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No. 79.

4th Session, 8th Parliament, 29th Victoria, 1865.

BILL.

An Act to amend the Insolvent Act of 1864.

[No. 82 of 1865—1st Session.]

HON. MR. ABBOTT.

OTTAWA :

PRINTED BY HUNTER, ROSE & CO.,
SALLY STREET.

An Act to amend the Insolvent Act of 1864.

WHEREAS it is expedient to amend the Insolvent Act of 1864, in Preamble.
the particulars hereinafter set forth; Therefore, Her Majesty,
by and with the advice and consent of the Legislative Council and Assem-
bly of Canada, enacts as follows:

- 5 **1.** Every assignee appointed under a deed of assignment shall imme- Notice by
diately give notice thereof by advertisement. (Form D appended to the assignee.
said Act.)
- 2.** The following shall be added to and shall be read and construed Addition to
as forming part of sub-section A. of section three, that is to say: "or if section 3.
10 he permits any execution issued against him under which any of his chat-
tels, land or property are seized, levied upon or taken into execution, to
remain unsatisfied till within forty-eight hours of the time fixed by the
Sheriff or officer for the sale thereof.
- 3.** In Upper Canada, if the defendant in any process for compulsory Service of
15 liquidation absconds from the Province, or remains without the Pro- Writ of At-
vince or conceals himself within the Province, service of the Writ of tachment in
Attachment issued against him under the said Act may be validly made U. C.
upon him in any manner which the Judge may order, upon application
to him in that behalf.
- 20 **4.** In proceedings for compulsory liquidation concurrent Writs of Concurrent
Attachment may be issued, if required by the plaintiff, addressed to the Writs of At-
Sheriffs of districts or counties other than that in which such proceed- tachment.
ings are being carried on.
- 5.** No proceedings for compulsory liquidation shall be contested either Form of con-
25 as to form or upon the merits otherwise than by summary petition, as testing pro-
provided by sub-section twelve of section three of the said Act. ceedings.
- 6.** The operation of the seventh sub-section of section two, and of Effect of as-
the twenty-second sub-section of section three, of the said Act, extends signment de-
30 to all the assets of the insolvent, of every kind and description, although clared.
they are actually under seizure under any ordinary Writ of Attachment,
or under any Writ of Execution, so long as they are not actually sold
by the Sheriff or Sheriff's officer under such Writ.
- 7.** The provisions of the said Act shall apply to the heirs, adminis- Liability of
trators or other legal representatives of any deceased person subject to heirs, &c.
35 its provisions, only in their capacity as such heirs, administrators or

representatives, without their being held to be liable for the debts of the deceased to any greater extent than they would have been if the said Act and this Act had not been passed.

Rights of appeal extended.

8. The right of appeal granted by sub-section two of section seven of the said Act is hereby extended and shall apply to any order of a Judge made upon any of the matters or things upon which he is authorized to adjudicate by the said Act. 5

Effect of Writ of Execution issued before the assignment.

9. No lien or privilege upon either the personal or real estate of the insolvent shall be created by the issue or delivery to the Sheriff of any Writ of Execution, or by levying upon or seizing under such Writ the effects or estate of the insolvent, unless such Writ of Execution shall have issued and been delivered to the Sheriff at least thirty days before the execution of a Deed of Assignment, or the issue of a Writ of Attachment, under the said Act. 10

Attachment, &c., not to be proceeded with assignment.

10. No attachment or seizure or sale under execution of any of the estate or effects of an insolvent shall be issued, made or proceeded with after an assignee has been appointed under a Deed of Assignment, or after the issue of a Writ of Attachment in proceedings for compulsory liquidation, as the case may be. 15

Certain forms substituted for forms under the said Act, &c.

11. The forms A, H, K, N, O and Q to this Act appended, are substituted for and shall be used respectively instead of the forms A, H, K, N, O and Q appended to the said Act, and the publication thereof, except of form A, in the *Canada Gazette* may be restricted to one language in the discretion of the person required to publish such advertisement; and in publishing any notice required by the said Act, the form whereof is not given therein, such form will be sufficient as shall intelligibly express the purport of such notice. 20 25

FORM A.

Insolvent Act of 1864.

The Creditors of the undersigned are notified to meet at _____, in _____ on _____ the _____ day of _____ at _____ o'clock _____, to receive statements of his affairs, and to name an Assignee. (*Domicile of debtor and date.*) 30

(*Signature.*)

The following is to be added to the notices sent by Post:

The Creditors holding direct claims and indirect claims, maturing before the meeting, for one hundred dollars each and upwards, are as follows: (*names of Creditors and amounts due*) and the aggregate of claims under one hundred dollars, is \$ _____ (*Domicile of debtor and date.*)

(*Signature.*)

FORM H.

Insolvent Act of 1864.

A. B., Plaintiff.

C. D., Defendant.

A Writ of Attachment has issued in this cause:

(Place. Date.)

(Signature),
Sheriff.

FORM K.

Insolvent Act of 1864.

In the matter of A. B. (or A. B. & Co.), an insolvent.

The undersigned has been appointed Assignee in this matter, and requires claims to be filed within two months from this date.

(Place. Date.)

(Signature),
Assignee.

FORM N.

Insolvent Act of 1864.

In the matter of A. B. (or A. B. & Co.), an insolvent.

A dividend sheet has been prepared, subject to objection until the day of , (Date).

Assignee.

FORM O.

*Insolvent Act of 1864.*Province of Canada, }
District (or County) of }

In the (name of Court).

In the matter of A. B. (or A. B. & Co.), an insolvent.

The undersigned has filed in the office of this Court, a consent by his Creditors to his discharge (or a deed of composition and discharge, executed by his Creditors), and on the day of next, at ten of the clock in the forenoon, or as soon as counsel can be heard, he will apply to the said Court (or to the Judge of the said Court, as the case may be) for a confirmation thereof.

(Place. Date.)

(Signature of Insolvent, or of his Attorney *ad litem*.)

FORM Q.

Insolvent Act of 1864.

Province of Canada, }
 District (or County) of }

In the (name of Court).

In the matter of A. B. (or A. B. & Co.), an insolvent.

On the day of next, at ten of the clock
 in the forenoon, or as soon as counsel can be heard, the undersigned
 will apply to the said Court (or the Judge of the said Court, as the
 case may be) for a discharge under the said Act.

(Place. Date.)

(Signature of the Insolvent; or his Attorney *ad litem*.)