

MAINE STATE LEGISLATURE

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Sixty-Eighth Legislature.

HOUSE.

No. 317.

STATE OF MAINE.

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

AN ACT to amend chapter seventy of the Revised Statutes,
relating to Insolvency Proceedings.

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

Section 1. Section 14 of chapter 70 of the Revised
2 Statutes, is hereby amended by striking out the word "and"
3 after "assistants" in the last line, and adding to said section
4 the following words: 'Required majority' shall mean a
5 majority in number of creditors, each of whose debts exceed
6 fifty dollars, and of creditors holding three-fourths of all the
7 indebtedness, and 'commencement of proceedings' shall
8 mean the date of the filing of the petition by or against
9 debtor, so that said section, as amended, shall read as
10 follows:

'Section 14. In this chapter the words "assignee," "cred-
12 itor" and "debtor" include the plural; also the word "mes-
13 senger" includes his assistants; the word "sheriff" includes
14 deputy sheriffs; "required majority" shall mean a majority
15 in number of creditors, each of whose debts exceed fifty
16 dollars and of creditors holding three-fourths of all the
17 indebtedness; and "commencement of proceedings" shall
18 mean the date of the filing of the petition by or against the
19 debtor.'

Sect. 2. Section 15 of said chapter, is hereby amended by
2 adding to said section the following words: 'He shall file
3 with his petition a full schedule of all creditors, with their
4 places of residence and the sum due to each, so far as the
5 same is known to the debtor, together with the consideration
6 of the indebtedness and a statement of any existing mort-
7 gage, pledge or other collateral security given to secure the
8 same, and a full list of all his assets, with a brief description
9 of all real estate or interest in real estate owned by him, and
10 the place where the same is situated. And thereupon the
11 judge shall forthwith issue a warrant under his hand to the
12 sheriff of the county, or either of his deputies directing him
13 forthwith as messenger to publish notice in such newspapers
14 as the warrant specifies, and give such other notice as the
15 judge directs to the debtor and all creditors upon the sched-
16 ule furnished by him, of a meeting of the creditors of the
17 debtor to be held at a court of insolvency at a time and place
18 designated in the warrant not less than ten nor more than
19 thirty days after the issuing of the same, which notice shall
20 state:

'I. That an examination of said debtor will be had and that
22 said creditors may elect some suitable person to appear for
23 them in relation thereto.

'II. That a hearing will be had upon the petition of said
25 debtor.

'III. That in case the allegations of such petition are
27 found to be true and proved and that said debtor is insolvent
28 and judgment is determined accordingly, said creditors may
29 prove their claims, and, in case there are assets sufficient
30 to authorize the same, may choose one or more assignees
31 of his estate.

'IV. That the payment of any debts to or by said debtor
33 and the delivery and transfer of any property by him, are
34 forbidden,' so that said section shall read as follows:

'Section 15. Any inhabitant of the State owing debts con-
36 tracted while such inhabitant, may apply by petition to the
37 judge for the county within which he resides, setting forth
38 his inability to pay all his debts and his willingness to assign
39 all his estate and effects not exempt by law from attachment
40 and seizure upon execution, for the benefit of his creditors,
41 and praying that such proceedings may be had in the prem-
42 ises as are provided in this chapter. He shall file with his
43 petition a full schedule of all creditors, with their places of
44 residence and the sum due to each, so far as the same is
45 known to the debtor, together with the consideration of the
46 indebtedness and a statement of any existing mortgage,
47 pledge, or other collateral security given to secure the same,
48 and a full list of all his assets, with a brief description of
49 all real estate or interest in real estate owned by him, and
50 the place where the same is situated. And thereupon the
51 judge shall forthwith issue a warrant under his hand, to the
52 sheriff of the county, or either of his deputies directing him
53 forthwith as messenger to publish notice in such news-
54 papers as the warrant specifies, and give such other notice

55 as the judge directs, to the debtor and all creditors upon the
56 schedule furnished by him, of a meeting of the creditors of
57 the debtor to be held at a court of insolvency, at a time and
58 place designated in the warrant not less than ten nor more
59 than thirty days after the issuing of the same, which notice
60 shall state:

‘I. That an examination of said debtor will be had and that
62 said creditors may elect some suitable person to appear for
63 them in relation thereto.

‘II. That a hearing will be had upon the petition of said
65 debtor.

‘III. That in case the allegations of such petition are
67 found to be true and proved and that said debtor is insol-
68 ent and judgment is determined accordingly, said creditors
69 may prove their claims, and, in case there are assets suffi-
70 cient to authorize the same, may choose one or more
71 assignees of his estate.

‘IV. That the payment of any debts to or by said debtor
73 and the delivery and transfer of any property by him, are
74 forbidden.’

Sect. 3. Section 16 of said chapter, as amended by chapter
2 236 of the Public Laws of 1889, is hereby further amended
3 so as to read as follows:

‘Section 16. At the meeting provided for in the preceding
5 section, the examination shall be as to the liabilities, business
6 affairs and dealings, property and disposition of the same,
7 of said debtor, and to determine whether he is in fact
8 insolvent. The creditors may select a person to conduct
9 the examination, who shall be paid from the debtor’s estate
10 or deposit fee, as assignees are allowed for like services. If
11 it appears to the satisfaction of the judge that the unsecured

12 debts due from the applicant amount to not less than three
13 hundred dollars, and that the allegations in his petition are
14 true and proved, he shall forthwith issue a warrant under
15 his hand to the sheriff of the county, or either of his deputies,
16 directing him forthwith as messenger to take possession of
17 all the estate, real and personal, of the debtor, not exempt
18 from attachment, and of all his deeds, books of account and
19 papers relating to his property and estate, and safely keep
20 the same until the election or appointment and qualification
21 of an assignee. ’

Sect. 4. Section 17 of said chapter, as amended by chapter
2 109 of the Public Laws of 1891, is hereby further amended
3 so as to read as follows:

‘Section 17. When one or more creditors of a debtor
5 makes application under oath, by petition by them signed,
6 to the judge of the county in which the debtor resides, or
7 if a non-resident of the State, to the judge of the county in
8 which said non-resident debtor may have personal property
9 or real estate, or from which he has absconded or removed
10 beyond the State, within six months before the filing of said
11 petition, leaving property or estate in said county, setting
12 forth that they believe that their aggregate debts provable
13 under this chapter, amount to more than one-fourth part of
14 the debts provable against said debtor, and that they further
15 believe, and have reason to believe, that said debtor is insolv-
16 ent, and that it is for the best interests of all the creditors
17 that the assets of such debtor should be divided as provided
18 by this chapter, and it shall be satisfactorily made to appear
19 to the judge that the allegations contained in such applica-
20 tion are true, and that such debtor is insolvent, the judge
21 shall issue his warrant, under his hand, to the sheriff of the

22 county or either of his deputies, directing him forthwith to
23 attach the real and personal estate of the debtor not exempt
24 by law from attachment and seizure on execution, wherever
25 the same may be situated within the State, and forbidding
26 the payment to or by such debtor of any debt, demand or
27 claim, and the sale, transfer, mortgage, pledge, conveyance,
28 or removal by such debtor, his agents or attorneys, of any of
29 his estate, property, rights or credits, and the making of any
30 contracts for the sale or purchase thereof, or relating thereto,
31 until such warrant is revoked by said judge; and further
32 directing him, upon receiving from said debtor the schedule
33 and lists mentioned in section 15, which said debtor shall
34 furnish within five days after demand is made upon him by
35 said messenger, to give notice as provided in said section.
36 And the debtor thereupon may appear, and a hearing shall
37 be had upon such application by the judge, who may there-
38 upon revoke such warrant, unless such allegations are
39 proved. After service of the copy of the application and
40 warrant upon such debtor, or the giving of such other notice
41 provided by this section as the judge may order, and until the
42 revocation of such warrant, any payment of a debt, demand
43 or claim, to or by said debtor, and any sale, transfer, mort-
44 gage, pledge, conveyance, or contract, for the sale or pur-
45 chase of any estate, property, rights or credits, of such debtor,
46 by him, or his agent or attorney, shall be null and void. If
47 upon hearing or default, the judge finds the allegations of
48 such application to be true and proved, and that said debtor
49 is insolvent, he shall issue his additional warrant to said
50 sheriff or either of his deputies, and cause such other pro-
51 ceedings to be had as are provided in the preceding section.

Sect. 5. Section 19 of said chapter, is hereby amended
2 so as to read as follows:

‘Section 19. Upon demand made by the messenger, the
4 debtor shall, within five days, furnish to him a full schedule of
5 all creditors, with their places of residence and the sum due to
6 each, so far as the same is known to the debtor, together
7 with the consideration of the indebtedness and a statement
8 of any existing mortgage, pledge, or other collateral security
9 given to secure the same, and a full list of all his assets, with
10 a brief description of all real estate or interest in real estate
11 owned by him, and the place where the same is situated.
12 He shall, also, upon demand by the messenger, forthwith
13 deliver to him all his estate, and all deeds, books of account
14 and papers relating to his property and estate.’

Sect. 6. Section 29 of said chapter, is hereby amended
2 by adding thereto the following words: ‘And any creditor
3 who has accepted a preference contrary to the provisions
4 of this chapter shall not be permitted to vote for assignee,
5 nor shall his claim or vote be considered in any petition, or
6 other proceedings, except that he shall be allowed his per-
7 centage of any dividend paid upon filing with the register
8 a discharge of his security and proving his claim against the
9 estate as an unsecured debt.’ So that said section shall
10 read as follows:

‘Section 29. A person who has accepted any preference,
12 knowing that the debtor was insolvent or in contemplation of
13 insolvency, shall not prove the debt on which the preference
14 was given, nor receive any dividend thereon until he sur-
15 renders to the assignee all property, money, benefit or
16 advantage received by him under such preference. The
17 assignee after demand, may recover back by action of
18 assumpsit, from any creditor whose claim is disallowed in
19 whole or in part, any dividend or proportional part thereof,

20 paid to such creditor before such disallowance. And any
21 creditor who has accepted a preference contrary to the pro-
22 visions of this chapter shall not be permitted to vote for
23 assignee, nor shall his claim or vote be considered in any
24 petition, or other proceedings, except that he shall be
25 allowed his percentage of any dividend paid upon filing with
26 the register a discharge of his security and proving his
27 claim against the estate as an unsecured debt.'

Sect. 7. Section thirty-one of said chapter, is hereby
2 amended so to read as follows:

'Section 31. If there are no assets, no assignee shall be
4 elected, unless a written motion for such election shall be
5 filed by some creditor, which he may do at any time, and
6 shall therein state upon oath that he has reason to believe
7 and does believe that there are undisclosed assets, or, that
8 the value of the assets, as stated by the debtor in his list so
9 furnished, are grossly undervalued, which property and
10 interest shall be stated so far as possible by said creditor.
11 If the assets not claimed as exempt do not exceed \$100, no
12 assignee shall be elected, unless the judge so orders. If the
13 assets exceed the sum of \$100, or the judge so orders when
14 the assets are \$100 or less, the creditors, in presence of the
15 judge, shall choose one or more assignees of the estate of
16 the debtor. Such choice shall be made by the greater part
17 in number and value of the creditors present in person or by
18 attorney who have proved their debts, and shall be made
19 at the first meeting unless the judge otherwise orders. Such
20 election is subject to the approval of the judge, who may
21 appoint additional assignees or order a new election. If
22 no choice is made by the creditors at the time designated
23 the judge shall appoint one or more assignees, and he may

24 at any time, for good cause shown, remove an assignee and
25 appoint another in his place.'

Sect. 8. Section thirty-eight of said chapter is hereby
2 amended by adding thereto the following words: 'And
3 funds remaining in his hands uncalled for when he settles
4 his final account and the like funds in the hands of the reg-
5 ister may be paid to the county treasurer, and to be drawn
6 therefrom and paid to the party entitled thereto only upon
7 the order of the judge of the insolvent court. The county
8 treasurer's receipt, stating the amount and the case in which
9 the same is deposited, shall be filed with the papers in the
10 insolvent court and be allowed as a voucher by the judge,'
11 so that said section, as amended, shall read as follows:

'Section 38. The assignee shall deposit in his own name,
13 as assignee, in such bank as the judge approves, all money
14 coming to his hands belonging to the insolvent estate, and
15 shall account for all interest received thereon. And funds
16 remaining in his hands uncalled for when he settles his final
17 account and the like funds in the hands of the register, may
18 be paid to the county treasurer, and to be drawn therefrom
19 and paid to the party entitled thereto only upon order of the
20 judge of the insolvent court. The county treasurer's
21 receipt, stating the amount and the case in which the same
22 is deposited, shall be filed with the papers in the insolvent
23 court and be allowed as a voucher by the judge.'

Sect. 9. Section thirty-nine of said chapter is hereby
2 amended so as to read as follows:

'Section 39. Whenever an assignee receives from the
4 estate assets available to pay a dividend equal to 25 per
5 cent of the debts proved, exclusive of expenses, he shall
6 declare and pay such dividend and render an account thereof

7 to the judge. In all cases, he shall file an account within six
8 months from the date of his election, unless for cause shown
9 the judge shall extend the time. No dividend already
10 declared shall be disturbed by reason of debts being sub-
11 sequently proved, but the creditors proving such debts are
12 entitled to a dividend equal to those already received by the
13 other creditors before any further payment is made to the
14 latter. In all cases of contingent or disputed claims the
15 assignee may reserve an amount equal to the dividend
16 which would be due upon such claim if finally allowed, unless
17 otherwise ordered by the judge; if such disputed or con-
18 tingent claim is finally allowed, such reserved amount shall
19 be paid to the owner of such claim; otherwise it shall be
20 accounted for when the final distribution of the estate is
21 made. And for each twenty-five per cent of assets received,
22 a like dividend shall be made. A final dividend shall be
23 made within one year from the date of his election, unless
24 for cause shown the judge shall extend the time, and when
25 the same is made the assignee shall exhibit an account of
26 the full settlement and disposal of the estate coming to his
27 hands, and of the fees and expenses arising therefrom, which
28 shall be examined by the judge, and if found correct, shall
29 be by him approved, and thereupon the assignee shall be
30 discharged from his trust. No dividend shall be paid or
31 declared without the approval of the court, entered of record.
32 The register shall give not less than five days' notice, to all
33 creditors named in the schedule of debts, of all dividends
34 about to be declared, and the same fee shall be charged as
35 for other notices.'

Sect. 10. Section forty of said chapter, is hereby amended
2 so as to read as follows:

‘Section 40. In making a dividend under the preceding
4 section, the following claims shall first be paid in full in their
5 order:

‘I. The debts contracted by the debtor to obtain, in whole
7 or in part, the amount paid by him as fees to the insolvent
8 court, and for reasonable attorneys’ fees.

‘II. The fees, costs and expenses of suits and proceedings
10 in insolvency.

‘III. All debts and taxes due to the State or to any county,
12 city or town therein, and to the United States, except debts
13 due to the State in behalf of the State prison.

‘IV. Wages due to any operative, clerk, or house servant,
15 not exceeding fifty dollars, for labor performed within six
16 months preceding the filing of the petition.’

Sect. 11. Section 43 of said chapter as amended by chapter
2 63 of the Public Laws of 1887, and chapter 217 and chapter
3 218 of the Public Laws of 1889, is hereby further amended
4 so as to read as follows:

‘Section 43. The debtor at any time before applying for
6 his discharge, may appear before said judge and amend and
7 correct his schedule of creditors, and shall take and sub-
8 scribe an oath before the judge, in substance as follows:

‘I....., swear that the account of my creditors
10 contained in the schedule made and signed by me is true,
11 according to my best knowledge and belief; and I further
12 swear that I have delivered to, the messenger,
13 all my estate except such as was by law exempt from attach-
14 ment and seizure on execution, and all my books of account,
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 the messenger or to my

18 assignee all such of my estate, books and papers as have since
19 come to my possession, and will deliver any other estate,
20 books, and papers which ought to be assigned and delivered
21 to my assignee which come to my possession or knowledge;
22 and I further swear that no part of my estate or effects is
23 made over, concealed or disposed of in any manner for the
24 future benefit of myself, my family, or any other person, or
25 to defraud my creditors.

‘Whenever in any case the debtor fails to take said oath
27 within six months of the commencement of proceedings, the
28 same may be dismissed upon motion of any party interested,
29 after such notice as the judge shall order.’

Sect. 12. Section forty-four of said chapter is hereby amend-
2 ed by inserting between the words “court” and “when” in the
3 twelfth line, the following words: ‘If the debtor fails to apply
4 for a discharge, any creditor, at the expense of said debtor’s
5 estate, at any time after six months from the commencement
6 of proceedings, file a petition that a hearing may be had upon
7 the question whether a discharge shall be granted to the debt-
8 or. Upon said petition, the judge shall order due notice, and
9 may grant or refuse the same, as upon the debtor’s petition,’
10 so that said section, as amended, shall read as follows:

‘Section 44. At any time after four months from the com-
12 mencement of proceedings, the debtor may apply in writing
13 to the judge for a discharge from his debts. The judge shall
14 order notice to be given to the creditors by mail or other-
15 wise, to appear on a day appointed for that purpose, and
16 show cause why such discharge should not be granted. Any
17 creditor opposing the discharge may file a specification in
18 writing of the grounds of his opposition, and a hearing shall
19 be had thereon at such time as the judge appoints. If it

20 appears to the court that the insolvent has in all things con-
21 formed to his duty under this chapter, and that he is entitled
22 thereto, the court shall grant him a discharge from all his
23 debts, except as hereinafter provided, and shall give him a
24 certificate thereof under the seal of the court. If the debtor
25 fails to apply for a discharge, any creditor, at the expense of
26 said debtor's estate, may, at any time after six months from
27 the commencement of proceedings, file a petition that a hear-
28 ing may be had upon the question whether a discharge shall
29 be granted to the debtor. Upon said petition, the judge
30 shall order due notice, and may grant or refuse the same, as
31 upon the debtor's petition. When the judge grants or
32 refuses a discharge under the provisions aforesaid, there shall
33 be an appeal to the supreme judicial court, next to be held
34 within the county where the proceedings in insolvency are
35 pending, to be taken, heard and determined in the manner
36 provided in section twelve. The party appealing shall, at
37 the time of entering his appeal in the supreme judicial court,
38 file a copy of the specifications of the grounds of opposition
39 to the discharge, certified by the register. At the request
40 of the debtor or opposing creditor, the presiding judge shall
41 order the question of discharge to be tried by the jury at the
42 first or any subsequent term of said court. Exceptions may
43 be had as to matters of law, to be heard and decided as pro-
44 vided by said section.'

Sect. 13. Section forty-five of said chapter, is hereby
2 amended by adding thereto the following words: 'And in
3 the case of a debtor a second or third time insolvent, a vol-
4 untary petition by him shall not be considered or acted upon
5 by the court, unless said debtor shall file with his petition a
6 copy certified by the register of insolvency of his certificate

7 and discharge under his previous proceedings, or in lieu
8 thereof, the assent in writing of the required majority of all
9 his known creditors. If he fails to do this, his discharge shall
10 not be granted, or, if granted, be valid.' So that said section
11 shall read as follows:

'Section 45. A discharge shall not be granted to a debtor
13 a second time insolvent, unless the assent in writing of a
14 majority in number and in value of his known creditors is
15 first filed in the case, and verified by proof satisfactory to
16 the judge. And a discharge shall not be granted to a debtor
17 a third time insolvent, unless the assent in writing of three-
18 fourths of all his creditors in number and in value is first
19 filed in the case, and verified in like manner. And in the
20 case of a debtor a second or third time insolvent, a volun-
21 tary petition by him shall not be considered or acted upon
22 by the court, unless said debtor shall file with his petition a
23 copy certified by the register of insolvency, of his certificate
24 of discharge under his previous proceedings, or in lieu
25 thereof, the assent in writing of the required majority of all
26 his known creditors. If he fails to do this, his discharge
27 shall not be granted, or, if granted, be valid.'

Sect. 14. Section 46 of said chapter, as amended by chapter
2 326 of the Public Laws of 1885, is hereby further amended
3 so to read as follows:

'Section 46. A discharge shall not be granted, or, if
5 granted, be valid, if the debtor has sworn falsely to any
6 material fact, or if he has concealed any property, books or
7 papers relating to his estate and business, or if having rea-
8 sonable cause to believe himself insolvent or being in con-
9 templation of insolvency he has within four months of the
10 filing of the petition by or against him, paid or secured,

11 directly or indirectly, in whole or in part, any borrowed
12 money or pre-existing debt or any liability of his or for him
13 (unless the same was paid by him in the usual course of
14 business, without any intent on his part to violate the provis-
15 ions of this chapter) and he shall not be so entitled if he has
16 caused his effects to be attached or if he has destroyed,
17 altered, mutilated or falsified any of his books, documents,
18 papers, writings or securities, or has made or been privy to
19 the making of any false or fraudulent entry in any book of
20 account or other document with intent to defraud his cred-
21 itors, or to give a preference contrary to the provisions of this
22 chapter, or has removed or allowed to be removed any prop-
23 erty with a like intent, or has made any fraudulent payment,
24 gift, transfer, conveyance or assignment of any part of his
25 property (or has designedly in contemplation of insolvency
26 contracted any debt out of the usual course of business by
27 purchasing upon credit any goods, wares or merchandise,
28 or if he has obtained the same on credit by any intentional
29 false statement as to his property, earnings or ability to pay,
30 or if he has wasted his means by gambling, or if, having
31 knowledge that any person has proved a false debt against
32 his estate, he has not disclosed the same to the assignee
33 within thirty days after such knowledge, or if, being a mer-
34 chant or trader whose usual and customary business is the
35 purchasing and selling of goods, wares and merchandise he
36 has not kept proper books of account. And the discharge
37 is null and void if the debtor or any person in his behalf has
38 procured the assent of any creditor thereto, by any pecun-
39 iary consideration or promise of future preference.'

Sect. 15. Section forty-seven of said chapter, is hereby
2 amended by adding thereto the following words: 'And no

3 claim for necessities furnished the debtor or to his family,
4 within thirty days of the commencement of proceedings, is
5 discharged by such proceedings, unless such claim shall
6 have been proved against his estate,' so that said section 47
7 shall read as follows:

'Section 47. No debt created by the fraud or embezzlement
9 of the insolvent, or by his defalcation as a public officer, or
10 while acting in any fiduciary character, is discharged by
11 proceedings in insolvency, but such debt may be proved
12 and the dividend thereon shall be a payment on account of
13 such debt. And no claim for necessities furnished the
14 debtor, or to his family, within thirty days of the commence-
15 ment of proceedings, is discharged by such proceedings,
16 unless such claim shall have been proved against his estate.'

Sect. 16. Section fifty-two of said chapter, as amended by
2 chapter 132 of the Laws of 1887, is hereby further amended
3 so to read as follows:

'Section 52. If any person, being insolvent or in contem-
5 plation of insolvency, within four months before the filing of
6 the petition by or against a debtor, with a view to give a
7 preference to any creditor or person having a claim against
8 him, or who is under any liability for him, procures or suf-
9 fers any part of his property to be attached, sequestered or
10 seized on execution, or makes any payment, pledge, assign-
11 ment, transfer or conveyance, or to be benefited thereby,
12 or by such attachment, having reasonable cause to believe
13 that such person is insolvent or in contemplation of insolv-
14 ency, and that such payment, pledge, assignment or convey-
15 ance is made in fraud of the laws relating to insolvency, the
16 same shall be void, and the assignee may recover the prop-
17 erty or the value of it from the person so receiving it or so

18 to be benefited, and if such sale, assignment, transfer or con-
19 veyance is not made in the usual course of business of the
20 debtor, that fact is prima facie evidence that such sale, assign-
21 ment, transfer or conveyance was intended as such prefer-
22 ence, in violation of this chapter; but nothing in this chap-
23 ter shall invalidate any loan of actual value or the security
24 therefor made in good faith, upon a security taken in good
25 faith on the occasion of making such loan. And if any per-
26 son, being insolvent, or acting in contemplation of insolv-
27 ency, within six months before the filing of the petition, by
28 or against him, makes any payment, sale, assignment, trans-
29 fer, conveyance, or other disposition of his property, to any
30 person who then has reasonable cause to believe him
31 insolvent, or acting in contemplation of insolvency, and
32 that such payment, sale, assignment, transfer, or other con-
33 veyance, is made with a view to prevent his property from
34 coming to his assignee, or to prevent the same from being
35 distributed under this chapter, or to defeat the object of,
36 or in any way impair, hinder, impede or delay the operation
37 and effect of any of the provisions of this chapter, the sale,
38 assignment, transfer or conveyance, shall be void, and the
39 assignee may recover the property of the value thereof, as
40 assets of the insolvent. And the foregoing provisions shall
41 apply to mortgages or other securities given to obtain money
42 to make the deposit in the insolvent court, or to pay the
43 attorney for future services therein. Any contract, covenant
44 or security, made or given by an insolvent, or any other per-
45 son with, or in trust for, any creditor, for securing the pay-
46 ment of any money as a consideration for, or with intent to
47 induce a creditor to forbear opposing the application for dis-

48 charge of the insolvent, shall be void; and if any creditor
49 shall obtain any sum of money or other goods, chattels, or
50 security from any person, as an inducement for forbearing
51 to oppose or consenting to such application for discharge,
52 every creditor so offending shall forfeit all right to any share
53 or dividend in the estate of the insolvent, and shall also for-
54 feit double the value or amount of such money, goods, chat-
55 tels, or security so obtained, to be recovered by the assignee
56 for the benefit of the estate.'

Sect. 17. Section sixty-four of said chapter, as amended
2 by chapter 46 of the Public Laws of 1891 and chapter 240 of
3 the Public Laws of 1893, is hereby further amended, so as
4 to read as follows:

'Section 64. Any person whose debts do not amount to
6 \$300, may at any time assign, convey and deliver to the
7 register of the court of insolvency in and for the county
8 within which he resides, all his real and personal estate,
9 rights and credits, not exempt from attachment and seizure
10 on execution, together with a schedule of the same, signed
11 by such debtor, and a list of all his creditors, with their places
12 of residence, so far as known by him, and at the same time
13 may apply by petition to the judge of said court, setting forth
14 his inability to pay all his debts in full, and that he has
15 assigned, conveyed and delivered to the register of said
16 court, all his real and personal estate, rights and credits, not
17 exempt from attachment and seizure on execution, together
18 with a schedule of the same, signed by him, and a list of all
19 his creditors, with their places of residence, so far as known
20 by him, and that he wishes to be examined as provided by
21 this section, and to have the oath provided by this section
22 administered to him. Thereupon the judge shall appoint

23 a time and place for the examination of the debtor, which
24 examination may be before the judge, or such person as he
25 appoints to take the same, and the register shall give such
26 notice to the creditors of the debtor, of the time and place
27 of such examination as the judge orders, and any creditor
28 may appear at such examination and be heard, and may
29 examine the debtor, under oath, concerning his business,
30 property and effects, and the disposal thereof. Such exam-
31 ination shall be confined within such limits as the judge
32 directs, and in no case shall it extend to any matters arising
33 prior to the time of the contracting of the debts owed by
34 such debtor, at the time of his examination. The examina-
35 tion herein provided for shall be in writing, signed by the
36 debtor, and filed in the office of the register. If upon such
37 hearing, it appears to the judge that the debtor has assigned,
38 conveyed and delivered to the register all his said real and
39 personal estate, rights and credits, not exempt from attach-
40 ment and seizure on execution, together with a schedule of
41 the same, signed by him, and that he has disclosed the names
42 and places of residence of all creditors so far as known to
43 him, he shall administer to the debtor the following oath:

‘I,, swear that the account of my creditors con-
45 tained in the schedule made and signed by me is true, to my
46 best knowledge and belief; and I further swear, that I have
47 delivered to, the register of the court of
48 insolvency, all my estate, rights and credits, except such as
49 are exempt from attachment and seizure on execution; and
50 I further swear that no part of my estate, rights or credits,
51 has been made over, concealed, or disposed of in any man-
52 ner, for the future benefit of myself, my family, or any other
53 person, or to defraud my creditors.

'Unless the judge has discovered, by such examination,
55 such facts as render it inconsistent for the debtor to take such
56 oath, or finds that any of the statements made by the debtor
57 in or upon said examination are not true. When the
58 debtor has taken and subscribed said oath, the judge shall
59 give him a certificate thereof under his hand and the seal of
60 the court, and thereupon he shall be thenceforth relieved
61 and discharged from arrest upon mesne process or execu-
62 tion arising from any debt contracted prior to taking such
63 oath, and owing to any creditor named in said schedule, and
64 he shall not be required to submit himself to examination
65 under provisions of chapter 137 of Public Laws of 1887 as to
66 any matters arising prior to the time of taking such oath.
67 Nor shall the amount due him as wages for his personal labor
68 for a time not exceeding one month next preceding the ser-
69 vice of the process and not exceeding twenty dollars, be
70 liable to attachment on any trustee process in a suit brought
71 against him upon any debt contracted prior to said time.
72 This section also applies to any person arrested or com-
73 mitted to jail upon the mesne process or execution, and such
74 debtor shall be taken by the jailor, or officer having him in
75 charge, before the court for the purposes herein specified.
76 After the assignment and conveyance herein provided, the
77 register shall dispose of said debtor's property and effects
78 to the best advantage, depositing in his own name as register
79 in such bank as the judge approves, all the money coming
80 into his hands belonging to said estate, and keeping and
81 rendering to the judge a strict account of its disposal, and the
82 net proceeds thereof, after deducting the expenses of the
83 proceedings, shall be divided by the register, pro rata,
84 among the creditors of the debtor named in his original

85 schedules, or schedules as amended by order of the judge,
86 and such other creditors as shall have proved their claims
87 before such distribution, in part satisfaction of their respec-
88 tive debts. The same fees shall be taxed in this section as
89 for similar services in other insolvency proceedings, and
90 when any person is appointed by the judge to take the exam-
91 ination hereinbefore provided, such person has the same
92 powers as the judge to exclude immaterial or irrelevant
93 questions to the debtor.'

Sect. 18. Any inhabitant of the State owing debts con-
2 tracted while such inhabitant, may apply by petition to the
3 judge for the county within which he resides, setting forth
4 his inability to pay all his debts and stating therein that by
5 a written assignment executed by and between him and the
6 required majority of his creditors he has assigned to some
7 suitable person specified in said agreement, all his estate and
8 effects not exempt by law from attachment and seizure on
9 execution, for the benefit of his creditors, and praying that
10 due proceedings may be had as hereinafter provided. He
11 shall file with said petition a full schedule of his creditors
12 and list of his assets, as specified in section 15 of chapter 70
13 of the Revised Statutes, as amended, together with said
14 written agreement executed by him and his said creditors.
15 Thereupon the judge shall order notice as provided in sec-
16 tion 15, so far as applicable to be given by the register to
17 all creditors named in said schedule who have not signed
18 the articles of agreement, and a hearing shall be had as to
19 whether the same have been executed by the required major-
20 ity and whether the allegations of said petition are true. If
21 upon hearing it is so determined and that the same have
22 been executed in good faith by said debtor and his creditors,

23 the judge may approve the same, and may require the
24 assignee to give bond and settle his account, the same as in
25 insolvency proceedings; and the judge shall give the debtor
26 a discharge as in section 62 of said chapter, as amended,
27 from all debts named in the debtor's said schedules.

Sect. 19. Section 1 of chapter 182 of the Public Laws of
2 1889, is hereby amended by striking out all after the word
3 "it" in the eighth line thereof, so that said section shall read
4 as follows:

'Section 1. The judge of the court of insolvency having
6 jurisdiction of the case, may, in his discretion, on sufficient
7 cause shown, authorize the assignee of such insolvent estate
8 to carry on the business of the insolvent, or any part thereof,
9 under the direction of the court, when such judge shall
10 determine, after the notice and hearing provided in section
11 3 of this act, that the interests of the estate and of the cred-
12 itors, require it.'

Sect. 20. This act shall take effect July 1, 1897. It shall
2 not apply to cases where the petitions are filed prior to that
3 date.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,
March 17, 1897.

Reported by Mr. WALTON of Skowhegan, from Committee on Legal
Affairs, and ordered printed under joint rules.

W. S. COTTON, Clerk.