

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-EIGHTH LEGISLATURE

OF THE

STATE OF MAINE

1897

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PUBLIC LAWS
OF THE
STATE OF MAINE.

1897.

Chapter 325.

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 14,
chapter 70,
amended.

Sect. 1. Section fourteen of chapter seventy of the revised statutes, is hereby amended by striking out the word "and," after "assistants" in the last line, and adding to said section the following words: 'required majority shall mean a majority in number of creditors, each of whose debts exceeds fifty dollars, and of creditors holding three-fourths of all the indebtedness; and commencement of proceedings shall mean the date of the filing of the petition by or against the debtor,' so that said section, as amended, shall read as follows:

Applica-
tion of cer-
tain terms.

'Sect. 14. In this chapter the words assignee, creditor, and debtor include the plural, also; the word messenger includes his assistants; the word sheriff includes deputy sheriffs; required majority shall mean a majority in number of creditors, each of whose debts exceeds fifty dollars, and of creditors holding three-fourths of all the indebtedness; and commencement of proceedings shall mean the date of the filing of the petition by or against the debtor.'

Section 15,
amended.

Sect. 2. Section fifteen of said chapter, is hereby amended by adding to said section the following words: 'He shall file with his petition a full schedule of all creditors, with their places of residence and the sum due to each, so far as the same is known to the debtor, together with the consideration of the indebtedness and a statement of any existing mortgage, pledge or other collateral security given to secure the same, and a full list of all his assets, with a brief description of all real estate or interest in real estate owned by him, and the place where the same is situated,' so that said section shall read as follows:

Debtor may
petition for
proceed-
ings in in-
solvency.

'Sect. 15. Any inhabitant of the state owing debts contracted while such inhabitant, may apply by petition to the judge for the county within which he resides, setting forth his inability to pay all his debts and his willingness to assign all his estate and effects not exempt by law from attachment and seizure upon execution, for the benefit of his creditors, and praying that such proceedings may be had in the premises as are provided in this chapter. He shall file with his petition a full schedule of all creditors, with their places of residence and the sum due to each,

so far as the same is known to the debtor, together with the consideration of the indebtedness and a statement of any existing mortgage, pledge, or other collateral security given to secure the same, and a full list of all his assets, with a brief description of all real estate or interest in real estate owned by him, and the place where the same is situated.'

Sect. 3. Section sixteen of said chapter, as amended by chapter two hundred thirty-six of the public laws of eighteen hundred eighty-nine, is hereby further amended, so as to read as follows:

Section 16,
amended.

'Sect. 16. If it appears to the satisfaction of the judge that the unsecured debts due from the applicant amount to not less than three hundred dollars, he shall forthwith issue a warrant under his hand, to the sheriff of the county or either of his deputies, directing him forthwith as messenger to take possession of all the estate, real and personal, of the debtor, not exempt from attachment, and of all his deeds, books of account and papers relating to his property and estate, and safely keep the same until the election or appointment of an assignee; to publish notice in such newspaper as the warrant specifies, and give such other notice as the judge directs, to all creditors upon the schedule furnished him by the debtor, which notice shall state:

If debts
amount to
\$300, judge
shall issue
warrant.
—sheriff
acts as
messenger.

—notice,
how given,
and what
what it
shall con-
tain.

I. That a warrant has issued against the estate of the debtor.

II. That the payment of any debts, to or by said debtor, and the delivery and transfer of any property by him, are forbidden.

III. That a meeting of the creditors, to prove their debts, and, in case there are assets sufficient to authorize the same, to choose one or more assignees of his estate, will be held at a court of insolvency at a time and place designated in the warrant, not less than ten nor more than fifty days after the issuing of the same.'

Sect. 4. Section twenty-nine of said chapter is hereby amended by adding thereto the following words: 'And any creditor who has accepted a preference contrary to the provisions of this chapter shall not be permitted to vote for assignee, nor shall his claim or vote be considered in any petition, or other proceedings, except that he shall be allowed his percentage of any dividend paid upon filing with the register a discharge of his security and proving his claim against the estate as an unsecured debt,' so that said section shall read as follows:

Section 29,
amended.

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Property accepted under preference, to be surrendered.

Assignee to recover back dividend, paid to creditors whose claim is disallowed.

—creditor who has accepted preference, shall not take part in proceedings.

Section 31, amended.

If no assets, assignee shall not be elected, unless a creditor disclaims under oath he believes that there are undisclosed assets, etc.

—how creditors may choose assignees.

‘Sect. 29. A person who has accepted any preference, knowing that the debtor was insolvent or in contemplation of insolvency, shall not prove the debt on which the preference was given, nor receive any dividend thereon until he surrenders to the assignee all property, money, benefit or advantage received by him under such preference. The assignee, after demand, may recover back by action of assumpsit, from any creditor whose claim is disallowed in whole or in part, any dividend or proportional part thereof, paid to such creditor before such disallowance. And any creditor who has accepted a preference contrary to the provisions of this chapter shall not be permitted to vote for assignee, nor shall his claim or vote be considered in any petition, or other proceedings, except that he shall be allowed his percentage of any dividend paid upon filing with the register a discharge of his security and proving his claim against the estate as an unsecured debt.’

Sect. 5. Section thirty-one of said chapter, is hereby amended so as to read as follows:

‘Sect. 31. If there are no assets, no assignee shall be elected, unless a written motion for such election shall be filed by some creditor, which he may do at any time, and shall therein state upon oath that he has reason to believe and does believe that there are undisclosed assets, or, that the value of the assets, as stated by the debtor in his lists so furnished, are grossly undervalued, which property and interest shall be stated so far as possible by said creditor. If the assets not claimed as exempt do not exceed one hundred dollars, no assignee shall be elected, unless the judge so orders, but the debtor shall, at said first meeting, assign, convey and deliver to the register of the insolvent court all his real and personal estate, rights and credits, not exempt from attachment and seizure on execution, to be disposed of by said register as provided in section sixty-four of this chapter for the disposition of the estate of debtors whose debts do not amount to the sum of three hundred dollars. If the assets exceed the sum of one hundred dollars, or the judge so orders when the assets are one hundred dollars or less, the creditors in presence of the judge, shall choose one or more assignees of the estate of the debtor. Such choice shall be made by the greater part in number and value of the creditors present in person or by attorney who have proved their debts, and shall be made at the first meeting unless the judge otherwise orders. Such election is subject to the approval of the judge, who may appoint additional assignees or order a new election.

If no choice is made by the creditors at the time designated the judge shall appoint one or more assignees, and he may at any time, for good cause shown, remove an assignee and appoint another in his place. At this meeting the debtor shall attend and submit himself to examination.'

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

Section 38, amended.

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

Assignee to deposit money, and account for interest.

—how he shall dispose of funds uncalled for.

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

Section 39, amended.

'Sect. 39. Whenever an assignee receives from the estate assets available to pay a dividend equal to twenty-five per cent of the debts proved, exclusive of expenses, he shall declare and pay such dividend and render an account thereof to the judge. In all cases, he shall file an account within six months from the date of his election, unless for cause shown the judge shall extend the time. No dividend already declared shall be disturbed by reason of debts being subsequently proved, but the creditors proving such debts are entitled to a dividend equal to those already received by the other creditors before any further payment is made to the latter. In all cases of contingent or disputed claims the assignee may reserve an amount equal to

Dividends, when declared and paid.

—shall file account within six months.

—dividends declared, shall not be disturbed by debts subsequently proved.

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—proceedings, in case of contingent or disputed claims.

—dividends not to be paid, without approval of court.

—notice by register.

Section 40, amended.

What claims paid in full.

Section 43, further amended.

Oath may be taken any time before discharge.

the dividend which would be due upon such claim if finally allowed, unless otherwise ordered by the judge; if such disputed or contingent claim is finally allowed, such reserved amount shall be paid to the owner of such claim; otherwise it shall be accounted for when the final distribution of the estate is made. And for each twenty-five per cent of assets received, a like dividend shall be made. A final dividend shall be made within one year from the date of his election, unless for cause shown the judge shall extend the time, and when the same is made the assignee shall exhibit an account of the full settlement and disposal of the estate coming to his hands, and of the fees and expenses arising therefrom, which shall be examined by the judge, and if found correct, shall be by him approved, and thereupon the assignee shall be discharged from his trust. No dividend shall be paid or declared without the approval of the court, entered of record. The register shall give not less than five days' notice, to all creditors named in the schedule of debts, of all dividends about to be declared, and the same fee shall be charged as for other notices.'

Sect. 8. Section forty of said chapter is hereby amended so as to read as follows:

'Sect. 40. In making a dividend under the preceding section, the following claims shall first be paid in full in their order.

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

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

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

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

Sect. 9. Section forty-three of said chapter as amended by chapter sixty-three of the public laws of eighteen hundred eighty-seven, and chapter two hundred seventeen and chapter two hundred eighteen of the public laws of eighteen hundred eighty-nine is hereby further amended so as to read as follows:

'Sect. 43. The debtor, at any time before applying for his discharge, may appear before said judge and amend and correct his schedule of creditors, and shall take and subscribe an oath before the judge, in substance as follows:

I,, swear that the account of my creditors contained in the schedule made and signed by me is true, according to my best knowledge and belief; and I further swear that I have delivered to, the messenger, all my estate except such as was by law exempt from attachment and seizure on execution, and all my books of account, and papers relating to said estate that were within my possession or power when the same were demanded of me by the messenger; that I have delivered to the messenger or to my assignee all such of my estate, books and papers as have since come to my possession, and will deliver any other estate, books and papers which ought to be assigned and delivered to my assignee which come to my possession or knowledge; and I further swear that no part of my estate or effects is made over, concealed or disposed of in any manner for the future benefit of myself, my family, or any other person, or to defraud my creditors. Whenever in any case the debtor fails to take said oath within six months of the commencement of proceedings, the same may be dismissed upon motion of any party interested, after such notice as the judge shall order.'

—form of oath.

—proceedings may be dismissed, if oath is not taken within six months.

Section 44, amended.

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

'Sect. 44. At any time after four months from the commencement of proceedings, the debtor may apply in writing to the judge for a discharge from his debts. The judge shall order notice to be given to the creditors by mail or otherwise, to appear on a day appointed for that purpose, and show cause why such discharge should not be granted. Any creditor opposing the discharge may file a specification in writing of the grounds of his opposition, and a hearing shall be had thereon at such time as the judge appoints. If it appears to the court that the insolvent has in all things conformed to his duty under this chapter, and that he is entitled thereto, the court shall grant him a discharge from all his debts, except as hereinafter provided, and shall give him a certificate thereof under the seal of

Debtor may apply for discharge, after four months.

—notice to creditors.

—creditor opposing discharge, may file specifications.

If insolvent has conformed to law, court shall grant discharge.

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—if debtor fails to apply for discharge, creditor may petition for hearing.

—notice.

—when judge refuses to grant discharge, appeal may be taken to supreme judicial court.

—question discharge may be tried by jury.

—exceptions.

Section 45, amended.

Second discharge, requires consent of majority of creditors.

—third, three-fourths.

—proceedings in the case of a debtor, a second or third time insolvent.

the court. If the debtor fails to apply for a discharge, any creditor, at the expense of said debtor's estate, may, at any time after six months from the commencement of proceedings, file a petition that a hearing may be had upon the question whether a discharge shall be granted to the debtor. Upon said petition, the judge shall order due notice, and may grant or refuse the same, as upon the debtor's petition. When the judge grants or refuses a discharge under the provisions aforesaid, there shall be an appeal to the supreme judicial court, next to be held within the county where the proceedings in insolvency are pending, to be taken, heard and determined in the manner provided in section twelve. The party appealing shall, at the time of entering his appeal in the supreme judicial court, file a copy of the specifications of the grounds of opposition to the discharge, certified by the register. At the request of the debtor or opposing creditor, the presiding judge shall order the question of discharge to be tried by the jury at the first or any subsequent term of said court. Exceptions may be had as to matters of law, to be heard and decided as provided by said section.'

Sect. 11. Section forty-five of said chapter is hereby amended by adding thereto the following words: 'And in the case of a debtor a second or third time insolvent, a voluntary petition by him shall not be considered or acted upon by the court, unless said debtor shall file with his petition a copy certified by the register of insolvency of his certificate and discharge under his previous proceedings, or in lieu thereof, the assent in writing of the required majority of all his known creditors. If he fails to do this, his discharge shall not be granted, or, if granted, be valid.' So that said section shall read as follows:

'Sect. 45. A discharge shall not be granted to a debtor a second time insolvent, unless the assent in writing of a majority in number and in value of his known creditors is first filed in the case, and verified by proof satisfactory to the judge. And a discharge shall not be granted to a debtor a third time insolvent, unless the assent in writing of three-fourths of all his creditors in number and in value is first filed in the case, and verified in like manner. And in the case of a debtor a second or third time insolvent, a voluntary petition by him shall not be considered or acted upon by the court, unless said debtor shall file with his petition a copy certified by the register of insolvency, of his certificate of discharge under his previous proceedings, or in lieu thereof, the assent in writing of the required majority of all

his known creditors. If he fails to do this, his discharge shall not be granted, or, if granted, be valid.'

Sect. 12. Section forty-six of said chapter, as amended by chapter three hundred and twenty-six of the public laws of eighteen hundred and eighty-five, is hereby further amended so as to read as follows:

Section 46,
amended.

'Sect. 46. A discharge shall not be granted, or, if granted, be valid, if the debtor has sworn falsely to any material fact, or if he has concealed any property, books or papers relating to his estate and business, or if having reasonable cause to believe himself insolvent or being in contemplation of insolvency he has within four months of the filing of the petition by or against him, paid or secured, directly or indirectly, in whole or in part, any borrowed money or pre-existing debt or any liability of his or for him, unless the same was paid by him in the usual course of business, without any intent on his part to violate the provisions of this chapter, and he shall not be so entitled if he has caused his effects to be attached, or if he has destroyed, altered, mutilated or falsified any of his books, documents, papers, writings or securities, or has made or been privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors, or to give a preference contrary to the provisions of this chapter, or has removed or allowed to be removed any property with a like intent, or has made any fraudulent payment, gift, transfer, conveyance or assignment of any part of his property, or has designedly in contemplation of insolvency contracted any debt out of the usual course of business by purchasing upon credit any goods, wares or merchandise, or if he has obtained the same on credit by any intentional false statement as to his property, earnings or ability to pay, or if he has wasted his means by gambling, or if, having knowledge that any person has proved a false debt against his estate, he has not disclosed the same to the assignee within thirty days after such knowledge, or if, being a merchant or trader whose usual and customary business is the purchasing and selling of goods, wares and merchandise, he has not kept proper books of account. And the discharge is null and void if the debtor or any person in his behalf has procured the assent of any creditor thereto, by any pecuniary consideration or promise of future preference.

Discharge
shall not be
granted, or
if granted,
is not valid,
in case of
fraud.

—null and
void, if as-
sent of
creditor is
purchased.

Sect. 13. Section forty-seven of said chapter, is hereby amended by adding thereto the following words: 'And no

Section 47,
amended.

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

What debts are not discharged.

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

Section 52, amended.

Sect. 14. Section fifty-two of said chapter, as amended by chapter one hundred and thirty-two of the laws of eighteen hundred and eighty-seven, is hereby further amended so as to read as follows:

Fraudulent attachment, or conveyance of property, is void.

'Sect. 52. If any person, being insolvent or in contemplation of insolvency, within four months before the filing of the petition by or against him, with a view to give a preference to any creditor or person having a claim against him, or who is under any liability for him, procures or suffers any part of his property to be attached, sequestered or seized on execution, or makes any payment,' pledge, assignment, transfer or conveyance, of any part of his property, either directly or indirectly, absolutely or conditionally, the person receiving such payments, pledge, assignment, transfer or conveyance or to be benefited thereby, or by such attachment, having reasonable cause to believe that such person is insolvent or in contemplation of insolvency, and that such payment, pledge, assignment or conveyance is made in fraud of the laws relating to insolvency, the same shall be void, and the assignee may recover the property or the value of it from the person so receiving it or so to be benefited, and if such sale, assignment, transfer or conveyance is not made in the usual course of business of the debtor, that fact is prima facie evidence that such sale, assignment, transfer or conveyance was intended as such preference, in violation of this chapter; but nothing in this chapter shall invalidate any loan of actual value or the security therefor made in good faith, upon a security taken in good faith on the occasion of making such loan. And if any person, being insolvent, or acting in con-

—loans of actual value secured in good faith, not invalidated.

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templation of insolvency, within six months before the filing of the petition, by or against him, makes any payment, sale, assignment, transfer, conveyance or other disposition of his property, to any person who then has reasonable cause to believe him insolvent, or acting in contemplation of insolvency, and that such payment, sale, assignment, transfer or other conveyance, is made with a view to prevent his property from coming to his assignee, or to prevent the same from being distributed under this chapter, or to defeat the object of, or in any way impair, hinder, impede or delay the operation and effect of any of the provisions of this chapter, and such person received the same in order to assist the debtor in such purpose, the sale, assignment, transfer or conveyance, shall be void, and the assignee may recover the property or the value thereof, as assets of the insolvent. And the foregoing provisions shall apply to mortgages or other securities given to obtain money to make the deposit in the insolvent court, or to pay the attorney for future services therein. Any contract, covenant or security, made or given by an insolvent, or any other person with, or in trust for, any creditor, for securing the payment of any money as a consideration for, or with intent to induce a creditor to forbear opposing the application for discharge of the insolvent, shall be void; and if any creditor shall obtain any sum of money or other goods, chattels, or security from any person, as an inducement for forbearing to oppose or consenting to such application for discharge, every creditor so offending shall forfeit all right to any share or dividend in the estate of the insolvent, and shall also forfeit double the value or amount of such money, goods, chattels, or security so obtained, to be recovered by the assignee for the benefit of the estate.'

Sect. 15. Section sixty-four of said chapter, as amended by chapter forty-six of the public laws of eighteen hundred ninety-one and chapter two hundred forty of the public laws of eighteen hundred ninety-three, is hereby further amended so as to read as follows:

'Sect. 64. Any person whose debts do not amount to three hundred dollars, may at any time assign, convey and deliver to the register of the court of insolvency in and for the county within which he resides, all his real and personal estate, rights and credits, not exempt from attachment and seizure on execution, together with a schedule of the same, signed by such debtor, and a list of all his creditors, with their places of resi-

Conveyances made within six months by an insolvent, to a person knowing him to be insolvent, are null and void.

—provision applies to mortgages or curties, curties given on money to make, deposit or pay altering fees.

—contract made to purchase forbearance of a creditor, void.

—penalty for forbearing, for a consideration, to oppose discharge.

Section 64, further amended.

Any person whose debts do not amount to \$300, may make assignment.

—proceedings.

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dence, so far as known by him, and at the same time may apply by petition to the judge of said court, setting forth his inability to pay all his debts in full, and that he has assigned, conveyed and delivered to the register of said court, all his real and personal estate, rights and credits, not exempt from attachment and seizure on execution, together with a schedule of the same, signed by him, and a list of all his creditors, with their places of residence, so far as known by him, and that he wishes to be examined as provided by this section, and to have the oath provided by this section administered to him. Thereupon the judge shall appoint a time and place for the examination of the debtor, which examination may be before the judge, or such person as he appoints to take the same, and the register shall give such notice to the creditors of the debtor of the time and place of such examination as the judge orders, and any creditor may appear at such examination and be heard, and may examine the debtor, under oath, concerning his business, property and effects, and the disposal thereof. Such examination shall be confined within such limits as the judge directs, and in no case shall it extend to any matters arising prior to the time of the contracting of the debts owed by such debtor, at the time of his examination. The examination herein provided for shall be in writing, signed by the debtor, and filed in the office of the register. If upon such hearing, it appears to the judge that the debtor has assigned, conveyed and delivered to the register all his said real and personal estate, rights and credits, not exempt from attachment and seizure on execution, together with a schedule of the same, signed by him, and that he has disclosed the names and places of residence of all creditors so far as known to him, he shall administer to the debtor the following oath: 'I,, swear that the account of my creditors contained in the schedule, made and signed by me, is true, according to my best knowledge and belief; and I further swear, that I have delivered to, the register of the court of insolvency, all my estate, rights and credits, except such as are exempt from attachment and seizure on execution; and I further swear that no part of my estate, rights or credits, has been made over, concealed, or disposed of in any manner, for the future benefit of myself, my family, or any other person, or to defraud my creditors.' Unless the judge has discovered, by such examination, such facts as render it inconsistent for the debtor to take such oath, or finds that any of the statements

—judge shall appoint hearing for examination of debtor.

—examination shall be in writing.

—if it appears debtor has assigned and delivered all his estate, judge shall administer the oath.

—form of oath.

made by the debtor in or upon said examination are not true. When the debtor has taken and subscribed said oath, the judge shall give him a certificate thereof under his hand and the seal of the court, and thereupon he shall be thenceforth released and discharged from arrest upon mesne process or execution arising from any debt contracted prior to taking such oath, and owing to any creditor named in said schedule, and he shall not be required to submit himself to examination under provisions of chapter one hundred and thirty-seven of public laws of eighteen hundred and eighty-seven as to any matters arising prior to the time of taking such oath. Nor shall the amount due him as wages for his personal labor for a time not exceeding one month next preceding the service of the process, and not exceeding twenty dollars, be liable to attachment on any trustee process in a suit brought against him upon any debt contracted prior to said time. This section also applies to any person arrested or committed to jail upon mesne process or execution, and such debtor shall be taken by the jailor, or officer having him in charge, before the court for the purposes herein specified. After the assignment and conveyance herein provided, the register shall dispose of said debtor's property and effects to the best advantage, depositing in his own name, as register, in such bank as the judge approves, all the money coming into his hands belonging to said estate, and keeping and rendering to the judge a strict account of its disposal, and the net proceeds thereof, after deducting the expenses of the proceedings, shall be divided by the register, pro rata, among the creditors of the debtor named in his original schedules, or schedules as amended by order of the judge, and such other creditors as shall have proved their claims before such distribution, in part satisfaction of their respective debts. The judge and register shall be allowed the same fees for their services under this section as they are allowed for similar services in other insolvency proceedings, and when any person is appointed by the judge to take the examination hereinbefore provided, the judge shall allow him a reasonable compensation therefor, and said fees and compensation shall be paid out of the debtor's assets if they are sufficient; otherwise such fees and compensation, or such part thereof as remains unsatisfied, shall be paid by the debtor before he shall be entitled to take the oath heretofore provided. And in all cases arising under this section the judge may require a reasonable sum of money to be by him

—debtor may then be discharged.

—wages not exceeding \$20, shall be exempt.

—this section applies to persons arrested or committed to jail.

—property of debtor shall be sold and proceeds divided, pro rata, among the creditors.

—fees of judge and register.

—compensation of person, making examination.

CHAP. 325

specified, to be deposited with the register by the debtor at the time the assignment and petition is filed, as security for the payment of said fees and compensation. When any person is appointed by the judge to take the examination hereinbefore provided, such person has the same powers as the judge to exclude immaterial or irrelevant questions to the debtor.'

—how payment of fees shall be secured.

Any inhabitant owing debts contracted while inhabitant of the state, may petition and make assignment.

Sect. 16. Any inhabitant of the state owing debts contracted while such inhabitant, may apply by petition to the judge for the county within which he resides, setting forth his inability to pay all his debts and stating therein that by a written assignment executed by and between him and the required majority of his creditors he has assigned to some suitable person specified in said agreement, all his estate and effects not exempt by law from attachment and seizure on execution, for the benefit of his creditors, and praying that due proceedings may be had as hereinafter provided. He shall file with said petition a full schedule of his creditors and list of his assets, as specified in section fifteen of chapter seventy of the revised statutes, as amended, together with said written agreement executed by him and his said creditors. Thereupon the judge shall order notice as provided in section sixteen of said chapter so far as applicable to be given by the register to all creditors named in said schedule who have not signed the articles of agreement, and a hearing shall be had as to whether the same have been executed by the required majority and whether the allegations of said petition are true. If upon hearing it is so determined and that the same have been executed in good faith by said debtor and his said creditors, the judge may approve the same, and may require the assignee to give bond and settle his account, the same as in insolvency proceedings; and the judge shall give the debtor a discharge as in section sixty-two of said chapter, as amended, from all debts named in the debtor's said schedules. The same fees shall be taxed for these proceedings as for similar services under this chapter.

—shall file list of creditors and assets.

—notice and hearing thereon.

—if debtors act in good faith, shall be discharged.

—fees.

Section 1, chapter 182, laws, 1889, amended.

Sect. 17. Section one of chapter one hundred and eighty-two of the public laws of eighteen hundred and eighty-nine, is hereby amended by striking out all after the word "it," in the eighth line thereof, so that said section shall read as follows:

—judge may authorize assignee to carry on business of insolvent.

'Sect. 1. The judge of the court of insolvency having jurisdiction of the case, may, in his discretion, on sufficient cause shown, authorize the assignee of such insolvent estate to carry on the business of the insolvent, or any part thereof, under the

direction of the court, when such judge shall determine, after the notice and hearing provided in section three of this act, that the interests of the estate and of the creditors, require it.'

Sect. 18. This act shall take effect July one, eighteen hundred and ninety-seven. It shall not apply to cases where the petitions are filed prior to that date.

When act shall take effect.

Approved March 27, 1897.

Chapter 326.

An Act to amend Section eight of Chapter twenty-four of the Revised Statutes, as amended by Chapter sixty of the Public Laws of eighteen hundred and ninety-one, relating to Paupers, their settlement and support.

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

Section eight, chapter twenty-four of the revised statutes as amended by chapter sixty of the public laws of eighteen hundred and ninety-one, is hereby amended by striking out the words "their families," in the eleventh line of said section as amended, and inserting in lieu thereof the words 'his family,' and by adding after the word 'family' so inserted the following: 'The word 'family' here used shall be held to include the soldier or sailor, his wife, his unmarried minor children living with him, and dependent upon him for support, and such other unmarried children of his dependent upon him for support who by reason of mental incapacity or physical disability are unable to provide for themselves.' And in the fifteenth line of said section, as amended, after the word "proper," insert the following: 'In case of the violation of this act, the overseers of the poor shall be subject to a fine of twenty-five dollars, and for every day they allow them to remain in such poor house, after reasonable notice, they shall be subject to a further fine of five dollars per day, to be recovered by complaint or indictment,' so that said section, as amended, shall read as follows:

Section 8, chapter 27, R. S., as amended by chapter 60, public laws, 1891, further amended.

'Sect. 8. No soldier or sailor who served by enlistment in the army or navy of the United States, in the war of eighteen hundred and sixty-one, and who has received an honorable discharge from said service, and who has or may become dependent upon any town, shall be considered a pauper, or be subject to disfranchisement for that cause; but the time during

Soldiers and sailors, not to be considered paupers.