thirty days  
20 after such knowledge, or if being a merchant or trader he has  
21 not since the passage of this bill kept a cash-book and other  
22 proper books of account. And the discharge shall be null and  
23 void if the debtor or any person in his behalf shall have procured  
24 the assent of any creditor thereto by any pecuniary considera-  
25 tion or promise of future preference.

SECT. 41 $\frac{1}{4}$ . No debt created by the fraud or embezzlement of  
2 the insolvent, or by his defalcation as a public officer, or while  
3 acting in any fiduciary character, or when the demand arises  
4 from the purchase of goods, wares or merchandise, obtained on  
5 credit when the debtor had reasonable cause to believe that he  
6 would not be able to pay for the same, shall be discharged by  
7 proceedings in insolvency under this act, but such debt may be  
8 proved and the dividend thereon shall be a payment on account  
9 of such debt.

SECT. 41 $\frac{1}{2}$ . No discharge shall release, discharge or affect  
2 any person liable for the same debt for or with the insolvent,  
3 either as partner, joint contractor, indorser, surety or other-  
4 wise.

SECT. 41 $\frac{3}{4}$ . A discharge in insolvency duly granted and valid  
2 shall subject to the limitations of the two preceding sections,  
3 within this state, release the insolvent from all debts, claims,  
4 liabilities and demands, which were or might have been found  
5 against his estate in insolvency, it may be pleaded by a simple  
6 averment that on the day of its date such discharge was  
7 granted to the insolvent, setting forth a copy of such dis-

8 charge, which shall operate as a full and complete bar to all  
9 suits brought on any such debts, claims, or liabilities as were  
10 or might have been proved as aforesaid; the certificate shall  
11 be prima facie evidence in favor of such insolvent, of the fact  
12 and regularity of such discharge. But in all such suits com-  
13 menced within two years after such discharge is obtained, it  
14 should be competent for the plaintiff to prove any fact which  
15 under this act would have prevented the granting such dis-  
16 charge, or would render a discharge invalid if granted, and if  
17 such fact is proved such discharge shall be no bar to such suit.

SECT. 41a. No claim shall be purchased in anticipation of the  
2 insolvency of the debtor, or after the warrant in insolvency  
3 has issued shall be set off against a claim due the estate prior  
4 to such purchase.

SECT. 41 b. No creditor shall commence or maintain any suit  
2 against the insolvent debtor upon any claim or demand which  
3 he has proved against such debtor in insolvency until after a  
4 discharge has been refused such debtor, provided such debtor  
5 shall proceed with reasonable diligence to obtain such dis-  
6 charge, and no debtor, against whom a warrant in insolvency  
7 has been issued shall be liable to arrest on mesne process or  
8 on execution, where the claim was provable in insolvency  
9 during the pendency of the insolvency proceedings unless the  
10 same shall be unreasonably protracted by the fault or neglect  
11 of such debtor.

SECT. 42. If any person being insolvent or in contemplation of  
2 insolvency within four months before the issuing of the war-  
3 rant, with a view to give a preference to any creditor or person  
4 having a claim against him, or who is under any liability for  
5 him, procures or suffers any part of his property to be attached,  
6 sequestered or seized on execution, or makes any payment,  
7 pledge, assignment, transfer or conveyance of any part of his  
8 property, either directly or indirectly, absolutely or condition-

9 ally, the person receiving such payment, pledge, assignment,  
10 transfer or conveyance, or to be benefitted thereby, or by such  
11 attachment, having reasonable cause to believe such person in-  
12 solvent or in contemplation of insolvency, and that such pay-  
13 ment, pledge, assignment or conveyance made in fraud of the  
14 laws relating to insolvency, the same shall be void, and the  
15 assignee may recover the property or the value of it from the  
16 person so receiving it or so to be benefitted, and if such sale,  
17 assignment, transfer or conveyance is not made in the usual  
18 and ordinary course of business of the debtor, that fact shall  
19 be prima facie evidence that such sale, assignment, transfer or  
20 conveyance was intended as such preference in violation of the  
21 provisions of this act, but nothing in this section or act shall  
22 be construed to invalidate any loan of actual value or the secu-  
23 rity therefor made in good faith upon a security taken in good  
24 faith on the occasion of making such loan.

SECT. 43. The debtor shall be allowed out of his estate for his  
2 services, attendance, and for the necessary support of himself  
3 and his family, such sum not exceeding one dollar per day for  
4 himself, and three dollars per week for each member of his  
5 family, and for such time not exceeding three months, as the  
6 judge may order.

SECT. 44. If a debtor, after notice of the filing of a petition  
2 by or against him, sells, removes, secretes or conceals, any  
3 property, money or effects belonging to his estate, or any  
4 books, papers, documents or writings relating thereto, or in  
5 any manner whatever disposes of any part of his estate with a  
6 view to defraud his creditors, or to prevent the same from  
7 coming to the hands of his assignee, except such as may rea-  
8 sonably be expended for the support of himself and family, not  
9 exceeding the amount specified in section , he shall, upon  
10 conviction thereof, be punished by imprisonment in the county  
11 jail not less than six months, nor more than two years, or by

12 fine not less than five hundred nor more than two thousand  
13 dollars.

SECT. 45. If any person knowingly and wilfully aids the debtor  
2 after the issuing of a warrant against him under this act, in  
3 concealing any property, books or papers relating to or belong-  
4 ing to such debtor's estate, with the intent to prevent the same  
5 coming to the hands of the assignee of such debtor, or to defraud  
6 the creditors of such debtor, or shall by himself, his agent, or  
7 attorney, make any fraudulent purchase or fraudulent agree-  
8 ment to purchase of the messenger or assignee having the pos-  
9 session of the debtor's estate, any of the property or estate of  
10 such debtor at a less price than its fair market value, he shall,  
11 upon conviction thereof, be punished by imprisonment in the  
12 county jail not less than six months nor more than two years.

SECT. 46. If any messenger or assignee having possession of  
2 the debtor's estate under a warrant, as provided by this act,  
3 shall knowingly and wilfully suffer any of the property belong-  
4 ing to such estate to be destroyed or wasted, or shall fraudu-  
5 lently sell or cause to be sold or disposed of any of the property  
6 belonging to the estate of the debtor at less than its fair market  
7 value, he shall, upon conviction thereof, be punished by im-  
8 prisonment in the county jail not less than six months nor more  
9 than two years.

SECT. 48. The provisions of this act shall apply to all cases  
2 where two or more persons are doing business within this state  
3 as partners, and where either of such persons reside in this  
4 state, and in such cases the notice required by this act shall be  
5 given to all the known partners residing within the state.  
6 Either partner may file his petition as herein provided, which  
7 shall contain the averment that the partnership of which he is  
8 a member is insolvent, and unable to pay its debts, and that it  
9 is for the best interest of such partnership and its creditors that  
10 its property and estate should be distributed according to the

11 provisions of this act, but no warrant shall issue until such  
12 notice as the judge directs shall be given to the remaining  
13 partners, and upon hearing it shall appear to the satisfaction of  
14 the judge that the allegations contained in the petition are true.  
15 The schedule required by this act shall contain the names of all  
16 creditors of the firm, and the residence of the same so far as  
17 they shall be known, the amount due to each with the consid-  
18 eration thereof, and a statement of any existing mortgage,  
19 pledge, or other collateral security given to secure the same,  
20 and also a like list of the creditors of each individual member  
21 of the firm. Upon issuing the warrant, all the property and  
22 estate of the partnership, and also all the separate estate of  
23 each individual partner, except such as may be by law exempt  
24 from attachment and seizure upon execution, shall come into the  
25 hands and possession of the messenger, shall be returned to the  
26 assignee, and otherwise disposed of as hereinbefore provided,  
27 and all creditors of the partnership, and the separate creditors  
28 of each partner may prove their debts in the manner provided  
29 by this act.

SECT. 49. The assignee shall be chosen by the creditors of the  
2 partnership, and shall also be assignee of the estate of each  
3 separate member of such partnership, and shall keep separate  
4 accounts of the funds of the estate of the partnership and of the  
5 estate of each member thereof, and after deducting out of the  
6 whole amount received by him, the total expenses and disburse-  
7 ments, the net proceeds of the partnership property shall be  
8 appropriated to pay the creditors of such partnership; and the  
9 net proceeds of the separate estate of each partner shall be ap-  
10 propriated to pay his separate creditors. If there is any bal-  
11 ance of the separate estate of a partner after the payment of his  
12 separate debts, it shall be added to the avails of the partnership  
13 property, so far as necessary for the payment of the partner-  
14 ship debts. If there is a balance of the partnership assets re-

15 maining after the payment of the partnership debts, it shall be  
16 divided among the separate estates of the several partners, ac-  
17 cording to their respective rights and interests therein, as it  
18 would have been had the partnership been dissolved without  
19 insolvency, and the sum so appropriated to the separate estate  
20 of each partner shall be applied to the payment of his separate  
21 debts, and in case anything remains it shall be divided among  
22 the several partners, according to their respective interests.

SECT. 50. The certificate of discharge shall be granted or  
2 refused to each partner as it would or ought to be if the pro-  
3 ceedings had been against him alone. In all other respects the  
4 proceedings against partners shall be conducted in the same  
5 manner as against a single person.

SECT. 51. In all proceedings against partners, each shall be  
2 entitled to the same allowance as that provided in section 43  
3 of this act, to continue for such time as the judge may direct,  
4 not exceeding two months.

SECT. 52. The provision of this act shall apply to all corpor-  
2 ations created by the authority of the laws of this state, carry-  
3 ing on manufacturing, trading, mining, building, insurance or  
4 other private business, but not to include corporations engaged  
5 in a business involving public duties and obligations, among  
6 which are railroads, banks, corporations engaged in supplying  
7 cities and towns with gas or water, and other corporations of  
8 like character. And upon the petition of any officer duly au-  
9 thorized by a legal vote of each corporation passed at a legal  
10 meeting called for such purpose, or upon a petition of any  
11 creditor or creditors of such corporation, made and presented  
12 as in this act provided in the case of an individual debtor, and  
13 upon such notice as the judge shall order, a hearing shall be  
14 had upon such petition, and if it shall appear that such corpo-  
15 ration is insolvent, and that such facts exist as would authorize  
16 the judge to issue a warrant against the estate of an individual

17 debtor, such corporation shall be adjudged to be insolvent, and  
18 a warrant shall issue against its property and effects as herein-  
19 before provided; and all the provisions of this act relating to  
20 proceedings subsequent to the issuing of a warrant against the  
21 estate of an individual debtor, shall apply to said corporation  
22 and the disposition of its effects and estate, but no discharge  
23 shall be granted to such corporation, and nothing in this act  
24 shall affect the liability of any stockholder in such corporation  
25 as is now provided by law.

SECT. 53. In all cases of insolvency where the debtor or  
2 debtors' liability exceeds the sum of three hundred dollars, if  
3 the debtor at the first meeting of the creditors, or within sixty  
4 days after the issuing of the warrant herein provided, shall pro-  
5 duce an affidavit by him or them signed and sworn to before  
6 the judge or clerk of the court of insolvency, of the tenor fol-  
7 lowing:

8 I,                    of                    in the county of  
9 do solemnly swear that I have not removed, concealed or se-  
10 creted any money, papers, securities, effects or property, real  
11 or personal, with the intent, purpose or expectation of receiv-  
12 ing, directly or indirectly, any benefit or advantage to myself,  
13 and that I have not changed or falsified any of my books of  
14 account, deeds or papers relating to my estate, and that I have  
15 not sold, pledged, conveyed or transferred any of my property  
16 or estate in anticipation of insolvency, or made any convey-  
17 ance, mortgage, pledge, transfer or payment to any creditor or  
18 any other person, or caused or procured any attachment of my  
19 property for the purpose of preferring any of my creditors; and  
20 that I have not, directly or indirectly, given any creditor or  
21 other person any compensation or promise of reward, except  
22 reasonable counsel fees, for services or influence in effecting a  
23 compromise with my creditors, and that my assets and liabili-

24 ties are correctly stated in the schedule hereunto annexed and  
25 signed by me.

26 And at the same time shall also produce an agreement signed  
27 by a majority in number of his creditors, whose debts shall each  
28 exceed the sum of fifty dollars, and by creditors holding three-  
29 fourths of all his indebtedness, in the form following:

30 We, the undersigned, creditors of \_\_\_\_\_ of  
31 in the county of \_\_\_\_\_, do hereby agree to accept \_\_\_\_\_ per  
32 cent. of our actual net claims against him, the amounts of which  
33 are correctly stated against our respective names, in full dis-  
34 charge of the same. And we further agree that we have not,  
35 directly or indirectly, received any compensation or promise of  
36 future payment, beyond the per cent. herein named.

37 And if, after such notice as the judge shall direct, and hear-  
38 ing thereon, he shall be satisfied that such agreement is signed  
39 by said proportion of the creditors of such debtor, and that  
40 such debtor has either paid or secured, to the creditors signing  
41 the agreement, the percentage therein named, and according  
42 to the terms thereof, and the judge is satisfied that the com-  
43 promise is fair and just, he shall give such debtor, under his  
44 hand and the seal of the court, a full discharge of all his debts  
45 and liabilities contracted prior to the commencement of the  
46 proceedings in insolvency, and named in the schedule annexed  
47 to said affidavit. Such discharge shall not be valid if the sig-  
48 nature of any creditor has been obtained by fraud, or if any  
49 material statement contained in such affidavit or schedule is  
50 false to the knowledge of the debtor making the same, and any  
51 creditor may sue for and recover the balance of his claim or  
52 debt against such debtor. In case the proceedings in insol-  
53 vency are by or against a co-partnership, the affidavit, agree-  
54 ment and certificate shall be varied accordingly, and shall con-  
55 tain the name of the firm and the names of all the members  
56 thereof. Before such certificate shall be granted, the debtor

57 shall pay into the state treasury a sum equal to one-half of the  
58 amount provided to be paid by section , to be reckoned  
59 upon the amount of the whole percentage to be paid under the  
60 agreement. The debtor shall, within sixty days after the dis-  
61 charge is granted, deposit with the clerk of the court where  
62 the proceedings are pending, a sum sufficient to pay all credi-  
63 tors known to him, and the amount of whose debts he can with  
64 reasonable diligence ascertain, the percentage stated in said  
65 agreement; and if he shall fail to make such deposit, the dis-  
66 charge may, upon the petition of any creditor, and upon notice  
67 and hearing thereon, be annulled; and the sums paid upon the  
68 agreement shall be part payment of the debts herein named.

SECT. 54. Any person whose debt or debts do not exceed the  
2 sum of three hundred dollars may at any time assign, convey  
3 and deliver to the clerk of the court of the district within which  
4 he resides all of his real and personal estate, rights and credits  
5 not exempt by law from attachment and seizure upon execu-  
6 tion, together with a schedule of the same signed by such  
7 debtor, and a list of all his creditors with their places of resi-  
8 dence, so far as the same are known to him, and thereupon the  
9 clerk shall, with the approval of the judge, appoint the time  
10 for a hearing thereon, before the judge, or clerk, and shall give  
11 such notice to the creditors of the time and place of such hear-  
12 ing, and examine the debtor under oath concerning his busi-  
13 ness, property and effects and the disposition of the same.  
14 Such examination shall be confined within such limits as the  
15 judge shall direct, and in no case shall such examination be  
16 extended to any matters arising prior to the time of the con-  
17 tracting of the debts owing by such debtor at the time of the  
18 examination. If it shall appear to the judge, or the person  
19 appointed by him to take such examination, that the debtor  
20 has assigned, conveyed and delivered to the register all his  
21 said real and personal estate, rights and credits, and that he

22 has disclosed to the register the names and places of residence  
23 of all creditors known to him, he shall administer to such  
24 debtor the oath prescribed in section , unless he shall have  
25 discovered by such examination such facts as shall render it  
26 inconsistent for the debtor to take such oath, or finds that any  
27 of the statements made by such debtor upon said examination,  
28 are not true.

29 When such debtor has taken and subscribed said oath, the  
30 judge shall give him a certificate thereof under his hand and  
31 thereupon he shall be thereafter released and discharged from  
32 arrest upon mesne process or execution arising from any debt  
33 or debts contracted prior to the taking such oath, and owing to  
34 any creditor named in the schedule.

35 The provisions of this section shall also apply to any person  
36 who has been arrested or committed to jail upon mesne process  
37 or execution, and such debtor shall be taken by the jailer, or  
38 officer having him in charge, before the court for the purposes  
39 specified in this section.

40 After the assignment and conveyance provided by this sec-  
41 tion, the clerk, or some person appointed by the judge, shall  
42 dispose of said debtor's property and effects to the best advan-  
43 tage, keeping and rendering to the judge a strict account of  
44 its disposition and the net proceeds thereof, after reserving  
45 such percentage as the judge shall decide to be reasonable, to  
46 be paid by the clerk into the state treasury, shall be divided  
47 pro rata among the creditors named in the schedule of said  
48 debtor in part satisfaction of their respective debts.

49 The examination herein provided for, shall be in writing, and  
50 shall be signed by the debtor and filed in the office of the  
51 clerk.

SECT. 55. There shall be paid out of the treasury of the state  
2 all expenses attending the sessions of the courts of insolvency  
3 and the transaction of business therein, and all expenses for

4 necessary records, blank forms and stationery, and all expenses  
5 arising from the proceedings in insolvency, and the disposition  
6 of the insolvent estate as provided by this act, including the  
7 fees, services and expenses of the officers of the court, clerk,  
8 messengers, assignees, sheriffs, deputy sheriffs, constables, or  
9 other persons elected or appointed to perform the duties aris-  
10 ing under the provisions of this act, and all costs and expenses  
11 of suits or other proceedings instituted or defended by the  
12 assignee for the benefit of the estate, and all reasonable counsel  
13 fees connected therewith, except as herein otherwise provided.

SECT. 56. All bills for fees, costs and expenses, shall be ex-  
2 amined and approved by the judge before their payment by the  
3 state treasurer, and in all cases where the same are not estab-  
4 lished by law, the judge may in his discretion, revise such bills  
5 and allow so much thereof as he shall deem just and reasonable.  
6 Any party aggrieved may appeal from his decision to the  
7 supreme judicial court for any county in the district in which  
8 the proceedings are pending, and when such appeal is taken,  
9 notice thereof in writing shall be filed with the clerk of the  
10 court for said district within ten days after the decision of the  
11 judge, briefly stating the reason for such appeal. And the  
12 appellant shall, within five days thereafter, enter the appeal in  
13 said supreme judicial court, together with a copy of the decision  
14 from which such appeal is taken, and all bills, schedules and  
15 papers connected therewith. And said appeal may be entered  
16 in said court and heard and decided by any justice thereof in  
17 term time or vacation. The decision of such justice shall be  
18 certified to the clerk of the court from which the appeal arose,  
19 and shall be final.

SECT. 57. Judges and clerks and assistant clerks shall receive  
2 from the treasury of the (or state), annual salaries as  
3 follows :

SECT. 58. No judge or clerk of a court of insolvency shall re-

2 ceive any fee or compensation in addition to his salary for any-  
3 thing done in his official capacity, except in cases otherwise  
4 expressly provided by law, but shall perform all acts and duties  
5 arising under this act without charge. And no judge or clerk  
6 shall act as counsel or attorney in any proceeding in insolvency.

SECT. 59. In each case there shall be allowed and paid the  
2 following fees :

3 1st. For the service of the warrant, two dollars.

4 2d. For actual and necessary travel.

5 3d. For custody of property, publication of notices and other  
6 services, the messenger shall be allowed and paid his actual  
7 expenses and such other compensation as the judge shall  
8 determine reasonable, or as shall be fixed by the rules regu-  
9 lating proceedings in insolvency.

10 4th. The assignee shall be paid out of the state treasury all  
11 expenses materially incurred by him in the execution of his  
12 trust, and shall also be paid on all moneys received and paid  
13 out by him in any case for any sum not exceeding one  
14 thousand dollars five per centum thereon, for any larger sum  
15 not exceeding five thousand dollars two and one-half per  
16 centum, and for any larger sum one per centum on the excess  
17 over five thousand dollars. But in no case shall such percent-  
18 age to be paid such assignee exceed the sum of three thousand  
19 dollars, unless after examination the judge shall order the  
20 payment of a larger sum. If in any case there are not suffi-  
21 cient assets so that such percentage will afford such assignee  
22 a reasonable compensation for his services, the judge may  
23 allow him, beside his actual necessary expenses, such further  
24 compensation as the judge shall deem proper to be paid out  
25 of the state treasury.

SECT. 60. There shall be paid into the state treasury from  
2 the assets of each estate, the sum of one hundred dollars and  
3 ten per centum of the net proceeds of the debtor's estate

4 coming into the hands of the assignee. But in no case shall  
5 such sum exceed five thousand dollars to be paid out of any  
6 one estate.

SECT. 61. The state treasurer shall keep a separate account  
2 of all moneys received and paid out under the provisions of  
3 this act, and shall keep on file at his office his vouchers for  
4 such payments.

STATE OF MAINE.

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IN HOUSE OF REPRESENTATIVES, }  
January 9, 1878. }

Presented by Mr. McLAUGHLIN of Portland, and on his motion  
ordered printed.

ORAMANDAL SMITH, *Clerk.*