

HOUSE.....No. 158.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Forty-
Eight.

AN ACT

To repeal "An Act for the relief of Insolvent Debtors,
and the more equal distribution of their effects," and
several acts in addition thereto.

*BE it enacted by the Senate and House of Representa-
tives, in General Court assembled, and by the authority of
the same, as follows:*

1 SECT. 1. The schedule of creditors, heretofore re-
2 quired by law to be produced by an insolvent debtor,
3 at the first meeting of his creditors, shall be presented
4 by him to the messenger, within twenty-four hours of
5 the date of the warrant, and the messenger shall
6 return the same at the first meeting; and the messen-

7 ger, in addition to the publications now required by
8 law, shall send written notice, to the creditors named
9 on the said schedule, of the time and place of the first
10 meeting of the creditors of such insolvent debtor ; and
11 whenever it shall appear, to the judge of probate, or
12 master in chancery, that such notice has not been
13 given, he shall forthwith adjourn the meeting, to the
14 end that the foregoing requisition may be complied
15 with.

1 SECT. 2. No insolvent debtor, whose assets do not
2 pay fifty per cent. of the claims proved against his
3 estate, shall receive a discharge under this act, or the
4 acts to which this is in addition, unless a majority, in
5 number and value, of his creditors, who have proved
6 their claims, shall assent thereto, in writing, within
7 six months after the date of the assignment ; and in
8 no case shall a certificate of discharge be granted,
9 until the third meeting of the creditors of such debtor,
10 nor at any time, except at a meeting of the creditors ;
11 and such discharge shall be null and void, if the debtor,
12 or any person in his behalf, shall have procured the
13 assent of any creditor thereto, by any pecuniary con-
14 sideration.

1 SECT. 3. No discharge of an insolvent debtor,
2 under this act, and the acts to which this is in addi-
3 tion, shall bar any claim for necessaries furnished to
4 such debtor, or to his family, unless such claim shall
5 have been proved against his estate.

1 SECT. 4. The assignee, or assignees, of any insol-
2 vent debtor, may appeal from the decision of the judge

3 of probate, or master in chancery, granting a certifi-
4 cate of discharge to such insolvent debtor; and the
5 like proceedings shall be had, as in the case of an
6 appeal by the insolvent debtor whose discharge has
7 been refused.

1 SECT. 5. Whenever it shall appear to any judge
2 of probate, or master in chancery, upon the complaint
3 of any person interested in any insolvent estate, pend-
4 ing before the said judge of probate, or master in
5 chancery, that the assignee of such estate has fraudu-
6 lently received, concealed, embezzled, or conveyed
7 away, any of the money, goods, effects, or other estate,
8 of the insolvent debtor, or has been interested in any
9 suit at law in relation to the said estate, for the pur-
10 pose of securing to himself a preference or priority
11 over the other creditors, or has in his possession or
12 control any portion of the said estate, with the intent
13 to appropriate the same unlawfully to his own use, or
14 has been guilty of any fraudulent act in relation to
15 the said estate, it shall be lawful for the said judge of
16 probate, or master in chancery, after due notice, to
17 remove the said assignee, and appoint another in his
18 place, who shall have the same powers that are now
19 conferred upon the assignees of insolvent estates by
20 the law of this Commonwealth, and all the estate of
21 the insolvent debtor shall vest in the new assignee so
22 appointed; and, in all cases, the judge of probate, or
23 master in chancery, may require the assignee of any
24 insolvent case pending before him, to give good and
25 sufficient bonds for the faithful performance and dis-
26 charge of his duty.

1 SECT. 6. Whenever any creditor of an insolvent
2 estate, who has proved his debt, shall present his peti-
3 tion to the judge of probate, or master in chancery,
4 before whom such estate is pending, requesting a stay
5 of the proceedings, it shall be lawful for the said
6 judge, or master, after due notice to all persons inter-
7 ested in the estate, and a hearing of the matter, to
8 pass an order, vacating all the proceedings in the
9 case: *provided*, that no objection is made by such
10 insolvent debtor, or by any creditor who shall have
11 proved his debt.

1 SECT. 7. No debt shall be proved or allowed
2 against any insolvent estate, unless the creditor shall
3 make oath to the validity of the claim, which oath
4 shall be in substance as follows, namely:—"I, ,
5 do swear that , of , by (or against,) whom
6 proceedings in insolvency have been instituted, at and
7 before the date of such proceedings was, and still is,
8 justly and truly indebted to me, in the sum of ,
9 for which sum, or any part thereof, I have not, nor
10 has any other person to my use, to my knowledge or
11 belief, received any security or satisfaction whatever,
12 beyond what has been disposed of agreeably to law.
13 And I do further swear, that the said claim was not
14 procured by me in contemplation of the debtor's insol-
15 vency, or for the purpose of influencing the proceed-
16 ings in this case." Said oath may be administered by
17 any justice of the peace, where the creditor resides
18 more than ten miles from the place of meeting of the
19 creditors.

1 SECT. 8. Whenever it shall appear, to the satisfac-
2 tion of any judge of probate, or master in chancery,

3 who has issued a warrant to take possession of the
4 estate of an insolvent debtor, that such estate, or any
5 part thereof, is of a perishable character, or likely to
6 deteriorate in value before an assignee can be legally
7 appointed, the said judge, or master, may order the
8 same to be sold in such manner as he may deem ex-
9 pedient, under the direction of the messenger, who
10 shall hold the funds received, in the place of the estate
11 so disposed of.

1 SECT. 9. The fourth section of the one hundred
2 and seventy-eighth chapter of the statutes of the year
3 eighteen hundred and forty-four, is hereby repealed.

1 SECT. 10. This act shall go into effect on the first
2 day of August next, and cases commenced before that
3 time shall not be affected thereby.

