

# MAINE STATE LEGISLATURE

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# Sixty-Sixth Legislature.

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HOUSE.

No. 383.

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## STATE OF MAINE.

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

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AN ACT to amend sections twenty-five and fifty-one of  
chapter seventy of the Revised Statutes.

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

Section twenty-five of chapter seventy of the Revised  
2 Statutes is hereby amended by inserting after the word  
3 “may” in the fifty-eighth line, the words ‘within six  
4 months after the filing of the claim and’ so that said sec-  
5 tion as amended shall read as follows:

‘Section 25. All debts due and payable from the debtor  
7 at the time of the filing of the petition by or against him,  
8 and all debts then existing but not payable until a future  
9 day, a rebate of interest being made when no interest is  
10 payable by the terms of the contract, may be proved  
11 against the estate of the insolvent. All demands against

12 the insolvent for or on account of any goods or chattels  
13 wrongfully taken, converted or withheld by him, may be  
14 proved and allowed as debts, to the amount of the value  
15 of the property so taken or withheld, with interest.  
16 When the insolvent is liable for unliquidated damages  
17 arising out of any contract or promise, or on account of  
18 any goods or chattels wrongfully taken, converted or  
19 withheld, the court may cause such damages to be assessed,  
20 in such mode as it deems best, and the sum so assessed  
21 may be proved against the estate. In all cases of con-  
22 tingent debts and contingent liabilities, contracted by the  
23 insolvent, and not herein otherwise provided for, the cred-  
24 itor may make claim therefor, and have his claim allowed  
25 with the right to share in the dividends if the contingency  
26 happens before the order for the final dividend; or he  
27 may at any time apply to the court to have the present  
28 value of the debt or liability ascertained and liquidated,  
29 which shall then be done in such manner as the court  
30 orders, and he may prove for the amount so ascertained.  
31 Any person liable as bail, surety, guarantor, or otherwise,  
32 for the insolvent, who has paid the debt, or any part  
33 thereof, in discharge of the whole, may prove such debt,  
34 or stand in the place of the creditor, if the creditor has  
35 proved the same, although such payments were made after  
36 the proceedings in insolvency were commenced. And  
37 any person so liable for the insolvent, and who has not  
38 paid the whole of such debt, but is still liable for the same  
39 or any part thereof, may, if the creditor fails or omits  
40 upon request to prove such debt, prove the same either  
41 in the name of the creditor or otherwise, as may be pro-  
42 vided by the rules of the court, under section ten, and

43 subject to such regulations and limitations as may be  
44 established by such rules. Where the insolvent is liable  
45 to pay rent or other debt falling due at fixed and stated  
46 periods, the creditor may prove for a proportionate part  
47 thereof up to the time of the insolvency as if the same  
48 fell due from day to day, and not at such fixed and stated  
49 periods. No debts other than those specified in this sec-  
50 tion, shall be proved or allowed against the estate. No  
51 debt shall be proved or allowed unless the creditor or his  
52 authorized attorney makes oath in substance as follows :

“I, \_\_\_\_\_, swear that \_\_\_\_\_, by or against  
54 whom proceedings in insolvency have been instituted, was  
55 and still is justly and truly indebted to me in the sum of  
56 \$ \_\_\_\_\_, that the consideration for said indebtedness  
57 was and is \_\_\_\_\_, that the credit to be given  
58 upon said claim is \$ \_\_\_\_\_, that the only security  
59 which I hold upon said claim is \_\_\_\_\_, and that  
60 I have not, nor has any other person for me, to my  
61 knowledge or belief, received any other security or satis-  
62 faction whatever; and I further swear that said claim was  
63 not procured by me for the purpose of influencing the  
64 proceedings in this case, and that I have not, nor has  
65 any other person to my knowledge or belief, directly or  
66 indirectly entered into any bargain, expressed or implied,  
67 whereby I am to receive any exclusive benefit hereafter,  
68 or whereby my vote for assignee, or my assent to the  
69 debtor’s discharge is or shall be in any way affected or  
70 controlled.”

Such proof may be made, and such oath taken before the  
72 register of any court of insolvency, or at the creditor’s  
73 own expense it may be proved in like manner before any

74 justice of the peace or notary public, and such register,  
75 justice of the peace or notary public shall forward such  
76 demand and prove to the register of the court of insol-  
77 vency where the proceedings are pending. Such oath or  
78 affidavit is *prima facie* evidence of the facts therein  
79 stated. The assignee, or any other person interested,  
80 may within six months after the filing of the claim, and  
81 at any time before final dividend, file objections in writ-  
82 ing to the allowance of such claim, and thereupon the judge  
83 may upon such notice to the claimant or his attorney as he  
84 directs, order a hearing upon the same, and thereupon may  
85 admit the claim to be proved, or may disallow the same, in  
86 whole or in part, and at such hearing the judge may re-  
87 quire the examination under oath of the claimant or  
88 other persons, touching said claims, and all matters con-  
89 nected therewith; whenever the party to be so examined  
90 does not reside in the county where such hearing is to  
91 be had, such examination may be had before the judge or  
92 register of the court of insolvency of the county where  
93 such witness resides, and such examination shall be taken  
94 upon oral or written interrogatories. The notice given  
95 to such witness shall be at least one day for every twenty  
96 miles' travel of the witness to the place of examination.  
97 If the claimant or person making the original proof of  
98 debt, after due notice, without good cause neglects or  
99 refuses to appear and submit to such examination, the  
100 judge may reject such claim without further hearing  
101 thereon, and witnesses are entitled to the usual fees  
102 allowed in probate courts. The assignee, claimant,  
103 creditor or other person interested may appeal from the  
104 decision of the judge allowing or disallowing in whole

105 or in part any debt, claim or demand against the debtor  
106 or his estate, to the supreme judicial court next to be  
107 held within the county where the proceedings in insol-  
108 vency are pending, which appeal shall be taken, heard  
109 and determined, as provided in section twelve. Section  
110 fifty-one of said chapter seventy is hereby amended by  
111 adding to said section the following :

‘No debtor who has received a discharge in insolvency  
113 proceedings, and, or who has been forced into insolvency  
114 by a petition of his creditors shall ever be arrested on  
115 mesne process or any judgment recovered on any claim  
116 or demand which was proved or might have been proved  
117 against his estate’, so that said section, as amended,  
118 shall read as follows :

‘Section 51. No creditor shall commence or maintain  
120 any suit against the insolvent debtor, upon a claim or  
121 demand which he has proved against such debtor in  
122 insolvency, until after a discharge has been refused such  
123 debtor, *provided*, that such debtor proceeds with reason-  
124 able diligence to obtain such discharge ; and no debtor  
125 against whom a warrant in insolvency has been issued  
126 is liable to arrest on mesne process or execution, where  
127 the claim was provable in insolvency during the pen-  
128 dency of the proceedings, unless the same is unreasona-  
129 bly protracted by the fault or neglect of such debtor.

No debtor who has received a discharge in insolvency  
131 proceedings, and, or who has been forced into insolvency  
132 by a petition of his creditors shall ever be arrested on  
133 mesne process or any judgment recovered on any claim  
134 or demand which was proved or might have been proved  
135 against his estate.’







STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
March 22, 1893.

Reported by Mr. HIGGINS of Limerick, from Committee on Judiciary, and ordered printed under joint rules.

W. S. COTTON, *Clerk.*