

HOUSE No. 945.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, April 27, 1893.

The joint committee on the Judiciary, to whom was referred the report of the joint special committee of the Legislature of 1892, on the revision of the Judicial System, report, in part, the accompanying Bill.

For the Committee,

BOWDOIN S. PARKER.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Ninety-three.

AN ACT

To amend Chapter One Hundred and Fifty-seven of the Public Statutes relating to Proceedings in Insolvency.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section sixteen of chapter one
2 hundred and fifty-seven of the Public Statutes is
3 hereby amended so as to read as follows: "An
4 inhabitant of this state owing debts contracted
5 while such inhabitant may apply by petition to the
6 judge of the county within which he has last
7 resided or had a usual place of business for three
8 consecutive months before the application if he
9 has resided or had a usual place of business for
10 that time in any county, otherwise to the judge
11 for the county within which he resides or has a
12 usual place of business, setting forth his inability
13 to pay all his debts and his willingness to assign
14 all his estate and effects for the benefit of his

15 creditors, and praying that such proceedings may
16 be had in the premises as are provided in this
17 chapter.”

1 SECT. 2. Section one hundred and twelve of
2 said chapter one hundred and fifty-seven of the
3 Public Statutes is hereby amended so as to read
4 as follows: “If a person arrested on mesne
5 process in a civil action for the sum of one hundred
6 dollars or upwards, founded upon a demand in its
7 nature provable against the estate of an insolvent
8 debtor, has not given bail therein on or before the
9 return day of such process or has been actually
10 imprisoned thereon for more than thirty days; or
11 if a person whose goods or estate are attached on
12 mesne process in such action founded upon such
13 contract has not before the return day of such
14 process dissolved the attachment in the manner
15 provided by law; or if a person has removed
16 himself or any part of his property from the state,
17 with intent to defraud his creditors; or has con-
18 cealed himself to avoid arrest or any part of his
19 property to prevent its being attached or taken
20 on a legal process; or procured himself or his
21 property to be arrested, attached or taken on any
22 legal process; or made a fraudulent payment, con-
23 veyance or transfer of any part of his property;
24 or, being a banker, broker, merchant, trader,
25 manufacturer or miner, has fraudulently stopped
26 payment or has stopped or suspended and not
27 resumed payment of his commercial paper within
28 a period of fourteen days, any of his creditors

29 whose claims provable against his estate amount
30 to one hundred dollars may, within ninety days
31 thereafter, or, in the case of any such fraudulent
32 conveyance of real estate, within ninety days after
33 the same has been recorded, if the debtor has
34 resided in the state within one year, apply by
35 petition to the judge for the county in which the
36 debtor has last resided or had a usual place of
37 business for three consecutive months before the
38 application, if he has resided or had a usual place
39 of business for that time in any county, otherwise
40 to the judge for the county within which he resides
41 or last resided or has or last had a usual place of
42 business, setting forth the facts and the nature of
43 their claims, verified by oath, and praying that his
44 estate may be seized and distributed according to
45 the provisions of this chapter.”

1 SECT. 3. Section one hundred and sixteen
2 of said chapter one hundred and fifty-seven of
3 the Public Statutes is hereby amended so as to
4 read as follows: “Any of the creditors of an
5 insolvent insane person whose claims provable
6 against his estate amount to one hundred dol-
7 lars may apply by petition to the judge for the
8 county in which the debtor has last resided or
9 had a usual place of business for three consec-
10 utive months before the application, if he has
11 resided or had a usual place of business for that
12 time in any county, otherwise to the judge for
13 the county within which he resides or has a usual
14 place of business, setting forth his insolvency

15 and the nature of their claims, verified by oath,
16 and praying that his estate may be seized and
17 distributed according to the provisions of this
18 chapter. After notice to all persons interested,
19 and the appointment of a guardian ad litem for
20 such insane person and a hearing, the judge
21 may, if he thinks the interests of the debtor and
22 creditors require it, issue his warrant to take
23 possession of the estate of the debtor, and there-
24 upon like proceedings shall be had as in the
25 settlement of estates of other insolvent debtors.”

1 SECT. 4. Section one hundred and twenty of
2 chapter one hundred and fifty-seven of the Public
3 Statutes is hereby amended so as to read as fol-
4 lows: “When two or more persons who are
5 partners become insolvent a warrant may be
6 issued as provided in this chapter by the judge
7 for the county in which the partnership has or
8 last had a usual place of business, before the
9 application upon the petition of one or more of the
10 partners (reasonable notice being first given by
11 the judge to the other partners, if within the
12 state, to show cause why its prayer should not be
13 granted), or upon the petition of a creditor of the
14 partners; upon which warrant all the joint stock
15 and property of the company and the separate
16 estate of each of the partners shall be taken,
17 except such parts as may be by law exempt from
18 attachment; and all the creditors of the company
19 and the separate creditors of each partner may
20 prove their respective debts.”

1 SECT. 5. In case under the provisions of the
2 above-mentioned section sixteen, section one
3 hundred and twelve, section one hundred and
4 sixteen, and section one hundred and twenty of
5 chapter one hundred and fifty-seven of the Public
6 Statutes as hereby amended, petitions shall be
7 filed by or against an insolvent debtor or against
8 a partnership in two or more different counties,
9 the court of that county wherein any such petition
10 shall first be filed shall have jurisdiction of the
11 case, and the proceedings shall be stayed upon the
12 petition or petitions filed in other counties until
13 the court in said county shall have decided
14 whether a warrant shall be issued or not, and in
15 case a warrant shall be issued by said court then
16 the proceedings upon the petitions filed in other
17 counties shall be dismissed.

