

## Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires: Cover title page is bound in as last page in book but filmed as first page on fiche.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below /  
Ce document est filmé au taux de réduction indiqué ci-dessous.

<b>10x</b>		<b>14x</b>		<b>18x</b>		<b>22x</b>		<b>26x</b>		<b>30x</b>	
<div style="display: flex; justify-content: space-between; align-items: center;"> <span style="margin-left: 10px;">12x</span> <span style="margin-left: 100px;">16x</span> <span style="margin-left: 100px;">20x</span> <span style="margin-left: 100px;">24x</span> <span style="margin-left: 100px;">28x</span> <span style="margin-left: 100px;">32x</span> </div>											

No. 84.

---

---

3rd Session, 8th Parliament, 61 Victoria, 1898

---

---

**BILL.**

**An Act respecting Insolvency.**

---

First reading, March 17th, 1898.

---

**Mr. FORTIN.**

---

**OTTAWA**

Printed by S. E. DAWSON

Printer to the Queen's most Excellent Majesty  
1898

## An Act respecting Insolvency.

**H**ER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

## PRELIMINARY.

1. This Act may be cited as *The Insolvency Act, 1898.* Short title.
- 5 **2.** In this Act, unless the context otherwise requires, or it is otherwise specially provided,— Interpretation.
- (a.) “Insolvent” means a person in reference to whom or to whose estate a receiving order has been made under this Act;
- 10 (b.) “Creditor” means any person, co-partnership or company to whom the debtor is indebted, whether primarily or otherwise, and whether as principal or surety, and whether such indebtedness is wholly or in part due and payable or not; but for voting purposes, or for proceeding, on a composition
- 15 and discharge shall mean a creditor for an amount of one hundred dollars and upwards;
- (c.) “Court” means the County Court in the provinces of Ontario, New Brunswick, Nova Scotia, Prince Edward Island, Manitoba and British Columbia, the Superior Court in the
- 20 province of Quebec, and the Supreme Court in the North-west Territories, having jurisdiction in the district wherein proceedings are instituted under this Act, or if there is no such court having jurisdiction in a district in which proceedings may be instituted under this Act, then it means the court having
- 25 jurisdiction in the nearest district in which there is such court.
- Any action or proceeding to be taken or application or order made before, to or by any court having jurisdiction under this Act may be taken or made before, to or by a judge thereof, or before, to or by a junior or deputy judge when such is
- 30 appointed, at chambers, or at any circuit, or session or sittings of the court, wherever held; Judge.
- (d.) “District” means a county or district as defined for judicial purposes by the legislature of the province in which it is situated, or by the Governor in Council in regard to the
- 35 North-west Territories of Canada, and includes territorial, provisional or temporary districts; “District.”
- (e.) “Clerk of the court” means the prothonotary, clerk or registrar of the court or any division thereof; “Clerk of the court.”
- 40 (f.) “Official Gazette” means the Official Gazette published under the authority of the Government of the province or territory wherein the proceedings under this Act are carried on; “Official Gazette.”

"Date of insolvency."

(g.) "Date of insolvency" means the date of the making of a receiving order under this Act ;

"Secured creditor."

(h.) "Secured creditor" means a creditor holding a mortgage, hypothec, charge or lien on the property of the debtor, or any part thereof, as security for a debt due to him from the debtor, and any creditor specially declared to hold security within the meaning of this Act ;

"Guardian."

(i.) "Guardian" means the person who for the time being has been placed in charge of the assets of the estate under this Act.

## PART I.

### APPLICATION OF ACT.

To whom Act applies.

3. This Act applies only to persons who as a means of livelihood, manufacture, buy, or otherwise acquire goods, wares, merchandise or commodities, ordinarily the subject of trade and commerce, and sell or otherwise dispose of the same to others, including commission merchants, whether they sell by auction or otherwise.

Continues to apply in certain cases.

2. If a person to whom this Act applies ceases to carry on the business which makes him subject to its provisions, he shall nevertheless continue to be so subject so long as he has outstanding debts and liabilities contracted or incurred in the course of such business, which would under this Act be probable against his estate and which are not barred or prescribed by any statute of limitations or otherwise, but no proceedings shall be instituted against such person by a creditor under this Act unless founded upon a debt or liability contracted or incurred in the course of such business.

Act does not apply to companies.

3. Nothing in this Act shall be construed to make any of its provisions apply to incorporated companies falling under the provisions of *The Winding up Act*.

## PART II.

### PROCEEDINGS FROM ACT OF INSOLVENCY TO DISCHARGE OF DEBTOR.

#### ACTS OF INSOLVENCY.

4. A person to whom this Act applies commits an act of insolvency, and becomes liable to have proceedings instituted against him under it, in any of the following cases :

Failure to meet liabilities generally,

(a.) If he ceases to meet his liabilities generally as they come due ;

Acknowledgment of insolvency.

(b.) If he calls a meeting of his creditors for the purposes of compounding with them ; or if he exhibits a statement showing his inability to meet his liabilities ; or if he gives notice to any of his creditors that he has suspended, or is about to suspend payment of his debts ; or if he otherwise acknowledges his insolvency ;

Absconding.

(c.) If he absconds or is about to abscond from any province in Canada with intent to defraud his creditors, or any of them, or to defeat or delay the remedy of any creditor, or to avoid being arrested or served with legal process ; or if being

out of any province in Canada, he so remains with a like intent; or if he conceals himself within the limits of Canada with a like intent;

(d.) If he secretes or is about to secrete any part of his estate or effects with intent to defraud his creditors, or any of them, or to defeat or delay their remedies or demands;

Secrecion of property.

(e.) If he assigns, removes, or disposes of, or is about or attempts to assign, remove or dispose of any of his property with intent to defraud, defeat, or delay his creditors, or any of them;

Fraudulent assignment.

(f.) If he makes any general conveyance or assignment of his property for the benefit of his creditors; or if being unable to meet his liabilities in full he makes any sale or conveyance of the whole or of the main part of his stock in trade or assets without the consent of his creditors, or without satisfying their claims;

General assignment or sale of stock.

(g.) If he permits any execution issued against him under which any of his chattels, stock-in-trade, assets, land, or property is seized, levied upon, or taken in execution, to remain unsatisfied until within four days of the time fixed by the sheriff or seizing officer for the sale thereof, or to remain unsatisfied for fifteen days after such seizure;

Allowing execution to remain unsatisfied.

(h.) If, with intent to defeat, defraud, or delay his creditors or any of them, he procures his chattels, stock-in-trade, assets, land or property, or any portion thereof, to be seized, levied on, or taken under or by any process or execution.

Procuring seizure of goods, etc.

#### RECEIVING ORDER.

5. Subject to the conditions of this Act, if a person to whom it applies commits an act of insolvency, the court may on the application of a creditor, and upon such facts and circumstances being shown as satisfy the court that the order should be made, make a receiving order under this Act. (Form No. 1.)

Court may make receiving order.

2. Such receiving order shall be addressed to the sheriff of the county or district in which the debtor has his domicile or place of business, and who by himself or by his deputy shall take possession of the assets of the debtor, but without making any inventory thereof or incurring any expenses not absolutely necessary for the conservation thereof, and who for the purposes hereof shall be styled the "guardian."

Addressed to sheriff.

3. If, however, it is shown to the court, by affidavit or otherwise, that creditors representing a majority in amount of the unsecured claims provable against the estate have assented to the appointment as liquidator of a person eligible for such appointment, such person shall thereupon be appointed guardian under the foregoing restrictions.

Appointment of liquidator as guardian.

4. Such person may also replace the sheriff when the latter is acting as guardian under this Act.

Instead of sheriff.

6. A creditor shall not be entitled to make application for a receiving order unless—

(a.) The act of insolvency on which the application is founded, which act shall be disclosed in the affidavits in support of such application, occurred within three months immediately preceding the date of the making of such application;

Conditions on which creditor may apply for receiving order.

(b.) The debt owing to the creditor, or if two or more creditors join in the application the aggregate amount of debts owing to such creditors, amounts to not less than two hundred dollars;

(c.) The debt is a liquidated sum payable either immediately 5 or at some certain future time;

(d.) The debt had not been in whole or in part procured by the creditor to enable him to take proceedings under this Act and the applicant is not acting in collusion with the debtor, or to procure him any undue advantage against his creditors or 10 any of them;

(e.) The debtor had at the time of the committing of the act of insolvency, or one of the acts of insolvency, upon which the application is founded, his residence, or his place of business, or his chief place of business, or one of his principal 15 places of business, within the jurisdiction of the court.

“Secured creditor” making application, shall value security held by him.

**7.** A secured creditor making application for a receiving order shall either—

(a.) Set a value upon the security held by him, and in such case he shall be considered as a creditor for the purposes of 20 the application for the amount of the debt owing to him over and above the value so set; or

Or state willingness to assign security for benefit of creditor generally.

(b.) State that he is willing to assign the security so held by him for the benefit of the creditors generally in the event of a receiving order being made, in which case he shall be con- 25 sidered a creditor for the full amount of the debt owing to him.

Verification of facts by affidavit.

**8.** All facts and circumstances relied upon by the creditor or creditors applying for a receiving order shall be verified by affidavit, and the court may require such further and other 30 proof, by affidavit or otherwise, as it deems necessary.

Service of copy of order, etc.

**9.** A copy of the receiving order of the affidavit or affidavits on which the order was made, shall immediately upon the making of the order be served upon the insolvent, and if the application is made without previous notice to him and the 35 creditor or creditors making the application, or any of them, does not reside within the jurisdiction of the court, the insolvent shall also be served with a notice setting forth the name and place of business, residence or place of business of some person within the jurisdiction of the court, on whom or at 40 whose place of residence or business any notices or other documents may be served in case the insolvent applies to set aside the receiving order as hereinafter provided.

Application to annul order made without previous notice.

**10.** If the receiving order has been made without previous notice to the insolvent of application therefor he may, within 45 three days after service of the copy of the receiving order and of the other papers, notices and documents as provided in the last preceding section, and on one day’s previous notice to the creditor or creditors, upon whose application the order was made or any of them, apply to the court to annul the receiv- 50 ing order so made, and the court may extend the time for making such application.

**11.** If on an application for a receiving order after notice to the debtor, or on an application to annul a receiving order made without previous notice to the debtor, the court is satisfied that the debtor has not committed the alleged act or acts of 5 insolvency, or that he is not indebted to the creditor making the application, or that he is not indebted in an amount sufficient to entitle such creditor to make application for a receiving order under this Act, or that the claim of the creditor was 10 under this Act, or that, if the act of insolvency or one of the acts of insolvency upon which the application is based is an act of insolvency under sub-heading (a) or (g) in section 4 of this Act, the debtor is able to pay his debts and his ceasing to meet his liabilities or failing to satisfy the execution was only 15 temporary and was not done by the debtor with any fraudulent intent or caused by any fraud or by the insufficiency of the assets of the debtor to meet his liabilities, the court may refuse the application or may annul the receiving order and may make such order as the costs of the proceedings as it 20 thinks just.

Cases in which court may refuse application or annul order.

2. If it appears to the court on an application for a receiving order that the proceedings were taken by the creditor without reasonable grounds and merely as a means of enforcing payment of the debt due to him under colour of proceeding 25 under this Act, the court may refuse the application and may order the creditor, in addition to the payment of costs of the proceedings, to pay to the debtor a sum of money not exceeding treble the amount of such costs, saving and reserving to the debtor any remedy or right of action he may have 30 against the creditor for damages in consequence of the proceedings so instituted or taken.

Costs.

Court may refuse order when application if made merely to enforce payment of debt.

3. The court may at any time annul a receiving order if it is satisfied that the debts of the insolvent are paid in full, and a debt which is disputed by the insolvent is to be considered 35 as paid in full if the insolvent gives security to the satisfaction of the court to pay the amount to be recovered in any proceeding for the recovery of or concerning such debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified, is to be considered as paid in full if paid into 40 court.

Court may annul order of debts paid in full.

**12.** When a receiving order is annulled under this Act, all sales and dispositions of property, payments made and acts theretofore lawfully done under and by virtue of this Act by the guardian, liquidator, or any person acting under the 45 authority of either of them, or by the court, are valid, but the estate and property of the insolvent shall upon such order being annulled vest in such person, as the court may appoint or in default of such appointment, in the insolvent on such terms and subject to such conditions, if any, as the court may 50 determine.

Sales, etc., made valid where order is annulled.

How estate and property may be vested.

**13.** If applications are made in different districts and a receiving order is made in more than one district, the receiving order made by the court having jurisdiction in the district within which was the chief place of business of the insolvent, 55 or, if there is no recognized chief place of business, the

What order shall be acted on if receiving orders made in different districts.

receiving order made on the application presented by creditors to the largest amount, shall first be acted upon, and the proceedings on the other receiving orders shall on application of any interested party be stayed; but the court may, in any of the other districts, make any order it thinks necessary in the interests of the creditors for the proper protection of the estate of the insolvent within its jurisdiction. 5

Effect of receiving order.

**14.** Such receiving order shall vest in the liquidator all rights, power, title and interest which the insolvent has in and to any real or personal property of whatever kind or nature and whether same has been mentioned or not in any statement furnished by the insolvent, and the guardian and liquidator shall take possession and hold same subject to the instructions of the creditors or the inspectors and the guardian may on the order of the judge, sell and dispose of any assets of a perishable nature. 10 15

2. This section, however, shall not apply to such assets as are exempt from seizure and sale under the laws of the several provinces.

Effects of receiving order as to remedies of creditors.

**15.** After the making of a receiving order no creditor shall have any remedy against the estate of the insolvent in respect of any debt provable under this Act except as in this Act provided, and no action shall be begun or instituted, nor shall actions then pending against the insolvent be continued, except with the leave of the court in which the same are instituted or pending, or a judge thereof, and on such terms as to such court or judge seem just; but, except as in this Act otherwise provided, nothing herein shall be construed to prevent a creditor having security for his debt or any part thereof from realizing upon or otherwise dealing with such security or any part thereof in the same manner and to the same extent as if the receiving order had not been made. 20 25 30

Secured debts may be realized.

#### PROCEEDINGS CONSEQUENT ON ORDER.

Statement of liabilities and assets to be furnished by insolvent.

**16.** The insolvent shall immediately after the service of the receiving order unless he makes an application to set the same aside, and, in such case, immediately after the refusal of such application, prepare for and furnish to the guardian or liquidator a statement of all his liabilities direct and indirect, contingent and otherwise, showing the nature and amount thereof, together with the names and addresses of his creditors and the securities held by them so far as may be known to him, and also a statement of all his property and assets, and such statements shall be verified by the insolvent under oath in form No. 2; and any statements or affidavits so made as in this section provided may be inspected without charge by any creditor, his clerk or agent, who may make copies thereof or extracts therefrom. 35 40 45

In case of neglect court may order statements to be made, etc.

2. If the insolvent neglects or refuses to prepare and furnish such statements, or to verify the same under oath, or if he unduly delays the preparation thereof, the court may, on the application of a creditor having an unsecured claim against the estate of one hundred dollars or upwards, or of the liquidator, make an order directing such statements to be prepared, veri- 50



fied and furnished within the time named in such order, and in default of obedience by the insolvent to the order so made, the court may direct him to be imprisoned for a period of not more than six months, but in no case shall the holding of the first meeting of the creditors be delayed by the court or otherwise by reason of non-compliance with the requirements of this section.

Penalty for disobedience to order of court

17. The guardian shall, immediately after the expiry of the time reserved to the insolvent to move to set aside the receiving order if no such motion is made, or immediately after such motion is refused if made, or immediately after the making of the receiving order with the consent in writing of the insolvent or without such consent where no right to move against the order is reserved to the insolvent by this Act, call a meeting of the creditors of the insolvent, to be held at the court house within the district.

First meeting of creditors.

2. Such meeting shall be held within ten days from the date after which the same may be called as aforesaid, and notice thereof (Form No. 3), shall be mailed, postpaid and registered, six days before the day named for holding such meeting, to each creditor of whose name and address the official receiver is cognizant, which notice shall be accompanied by a list of creditors having claims against the estate of one hundred dollars or upwards, with their addresses and the amount of their respective claims, and the aggregate amount of the claims of creditors under one hundred dollars, so far as known to the guardian.

Time for holding and notice thereof.

3. If the guardian omits to call the meeting as in this section provided, the court shall, on the application or any person interested, order the meeting to be called at the earliest practicable day thereafter, and if the omission has arisen through the neglect of the guardian, the court shall order him to pay the costs of the application, otherwise the court may make such order as to the costs of the application as to it seems just.

Calling meeting when guardian omits to do so.

4. The court may, on the application of a creditor having an unsecured claim against the estate of one hundred dollars or upwards, and on being satisfied that there are creditors whose claims amount to at least one-third of the insolvent's direct liabilities, resident in any place or places whence their claims cannot with due diligence be received at or before the day appointed for the meeting, order the meeting to be adjourned to some day not later than two weeks from the day named in the notices calling the meeting, and such order shall be served on the official receiver, who shall forthwith mail to each creditor notice of such adjournment, and if such adjournment is ordered no business shall be transacted at the meeting first called, but the first meeting of the creditors shall be held on the day named in the order.

Costs of application.

Adjournment of meeting in certain cases.

Notice.

5. The first or any meeting of creditors may be adjourned from time to time and no notice or advertisement of such adjournment shall be necessary.

Adjournments

6. The insolvent shall attend the first meeting of his creditors and any adjournment thereof.

Insolvent to attend first meeting.

## APPOINTMENT OF LIQUIDATOR.

Appointment,  
etc., of liqui-  
dator.

**18.** The creditors at their first meeting appoint a liquidator of the estate of the insolvent and they may at a meeting especially called for the purpose, remove such liquidator and appoint another in his stead, or they may at any meeting appoint a liquidator in the stead of a liquidator who has died, resigned, or refused to act. 5

Liquidator  
may be ap-  
pointed by  
inspectors in  
certain cases.

2. If the liquidator so appointed is required to give security for the due performance of his duties, and if he fails to give the same within the time limited therefor as in this Act provided, or if he refused to Act, or if he dies before the transfer of the estate to him, the inspectors may, within two days after the expiration of the time limited for the giving of security, or within two days after such refusal to act or death, appoint a liquidator subject to confirmation at the next meeting of the creditors. 10 15

Court to make  
appointment  
in certain  
cases.

3. In the following cases the guardian shall report the facts to the court:—

(a.) If the inspectors fail to appoint a liquidator within the delay limited in the next preceding sub-section;

(b.) If no inspectors are appointed; in each of which two cases the said report shall be made upon the expiration of the time limited for giving security; 20

(c.) If the liquidator refuses to act;

(d.) If the liquidator dies;

(e.) If the liquidator is appointed by the creditors at their first meeting, in which case the report shall be made as soon as possible after the close of such meeting. And thereupon in every case the court shall appoint the liquidator. 25

Liquidator to  
give notice of  
his appoint-  
ment.

4. The liquidator shall without delay give notice of his appointment as such (Form No. 4) by advertisement to be inserted once in the Official Gazette and once in one newspaper (if any) published in the district in which the proceedings are pending, and by notice mailed, post-paid, to each creditor. 30

Guardian to  
account for  
and transfer  
estate to  
liquidator.

**19.** The guardian shall, upon the appointment of the liquidator and without any delay from any cause or upon any pre-tense whatsoever, account to the liquidator for all the estate and property of the insolvent which has come into his possession, and pay over and deliver to the liquidator all such estate and property, including all sums of money, books, bills, notes, statements, accounts, proofs of claims, minutes of proceedings at meetings, papers and documents whatsoever, in his hands belonging to the estate. 35 40

Costs and  
expenses of  
guardian how  
defrayed.

**20.** All necessary costs, charges, expenses and disbursements, including travelling expenses, paid or incurred by the guardian in connection with the performance of the duties imposed upon him by this Act, shall be defrayed by him out of the moneys which come into his hands as guardian; but if the insolvent has no available assets, the guardian shall not be required to incur any expense in relation to his estate. 45

Lien on estate  
for expenses  
and disburse-  
ments.

2. The guardian shall have a first lien and charge upon the estate of the insolvent in the hands of the liquidator for his expenses and disbursements, until the same are paid; and if 50

any dispute arises as to any amount claimed, charged, incurred or disbursed by the guardian, the dispute shall be referred to and decided by the court. Court to decide disputes.

3. The costs of all proceedings under this section shall be Costs.  
5 in the discretion of the court.

#### INSPECTORS.

**21.** The creditors may at any meeting appoint one or more inspectors, not exceeding five in all, who shall superintend and direct the proceedings of the liquidator in the management and winding up of the estate, and they may also, at any subsequent meeting held for that purpose, revoke the appointment of any or all of the said inspectors, and upon such revocation, or in case of death, resignation or absence from the province of an inspector, may appoint another in his stead; and anything to be done by the inspectors may be done by the majority, or Creditors to appoint inspectors.  
10 by the sole inspector, if there is only one; but no inspector shall be paid any remuneration for his services unless the amount thereof is voted by the creditors at a general meeting, Remuneration of inspectors voted by creditors.  
15 or at a meeting specially called for the purpose.

#### CONTROL OVER PERSON AND PROPERTY OF INSOLVENT.

**22.** The insolvent shall, until he has obtained his discharge, Duty of insolvent until discharge.  
20 give such information to the guardian, liquidator or inspectors, respecting his estate and affairs, attend at such times on the liquidator or inspectors, and at such meetings of his creditors, execute at the expense of the estate such powers of attorney, conveyances, deeds and instruments, and generally do all such acts and things in relation to his property and to the distribution of the proceeds thereof amongst his creditors, as are reasonably required by the liquidator or inspectors, or as are prescribed by general rules made by virtue of this Act, or as are directed by the court by any special order made in reference  
25 to any particular case, or made on the occasion of any special application by the liquidator, or any creditor or person interested; and he shall aid to the utmost of his power in the realization of his property and the distribution of the proceeds thereof among his creditors.  
30

**2.** The liquidator may, from time to time, with the consent of the creditors or of the inspectors, make such allowance as he thinks just to the insolvent out of the estate as compensation for his services in connection with the winding up of his estate, but any such allowance may be reduced by the court. Compensation to insolvent for services.  
35

**23.** The creditors or the inspectors may direct the insolvent to be examined upon oath before the liquidator, or before the judge as they may name, touching his estate and effects, assets and liabilities, the conduct and management of his business, the causes of his insolvency and his affairs generally, Examination of insolvent on oath.  
45 and such liquidator may administer any necessary oath.

**2.** Such examination shall take place at such time and place as is appointed by the creditors, or by the inspectors, and it may be adjourned from time to time, but the court, may, on the application of any person interested, and on being satisfied Time and place.  
50 that the affairs of the insolvent have been sufficiently investi-

gated, make an order directing that the examination be concluded by such time as is named in the order.

Conduct of examination.

3. Such examination may be conducted by counsel or by such persons as are appointed by the creditors or inspectors, and notes of the evidence given at such examination, which may be taken in shorthand, shall be deposited with the liquidator and shall be open to inspection, without charge, by any creditor or by the duly authorized representative of any creditor. 5

Penalty for non-compliance by insolvent.

4. In case the insolvent neglects or refuses to appear, or to be sworn, or to answer any proper questions, the court may, on the application of the examiner, or of any person interested, order that the insolvent be committed as for a contempt of court; and the court may make such order as to the payment of the costs of any application under this section as to it seems right. 15

Summoning persons to give information as to the insolvent or his estate.

24. The court may on the application of the liquidator, or of a creditor having an unsecured claim of one hundred dollars or upwards, summon before it any person, including the husband or wife of the insolvent, known or suspected to have in his possession any of the estate or effects of the insolvent, or any person who is represented to the court as capable of giving information concerning the insolvent, his dealings or property, and the court may require any such person to produce any documents in his custody or power or under his control, relating to the insolvent, his dealings or property. 25

Warrant may be issued to compel attendance.

2. If the person so summoned, after having been tendered the ordinary witness fees allowed in suits before the court and conduct money, without reasonable excuse, refuses to come before the court at the time appointed, the court may by warrant cause him to be apprehended and brought before it. 30

Examination may be on oath.

3. Such person may be examined upon oath concerning the insolvent, his dealings or property, by or before the court or by or before such person and in such manner as the court directs, and such court or person may administer any necessary oath, and notes of the evidence given at any such examination, which may be taken in shorthand, shall be deposited with the clerk of the court, and a copy thereof shall be deposited with the liquidator and shall be open to inspection, without charge, by any creditor, or the duly authorized representative of any creditor, and the court may make such order as to the payment of the costs of any such examination as to it seems right. 35 40

Notes thereof to be filed.

Costs of examination.

Order to deliver property.

4. If on such examination such person admits that he has in his possession any property belonging to the insolvent, and to which the liquidator is legally entitled, the court may order him to deliver to the liquidator, such property, or any part thereof, at such time, in such manner and on such terms as to the court seems just. 45

Penalty for non-compliance with above provisions.

5. In case of refusal to appear, or to be sworn, or to answer any questions that may lawfully be asked touching the insolvent, his dealings or property, or to produce any document which he is required to produce, or to obey any order of the court made under and by virtue of this section, the person so refusing may be committed as for a contempt of court. 55

**25.** The court may, at the time of making a receiving order or at any time thereafter, on the application of the guardian or of the liquidator, by warrant to the sheriff of the district, or other proper officer, cause the insolvent to be arrested, and any books, papers, moneys and goods in his possession to be seized, and him and them to be safely kept as prescribed until such time as the court orders, if such facts and circumstances are shown by affidavit as satisfy the court.

When warrant for arrest of insolvent may be issued.

(a.) That there is good and probable cause for believing that the insolvent is about to abscond and conceal himself to avoid service of papers, notices or documents required by this Act to be served on him, or to avoid appearance at any meeting of his creditors at which he is required to appear, or to avoid examination in respect of his affairs, or otherwise to avoid, delay, or embarrass any proceedings against him under this Act; or,

If he is about to abscond or conceal himself.

(b.) That there is good and probable cause for believing that he is about to remove his goods with intent to prevent or delay possession being taken of them by the guardian or liquidator, or that he has concealed or destroyed or is about to conceal or destroy, any of his goods, or any books, documents, or writings, which might be of use to his creditors in the course of the proceedings under this Act; or,

If he is about to remove, conceal or destroy goods or documents.

(c.) That without good cause shown he has failed to attend any meeting which he was required to attend under the provisions of this Act.

If he fails to attend meeting.

**26.** The court may, on the application of the guardian or liquidator, and on special cause shown therefor, from time to time order that for such time, not exceeding three months, as the court thinks fit, the postmaster at the place of residence or at any place where the insolvent carried on business shall deliver, redirect, or send to the guardian or liquidator of the estate of the insolvent, all letters and other mailable matter received by such postmaster addressed to the insolvent.

Postmaster may be ordered to send insolvent's letters to receiver or liquidator.

**2.** All such letters or mailable matter so received by the guardian or liquidator shall be opened and read by him in the presence of the insolvent, or after notice given him by letter through the post, and if they relate to the business of the insolvent or his estate they shall be retained by the guardian or liquidator, otherwise they shall be resealed and endorsed as having been opened as aforesaid and shall be delivered or mailed to the insolvent.

How letters so sent are to be dealt with

**3.** It shall be the duty of the insolvent at all times to deliver or transmit by post to the guardian or liquidator all letters or other mailable matter received by him and appertaining to the business of the estate.

Insolvent's duty as to letters about estate business.

#### DISCHARGE OF INSOLVENT WITH CONSENT OF CREDITORS.

**27.** If the insolvent, at or any time after the first meeting of creditors, files with the liquidator a deed of composition and discharge executed by creditors entitled to vote who represent at least three-fourths in value of the claims of all the creditors then entitled to vote and a majority in number of such creditors having claims of one hundred dollars and upwards, the liquidator shall call a meeting of the creditors of

Meeting to consider composition and discharge, how and when called.

the estate to take such deed of composition and discharge into consideration (Form No. 5), which meeting shall, unless the time for holding the same is extended by the court on the application of a creditor having an unsecured claim of one hundred dollars or upwards, be held within fourteen days from the date of the filing of the deed with the liquidator, and such meeting shall be attended by the insolvent, who shall be subject to examination thereat touching his property, conduct, dealings and affairs generally. 5

Notice of meeting.

2. Such meeting shall be called by advertisement published once in the Official Gazette and once in one newspaper (if any) published in the district in which the proceedings are pending, stating the time, place and object of the meeting, and also by notices, postpaid, mailed at least ten days before the meeting to the insolvent and to each of the creditors known to the liquidator or to the insolvent; and such notices to the creditors, in addition to stating the time, place and object of the meeting, shall state generally the terms of the deed of composition and discharge. 10

Provision for neglect or refusal to call meeting.

3. In case of neglect or refusal on the part of the liquidator to call such meeting so that it may be held within the time above provided, the court may, on the application of the insolvent, or of any creditor having an unsecured claim of one hundred dollars or upwards, direct such meeting to be held at such date and on such notice as to it seem proper; and the court shall, unless reasonable excuse for such neglect or refusal the part of the liquidator is shown, order him personally to on pay the costs of the application. 15 20 25

What deed must provide.

28. In no case shall a meeting be called to consider a deed of composition and discharge, nor shall the same be confirmed or any discharge thereunder effected, unless such deed provides for the immediate payment in full of all costs, charges and disbursements in connection with proceedings under this Act then remaining unpaid and of all claims declared by this Act to be privileged claims, and for the payment within one year from the date of such confirmation of at least one-half of the amount of claims provable against the estate, and no deed of composition and discharge, nor any discharge of the insolvent thereby effected, shall be binding on the creditors until such deed is confirmed by the court as hereinafter provided. 30 35 40

Deed not binding till confirmed by court.

Creditor may file letters of approval or disapproval of deed.

29. Any creditor may at any time before such meeting file with the liquidator a letter or document expressing his approval of or objection to such deed of composition and discharge, and such creditor shall thereupon be considered as having voted for or against the discharge of the insolvent as indicated by the tenor of such letter or document, and the deed may be executed by any creditor entitled to execute it at any time before it is filed by the liquidator with the clerk of the court. 45

Execution of deed.

Liquidator's certificate and what it shall contain.

30. The liquidator shall, after the holding of the meeting to take the deed of composition and discharge into consideration, annex to such deed a certificate in which he shall set forth— 50

(a.) The total amount of claims then proved against the estate in respect of which the creditors proving the same are

entitled to vote, and the total amount of such claims represented by creditors who had executed the deed of composition and discharge ;

5 (b.) The total number of creditors who had then proved claims, in respect of which they were entitled to vote, of one hundred dollars and upwards, and the total number of such creditors who had executed the deed of composition and discharge ;

10 (c.) The number of creditors, who had proved claims on which they were entitled to vote, present or represented at the meeting to consider the deed, distinguishing the creditors having claims of under one hundred dollars from those having claims of one hundred dollars and upwards, and the respective amount of their claims ;

15 (d.) The terms of any resolution relating to the discharge of the insolvent passed at such meeting, and the number of creditors voting for and against the same, distinguishing the creditors having claims of under one hundred dollars from those having claims of one hundred dollars and upwards, and  
20 the respective amount of their claims ;

(e.) The ratio of dividend likely to be realized from the estate for the unsecured creditors, and the dividend or dividends declared (if any).

2. The liquidator shall annex to such certificate copies of  
25 all documents filed with him, approving of or objecting to the confirmation of the deed or to the discharge of the insolvent thereunder, indicating the amount of claims represented by the several creditors who filed such documents, and he shall annex copies of the minutes of any examination of the insol-  
30 vent and of any statements of the assets and liabilities of the insolvent.

Documents to be annexed to certificate.

3. If there are creditors, who voted or offered to vote for or against any resolution or filed any letters or documents as aforesaid, or who executed such deed, and if such creditors  
35 have not proved their claims as required by this Act, or if their claims are of such a nature that in the opinion of the liquidator they are not affected by the discharge, or if such creditors are not entitled to vote in respect of such claims, the liquidator shall not include such creditors among those voting  
40 for or against the resolution, or as having executed such deed, but he shall in his certificate indicate, the number of such claims and the amount and nature thereof, distinguishing the number of such creditors in favour, of and the number opposed to the confirmation of the deed, or to the discharge of the  
45 insolvent thereunder.

How unproved or unaffected claims are to be treated.

4. The liquidator shall, within one week after the holding of the said meeting to take the deed of composition and discharge into consideration, file the deed, together with his certificate and all annexed papers, and documents as above provided,  
50 with the clerk of the court, and shall keep a copy thereof on file in his own office, and the copy on file at the office of the liquidator shall be open at all reasonable hours to inspection, without charge, by the insolvent, or by any creditor, and the insolvent or any creditor may copy the same or make extracts  
55 therefrom.

Liquidator to file deed, certificate, etc., with clerk of court.

Notice of insolvent's application for confirmation.

**31.** So soon as the deed of composition and discharge is filed by the insolvent with the liquidator, as hereinbefore provided, the insolvent may give notice (Form No. 6) of his intention to apply to the court for confirmation thereof, which notice shall be published once in the official gazette and once in one newspaper (if any) published in the place in which the proceedings are pending, and shall be mailed, postpaid, to the liquidator and to each of the creditors, at least ten days before the day therein named for the hearing of the application. 5

Confirmation may be opposed.

**32.** The confirmation of such deed of composition and discharge may be opposed by the liquidator under the authority of the creditors or of the inspectors, or by any creditor, notwithstanding such creditor has executed such deed of composition and discharge. 10

Hearing of application to confirm,

**33.** On the day named in notice given by the insolvent in manner hereinbefore provided, or so soon thereafter as the court appoints, the court shall hear the application of the insolvent to confirm the deed of composition and discharge, and any person in objection or opposition thereto, and may thereupon make an order confirming the same; but no such order shall be made, nor shall the deed be confirmed unless it is shown to the satisfaction of the court, by affidavit or in such other way as the court directs, that all the notices, formalities and requirements of this Act in connection with the application of the insolvent to confirm the deed and the holding of the meeting of the creditors to consider the same and the filing of the deed and certificate of the liquidator and other documents, have been given, observed and complied with and that the deed has been executed by creditors entitled to vote, representing at least three-fourths in value of the claims of all creditors entitled to vote at the time of the filing of the deed by the liquidator with the clerk of the court and a majority in number of such creditors having claims of one hundred dollars or upwards, and that the deed in all respects conforms to the provisions of this Act, and the examination under oath as provided by section twenty-four of this Act has been concluded; and the insolvent shall as a condition precedent to the confirmation of such deed make affidavit hereto. 15  
20  
25  
30  
35

Requisites for order of confirmation.

Affidavit to be made.

Cases in which deed shall not be confirmed.

**34.** The deed of composition and discharge shall not be confirmed if it appears to the satisfaction of the court that the insolvent is guilty of an indictable offence under this Act or has committed any act or made or entered into any contract, conveyance, mortgage, hypothec, sale, deposit, pledge, transfer, assignment, or payment, with intent to defraud his creditors or any of them or to give any creditor a fraudulent preference over other creditors, or is guilty of fraud or fraudulent practice in procuring the execution by his creditors, or any of them, of such deed, or is guilty of fraudulent retention, concealment or disposal of some portion of his estate and effects, or of evasion, prevarication, or false swearing upon examination, as to his estate and effects or of any fraud or fraudulent breach of trust. 40  
45  
50



## RECONVEYANCE OF ESTATE TO INSOLVENT.

- 35.** The reconveyance of the estate of the insolvent by the liquidator to the insolvent, when such estate is to be reconveyed under the terms of a deed of composition and discharge confirmed by the court, may be by deed of transfer in form No. 7 to this Act, duly executed according to the requirements of the law of the place where the same is executed or is to be registered, and such reconveyance shall vest in the insolvent the estate so conveyed subject to all terms and conditions contained in the deed of composition and discharge and in the order of the court confirming the same and subject to the provisions of this Act.
- 36.** If the estate of the insolvent is reconveyed subject to the terms of a deed whereby his discharge is made conditional upon the composition or any portion thereof being paid, and default is made in any payment according to the terms of such deed, and such deed and the discharge therein contained cease to have effect, the liquidator may thereupon immediately resume and take possession of the estate and effects of the insolvent in the state and condition in which they then are, and he shall have the same powers and duties in reference thereto as if he had been appointed the liquidator thereof at the time he resumed and took possession thereof; but the title of any *bona fide* purchaser of any of the assets of the estate shall not be impaired or affected by such resumption of possession.
- 2.** In case the liquidator resumes possession of the estate and effects of the insolvent in manner in this section provided, the creditors whose claims were provable against the estate prior to the confirmation of the deed of composition shall have claims against the estate so resumed and be entitled to vote only for and in respect of the balance of the composition remaining unpaid, and all creditors whose claims were incurred subsequent to such confirmation shall have claims against the estate so resumed and be entitled to vote for and in respect of the full amount of their claims, but the claims of creditors for the balance of composition and for the full amount as aforesaid shall be concurrent claims and shall be paid and discharged in equal proportions, and upon their being paid and discharged in full, the creditors whose claims were provable before the confirmation of the deed shall become creditors of the estate for the amount unpaid of their original claims against the estate of the insolvent.

Form and effect of deed of reconveyance.

Revesting of estate in liquidator when conditions of composition are not fulfilled.

Powers and duties.

Proviso, as to purchasers.

Ranking of creditors in case of resumption of possession of estate by liquidator.

Debts from which discharge frees insolvent.

## EFFECT OF DISCHARGE.

- 37.** The confirmation of a deed of composition and discharges or the order for the discharge of the insolvent as hereinbefore provided shall, subject to the terms and conditions of such deed or to any conditions contained in such order of discharge, free and discharge the insolvent from all debts and liabilities whatsoever (except such as are herein otherwise specially excepted) provable against his estate, by any creditor to whom he sent notice of his intention to apply for the confirmation of such deed or for such discharge, and whose name is set forth in any state-

Provision for negotiable paper.

ment of liabilities or list of creditors furnished by him to the liquidator prior to the giving by him of notice of his intention to apply for the confirmation of the deed or for his discharge, or by any creditor who at any time files a proof or claim under this Act; provided always that if the holder of any negotiable paper is unknown, the insertion of the particulars of such paper in any statement of affairs or list of creditors, with the declaration that the holder thereof is unknown, shall bring the debt represented by such paper and the holder thereof within the operation of this section. 5 10

Debts which are unaffected by discharge except with consent of creditors.

**38.** A discharge under this Act shall not apply without the express consent of the creditor to (any claim of a non-commercial nature due to a non-trader) nor to any privileged claim under this Act, nor to any judgment debt due by the insolvent as damages for assault, seduction, libel, slander or malicious arrest, nor to any debt due for the maintenance of a parent, wife or child, or as a penalty for any offence of which he had been convicted, nor to any debt due by him as assignee, tutor, curator, trustee, executor, or administrator, or under any order of court, or as a public officer, nor to debts or liabilities incurred by means of any fraud or fraudulent breach of trust to which he has been a party, nor to any debt or liability whereof he has obtained forbearance by any fraud to which he has been a party; and the creditor of any such debt may claim and accept a dividend thereon from the estate, 15 20 25 or from the insolvent, without being by reason thereof in any respect affected by the discharge obtained by the insolvent.

Effect of discharge upon persons secondarily liable.

**39.** A discharge, confirmed under this Act, shall not affect the liability of any person secondarily liable to such creditor for the debts of the insolvent, as drawer or endorser of negotiable paper, or as guarantor, surety or otherwise, or in the liability of a partner or other person liable jointly with the insolvent to such creditor for any debt, nor shall it, without the consent of the creditor, affect any mortgage, hypothec, lien or collateral security held by such creditor as security for a debt thereby discharged. 30 35

Upon mortgages, etc.

Fraudulent and collusive discharges null.

**40.** Every discharge, or confirmation of discharge, obtained by fraud or fraudulent preference or practice, or by means of the consent of a creditor being procured by the payment, or promise of payment to such creditor, or to any one on behalf of such creditor or of any creditor, of any valuable consideration for such consent, or by any fraudulent contrivance or practice whatever, shall be null and void. 40

### PART III.

#### LIQUIDATION OF PROPERTY.

##### DEBTS PROVABLE AGAINST THE ESTATE.

All debts provable against estate except certain unliquidated demands.

**41.** Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise, or breach of trust, are not provable under this Act against the estate of the insolvent; but, save as aforesaid, all debts and liabilities, 44

present or future, certain or contingent, direct or indirect, secured or unsecured, in whole or in part, to which the insolvent is subject at the date of insolvency, or to which he may become subject before his discharge by reason of any obligation incurred before the date of insolvency, are debts provable under this Act against his estate, all debts owing but not actually payable at such date being subject to rebate of interest.

Rebate of interest.

2. No costs incurred after the date of insolvency, in suits against the insolvent shall be provable against the estate, but all the taxable costs incurred in proceedings against him up to that time shall be added to the debt or demand for the recovery of which such proceedings were instituted, and shall be provable against the estate as if they formed part of the original debt.

As to ranking of costs.

3. In the province of Quebec, the rights of the unpaid vendor shall cease from the delivery into the store of the insolvent of the goods sold and all claims for provisions shall be considered as ordinary claims.

Rights of unpaid vendor and claim for provisions in Quebec.

42. All debts provable against the estate shall be proved by affidavit (Form No. 8) filed with the guardian or with the liquidator. Such affidavit shall set forth the nature and particulars of the debt and the amount due or owing, and whether or not security is held for the whole or any part of the debt, and the nature and particulars of such security, and whether such security has been assigned for the benefit of the estate or is retained by the creditor, and, if retained, the amount at which it is valued; and the affidavit shall be accompanied with the address of the creditor proving the debt, or an address, to which may be sent all notices required by this Act. If the claim is based in whole or in part on negotiable instruments, a list of such instruments shall be annexed to the proof of claim, setting forth the amount of each such instrument, its due date, and the names of all persons liable thereon, and in what capacity and in what order liable.

Claims to be proved by affidavit.

What is to be stated in affidavit.

Address of creditor.

List of negotiable instruments to be annexed.

43. The law of set-off as administered by the courts whether of law or equity, shall apply to all debts provable under this Act, and also to all suits instituted by a liquidator for the recovery of debts due to the insolvent, in the same manner and to the same extent as if the insolvent were plaintiff or defendant, as the case may be, except in so far as any claim for set-off is affected by any of the provisions of this Act; and the claim of a creditor against the estate shall, unless herein otherwise specially provided, be the amount of his unsecured claim over and above any such set-off.

Law of set-off to apply.

44. The following shall be privileged claims and shall be paid by the liquidator out of the assets in his hands in the order named, and before any dividend is paid to the creditors as hereinafter provided:—

Privileged claims and how paid.

- (a.) The remuneration, charges and disbursements of the guardian as hereinbefore provided;
- (b.) All necessary and proper costs, charges and disbursements up to the time of the declaration of a dividend paid by the liquidator in winding up the estate or in connection there-

Guardian's remuneration, etc.

Costs, etc., and liquidator's remuneration.

with; and the liquidator before declaring the final dividend shall set aside and reserve a sufficient amount to enable him to pay all necessary and proper costs, charges and disbursements in winding up the estate, including his own remuneration and costs of discharge;

Salaries and wages.

(c.) Any arrears of salary or wages due or owing and unpaid to persons in the employ of the insolvent at the date of insolvency, or within one month prior thereto, not exceeding three months of such arrears, but for any further arrears such persons shall have claims against the estate provable in the same way and with the same rights as to voting or otherwise as other unsecured creditors.

Claims for rent.

(d.) All claims in respect of rent made privileged claims by the fifth subsection of section 59 of this Act.

Joint and separate estates of partners, how to be treated.

**45.** In the case of partners the joint estate shall be applicable in the first instance in payment of their joint debts and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts. If there is a surplus of the estates it shall be dealt with as part of the joint estate. If there is a surplus of the joint estate it shall be dealt with as part of the respective separate estates in proportion to the right and interest of each partner in the joint estate.

Secured creditor may assign security.

**46.** A secured creditor may before proving his claim assign the security to the guardian or to the liquidator, for the benefit of the estate, in which case he shall have a claim against the estate as an unsecured creditor for the full amount of his claim.

Otherwise must value security.

2. If the creditor does not assign his security as above provided, he shall in his proof of claim set a value thereon, and the difference between the value so set, or any amendment thereof, and the amount of the claim of such creditor, shall be the amount of his claim against the estate, and the creditor shall at any time within twenty days, in the case of security on personal property, or at any time within sixty days in the case of security on real or immovable property, after the appointment of the liquidator, if the claim was proved before such appointment, otherwise after the date of filing the proof of claim or amended proof of claim, at the request of the liquidator and on payment of the value or amended value then set upon such security, assign and transfer the same to the liquidator for the benefit of the estate.

Liquidator may demand assignment at value set.

Amendment of valuation.

3. The creditor may at any time amend the valuation and proof on showing to the satisfaction of the liquidator, or of the court, that the valuation and proof were made *bona fide* on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation, but every such amendment shall be made at the cost of the creditor and upon such terms as the court orders, unless the liquidator allows the amendment without application to the court.

Payment by or to creditor in respect of amended valuation.

4. When a valuation has been amended as hereinbefore provided, the creditor shall forthwith repay any surplus dividend which he may have received in excess of that to which he would have been entitled on the amended valuation, or, as the case may be, shall be entitled to be paid, out of any money for the time being available for dividend, any dividend

or share of dividend which he may have failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

5. Upon a claim or amended claim being filed with a valuation of the securities as aforesaid, it shall be the duty of the liquidator to procure the authority of the inspectors, or of the creditors, at their first meeting thereafter, to consent to the retention of such security by the creditor, or to require from him an assignment and delivery thereof as aforesaid, and if at such meeting of inspectors or creditors no decision is arrived at as to the course to be adopted, or if such meeting is not held within two weeks from the time of the appointment of the liquidator, if the proof of the claim is then filed, or, if not then filed, within two weeks from the time of filing such claim or amended claim, the liquidator shall act in the premises according to his discretion.

6. If a secured creditor sells or disposes of or realizes upon his security within the period during which he may be required to assign the same as herein provided, unless with the consent in writing of the liquidator, the amount to be deducted from the claim as being the value of the security sold shall be the value set thereon in his proof of claim or amended claim, or the amount realized therefrom, whichever is the greater.

17. If a creditor has a claim provable under this Act which is dependent upon a condition or contingency or for any other reason does not bear a certain value, such creditor shall in his proof of claim make an estimate of the value of such claim, or if such claim is not proved at the time of the declaration of the first dividend and the condition or contingency has not then happened or the debt become certain, the liquidator under the instructions of the inspectors shall make an estimate of the value thereof, and any estimate so made by the claimant or by the liquidator may be amended and the claim revalued upon the happening of the condition or contingency, or upon the debt becoming certain at any time prior to the declaration of the last dividend. If any estimate so made is not agreed to between the claimant and the liquidator and no agreement can be reached by them as to the value of the claim, the matter shall be referred to the court, which shall direct the value to be assessed in such a way as to it seems most expedient and just in the interests of all concerned, and the value when so assessed and approved by the court, over and above any set-off or the value of any security held by the creditor, shall be the amount of the claim of such creditor against the estate. All costs in connection with the assessment of the value of such claim shall be in the discretion of the court.

18. If a creditor holds a claim based upon a negotiable instrument upon which the insolvent is only indirectly or secondarily liable, and which is not mature or exigible such creditor shall be deemed to hold security within the meaning of this Act, and shall put a value on the liability of the party or

Liquidator's duty as to valued securities.

How amount of claims is to be settled when creditor realizes security.

Conditional and contingent claims how valued.

Court to direct assessment of value when claimant and liquidator disagree.

Costs.

Valuation of negotiable instrument which insolvent is only secondarily liable.

parties primarily liable thereon as being his security for the payment thereof, but after the maturity of such liability, and its non-payment he shall be entitled to amend and revalue his security.

Sureties who pay debts to have a claim against estate.

**49.** A person who, being a surety or otherwise liable for a debt of the insolvent, pays such debt, may prove a claim against the estate, and shall have the same rights as the person to whom he made such payment would have had on proving a claim in respect of such debt, or, if a claim has been proved against the estate, in respect of such debt, he shall be substituted for the creditor so proving such claim, and the amount of such last mentioned creditor against the estate shall be reduced by the amount of the claim so substituted. 5 10

Amount of claim to be calculated from separate items of claim.

**50.** The amount due to a creditor upon each separate item of his claim at the date of insolvency, which remains due at the time of proving such claim, shall form part of the claim of such creditor against the estate until such item of claim is paid in full, except in cases of the deduction of the proceeds or of the value of his security as in this Act provided; but, except as herein otherwise specially provided, no claim, or part of a claim, shall be permitted to be proved against the estate more than once, whether the claim to prove is made by the same person or by different persons; and the liquidator may at any time require from any creditor a supplementary affidavit declaring what amount, if any, such creditor has received in payment of any item of the debt upon which his claim is founded, subsequent to the making of such claim, together with the particulars of such payment; and until the creditor makes and files such affidavit with the liquidator, he shall not be collocated in any subsequent dividend sheet, and no dividend then declared shall be paid to such creditor. 15 20 25 30

Supplementary affidavits may be required.

#### EFFECT OF INSOLVENCY ON ANTECEDENT TRANSACTIONS.

Liens under writs or seizures not to avail against receiving order if sheriff has notice.

**51.** No creditor shall be entitled, except as herein otherwise provided, to retain as against the guardian or liquidator any lien or privilege upon either the real or personal property of the insolvent given or created by the law of the province in which such property is situate for the amount of any debt, or of any interest thereon, by the issue or delivery to the sheriff or other proper officer of any writ of attachment or execution, or any other writ, or by levying upon or seizing under such writ the effects or estate of the insolvent, if a receiving order is made and notice thereof published or served on the sheriff before payment over to the creditor or creditors of the moneys actually levied under such writ; and the sheriff shall, upon demand and on payment of his costs in connection with such attachment, execution, levy or seizure, deliver the property so levied, seized or attached, or the proceeds thereof, to the guardian or liquidator; provided, however, that in case real or immovable property has been advertised by him for sale, it may be sold by him in manner hereinafter provided; and provided also that nothing herein shall affect any lien or privilege for costs which the plaintiff possesses under the law of the province in which such writ was issued. 35 40 45 50

Sheriff to deliver property.

But may sell real property if sale advertised.

Lien for costs not affected.

- 2 Nothing herein shall affect any lien or privilege of a creditor on or against the real or immovable property of the insolvent acquired under the law of the province in which such property is situate by the registration of a judgment or of an execution, or of any memorial or notice thereof, if such lien or privilege was so acquired prior to the coming into operation of this Act, or if acquired since to coming into operation of this Act such lien or privilege was acquired at least one month prior to the date of insolvency.
- 5
- 10 **52.** The issue of a receiving order renders null and void as against the guardian or liquidator—
- (a.) Every gratuitous contract or conveyance, or contract without consideration, or with a merely nominal consideration respecting either real or personal estate, or immovable or 15 movable property, or any sale conveyance, or assignment of his property constituting an act of insolvency under this Act, made by the insolvent with or to any person whomsoever, whether a creditor or not, within three months next preceding the date of insolvency;
- 20 (b.) Every contract, mortgage, hypothec, or conveyance made or act done by the insolvent in respect of any estate, real or personal, immovable or movable, with intent fraudulently to impede, obstruct or delay his creditors in their remedies against him, or with intent to defraud his creditors, or any of 25 them, and so made, done and intended with the knowledge of the person contracting or acting with the insolvent, whether a creditor or not, and having the effect of impeding, obstructing or delaying the creditors in their remedies or of injuring them, or any of them, notwithstanding that such contract, mortgage, 30 hypothec, conveyance or act is in consideration or in contemplation of marriage; and if made or done by a debtor unable to meet his engagements, and afterwards becoming insolvent, to or with a person knowing such inability or having probable cause for believing such inability to exist, or after such in- 35 ability is public and notorious, whether such person is a creditor or not, it shall be presumed *prima facie* to be made or done by such debtor with intent to defraud his creditors;
- (c.) Every sale, mortgage, hypothec, deposit, pledge or transfer of any property, real or personal, immovable or mov- 40 able, or of any securities, rights or effects, made by the insolvent in contemplation of insolvency by way of payment or as security for payment to any creditor, whereby such creditor obtains a preference over the other creditors, and if made with- in thirty days next before the date of insolvency it shall be 45 presumed *prima facie* to have been so made in contemplation of insolvency;
- (d.) Every payment made within thirty days next before the date of insolvency by the insolvent, being then unable to meet his engagements in full, to a person knowing such in- 50 ability or having probable cause for believing the same to exist and if any valuable security is given up in consideration of such payment, such security, or the value thereof, shall be restored to the creditor upon the repayment of the amount so paid;
- 55 (e.) Every transfer or assignment of a debt or claim due by the insolvent, made within thirty days next before the date of
- Cases in which liens under registered judgments or executions are not affected.
- Effect of receiving order as to acts of insolvent before its issue.
- Gratuitous contracts and conveyances.
- Contracts conveyances etc., done with intent to defraud.
- Presumption of intent to defraud.
- Preference to creditors.
- Presumption thereof.
- Payments within 30 days before insolvency.
- Transfers and assignments of debts within

30 days before insolvency. insolventy to a person indebted to the insolvent and knowing or having probable cause for believing that he was then unable to meet his engagements in full, or made in contemplation of such insolventy, for the purpose of enabling the person to whom the same was transferred to set up the debt or claim so transferred by way of set-off or compensation against any debt or claim owing by him to the insolvent shall be null and void. 5

Contracts and conveyances voidable in certain cases.

**53.** A contract or conveyance for consideration respecting either real or personal estate by which creditors are injured or obstructed, made by a debtor afterwards becoming insolvent, and who was then unable to meet his engagements, with a person ignorant of such inability, whether a creditor or not, and before such inability has become public and notorious, but within thirty days next before the date of insolventy, is voidable and may be set aside by any court of competent jurisdiction, upon such terms as to the protection of such person from actual loss or liability by reason of such contract or conveyance as the court may order. 10 20

Wife's rights under marriage contract in province of Quebec.

**54.** In the province of Quebec, if the insolvent has a marriage contract with his wife, by which he gives or promises to give, or pays or promises to pay, or cause to be paid, any right, property, or sum of money, and such contract is not registered within thirty days from the execution thereof, or within six months from the coming into operation of this Act, if made prior thereto and not registered, the wife shall not be permitted to avail herself of the provisions of such contract in any claim under this Act upon the estate of such insolvent for any advantage conferred upon or promised to her by its terms, but she shall not be deprived by reason of its provisions of any advantage or right upon the estate of her husband to which in the absence of any such contract she would have been entitled by law; provided always, that in no case shall she be permitted to avail herself of any such contract registered within thirty days next preceding the date of insolventy, unless at the time of execution thereof or of entering into the same the insolvent was able to pay his debts and liabilities in full, including any liability incurred by the contract itself, irrespective of the right, property or money conveyed or referred to in such contract, and without calculating among his assets any property conveyed by the contract. 25 30 35 40 45

#### REALIZATION OF PROPERTY.

Disposal of estate by liquidator.

**55.** The creditors may at any meeting pass any resolution or order directing the liquidator how to dispose of the estate, or any part thereof, and in default of their so doing he shall be subject to the directions, orders and instructions he may from time to time receive from the inspectors with regard to the mode, terms and conditions, on which he may dispose of the whole or any part of the estate, and if there are no inspectors he shall sell and dispose of the same in such manner as seems to him most advantageous in the interests of the estate, subject always to the provisions of this Act; but the liquidator or any inspector shall not purchase, directly or indirectly, any part of the stock in trade, debts, or assets, of any description of the estate. 50 55

Not to be purchased by liquidator.



56. The liquidator in his own name as such, shall have the exclusive right to sue for the recovery of all debts due to or claimed by the insolvent of every kind and nature whatsoever, and for the rescinding of agreements, deeds and instruments made in fraud of creditors, and for the recovery of moneys, securities and effects alleged to have been paid or delivered in fraud of creditors; and he may take, both in the prosecution and defence of all suits, any proceedings that the insolvent might have taken in such suit, or that any creditor might have taken for the benefit of the creditors generally; and he may intervene and represent the insolvent in all suits or proceedings by or against him, which are pending at the date of insolvency, and on his application may have his name inserted therein in the place of that of the insolvent, and if the insolvent after the date of insolvency and before his discharge under this Act institutes or continues any suit or proceeding he shall give to the opposite party, before such party shall be bound to appear or plead or take any further proceedings thereon, such security for the costs thereof as is ordered by the court before which such suit or proceeding is pending.

Suits and proceedings to be taken in liquidator's name.

57. If a receiving order is issued in regard to the estate of a partner in a company or co-partnership, such partnership shall thereby be dissolved, and the liquidator of the estate of the insolvent partner shall have all the rights of action and remedies against the other partners in such company or co-partnership that the insolvent partner could have or exercise by law or in equity against his co-partners after the dissolution of the firm, and may avail himself of such rights of action and remedies, as if such co-partnership or company had expired by efflux of time.

Partnership dissolved by receiving order against a partner.

Rights of liquidator against the other partners

58. The liquidator may, with the sanction of the inspectors or creditors, sell by public auction, on such terms and after such advertisement thereof as they think best, any of all debts due the estate, and pending such sale the liquidator shall keep a list of the debts to be sold open to inspection at his office, and shall also give free access to all documents and vouchers explanatory of such debts.

Sale of debts.

2. The person who purchases a debt from the liquidator may sue for it in his own name as effectually as the liquidator might do, and a bill of sale (Form No. 9) signed and delivered to him by the liquidator, shall be *prima facie* evidence of such purchase, without proof of the handwriting of the liquidator, and the debt sold shall vest in the purchaser without notification or notice to the person owing the debt, but no warranty of any kind whatever shall be created by such sale and conveyance.

Rights of purchasers of debts.

59. If the insolvent, at the date of insolvency, is a tenant of property, the liquidator shall, notwithstanding any condition, covenant, or agreement that such tenancy should determine in case of the bankruptcy or insolvency of the tenant, have the right to hold and retain such property for a period not exceeding three months from the date of insolvency, or until the expiration of the tenancy, whichever shall first

Liquidator's rights under tenancy of insolvent, notwithstanding determination of lease by insolvency.

happen, on the same terms and conditions as the insolvent might have held such property had no receiving order been made.

Determination of tenancy in other cases.

2. If the insolvent at the date of insolvency is a tenant of property, the tenancy of which is not determined by his insolvency, the guardian under the authority of the court, or the liquidator under the authority of the creditors or of the inspectors, may give notice in writing to the lessor of his wish to determine the same at the expiration of three months from the giving of such notice and such tenancy shall terminate at the expiration of such three months; but nothing herein shall prevent the liquidator under the authority of the creditors, or of the inspectors, from selling, transferring, subletting or otherwise disposing of any lease, or leasehold premises, or any interest of the insolvent therein, for the unexpired term thereof or any part thereof, to as full an extent as could have been done by the insolvent had a receiving order not been made; and if there is any covenant, condition or agreement that the lessee or his assigns should not assign or sublet the property without the leave or consent of the lessor, or other person, such covenant, condition or agreement shall be of no effect in case of such sale, transfer, sub-lease or disposition of the lease or leasehold property as aforesaid, if the court, on the application of the liquidator and after notice of such application to the lessor or other person, whose leave or consent is required, approves of the sale, transfer, sub-lease or disposition so made of the lease or leasehold property.

Sale, etc., of lease.

Provisions in case lease contains a covenant against subletting.

Lessor may claim for damages, rank as an ordinary creditor.

3. The lessor may, in the event of the tenancy being determined by the guardian or liquidator by notice in manner herein above provided, file a claim against the insolvent's estate for the damages (if any) sustained in consequence of such termination, which claim shall be proved in a similar manner to ordinary claims against the estate; and in his proof of claim he shall set forth the amount of damages claimed and how such amount is arrived at; and any such claim may be objected to in the same manner as hereinafter provided in regard to claims made against the estate; and the lessor on his claim being established or allowed shall have all the rights of voting and otherwise enjoyed by ordinary unsecured creditors who have proved claims against the estate.

Estimation of lessor's damages.

4. In estimating such damages regard shall be had to the rental payable under the tenancy so determined and to the yearly value of the property at the time of such termination, and regard shall also be had to the additional value given to the property by any buildings, fixtures or improvements placed thereon by the insolvent or those through whom he claims, but no regard shall be had to the chance of leasing the property at a greater or less rent than that payable by the insolvent or his estate at the time of the termination of the tenancy.

Lessor's privileged claims for arrears of rent.

5. The lessor shall have a privileged claim against the estate of the insolvent for arrears of rent due or accruing due in respect of the six months next preceding the date of insolvency, together with all costs of distraint properly made before the date of insolvency in respect to the rent or any part of the rent hereby made a privileged claim, but for all others arrears of rent he shall have a claim provable against the estate as an

ordinary creditor. He shall also have a privileged claim against the estate for all rent accruing due after the date of insolvency, during the period the property and premises are held by the official receiver or liquidator.

For future rent.

5 6. The lessor shall not be entitled to distrain upon the goods of the insolvent after they become vested in the guardian or liquidator, and all goods then distrain upon shall, on demand, be delivered by the person holding them to the guardian or liquidator, but the lessor shall not by reason of such delivery be deprived of any lien or rights in reference to such goods which he may have acquired by such distress, should the goods be claimed by and be delivered to any person other than the guardian or liquidator.

Distrain.

7. The lessor shall not be entitled to any further or other rent from the insolvent or from his estate, than as set forth in this section.

Lessor not entitled to rent except as herein provided.

60. In the province of Quebec no sale of real estate shall be made unless after advertisement thereof for a period of one month, and in the same manner as is required for the actual advertisement of sales of real estates by the sheriff in the district or place where such real estate is situate, and to such further extent as the liquidator deems expedient; and if the price offered for any real estate at any public sales duly advertised as aforesaid is more than ten per cent less than the value set upon it by the liquidator under the authority of the creditors or of the inspectors, the sale may be adjourned for a period not exceeding one week, when, after such notice as the liquidator deems proper to give, the sale shall be continued, commencing at the last bid offered on the previous day when the property was put up at auction, and if no higher bid is then offered, the property shall be adjudged to the person who made such last bid: provided, that with the consent of the hypothecary and privileged creditors, or where there are no hypothecary or privileged creditors with the approbation of the creditors or of the inspectors, the liquidator may postpone the sale to such time as may be deemed most advantageous for the estate, and whenever the sale has been so postponed beyond one week, the last bidder shall be discharged from any obligation under the bid he may have made on the previous day when the property was offered for sale by auction.

Sales of real estate in province of Quebec.

61. In any province other than the province of Quebec, the liquidator, under the authority of the creditors, or of the inspectors, may sell the real estate of the insolvent at public auction or by tender, in such manner, after such advertisement and on such terms and conditions as to credit security for any unpaid portion of the purchase money, or otherwise, as the creditors or the inspectors determine. The liquidator under the authority of the creditors or inspectors, may before any such sale set a value upon such real property, and if the amount offered therefor does not reach such a value, the liquidator may, and if the amount so offered is more than ten per cent below such value, the liquidator shall postpone such sale to such time, giving such notice thereof as he thinks most advantageous in the interest of the estate, or as is directed by

Sale of real estate in other provinces.

the creditors or by the inspectors, or he may dispose of the property by private sale, with the sanction and under the direction of the creditors or inspectors.

Effect of sale by liquidator as to vesting property.

**62.** A sale of real estate or immovable property so made by the liquidator shall vest in the purchaser all the legal and equitable estate of the insolvent therein, subject to any mortgage, hypothec or lien thereon, and the conveyance or transfer thereof (Form No. 10) shall be executed in the manner prescribed by, and in accordance with the requirements of the law of the province wherein the real estate so sold is situate. The liquidator may in such conveyance or transfer reserve a special hypothec or mortgage on the property sold for the payment of the unpaid portion of the purchase money, or any part thereof, which special hypothec or mortgage on being satisfied may be released and discharged by the liquidator of the estate by instrument in Form No. 11 to this Act, duly executed in the same manner as is required by the law of the province wherein such real estate is situate for the release or discharge of hypothecs or mortgages in respect of real estate; provided always that in the province of Quebec such sale shall in all respects have the same effect as to mortgages, hypothecs or privileges then existing thereon as if the sale had been made by a sheriff under writ of execution issued in the ordinary course, but shall have no other, greater, or less effect than such sheriff's sale, and the title created thereby shall have equal validity with a title created by a sheriff's sale, and the deed so executed shall have the same effect as the sheriff's deed, and no credit shall be given for any part of the purchase money coming to any hypothecary or privileged creditor without the consent of such creditor.

Effect as to hypothecs, etc., in Quebec.

Further provisions as to sales of immovables in Quebec.

**63.** In the province of Quebec sales of immovable property may be subject to all such charges and hypothecs as are permitted by the law of the province to remain chargeable thereon when sold by the sheriff, and also subject to such other charges and hypothecs thereon as are not due at the time of the sale, the time of payment whereof shall not, however, be extended by the conditions of such sale; and also subject to such other charges and hypothecs as may be consented to in writing by the holder or creditor thereof; and an order of resale for false bidding may be obtained from the court by the liquidator upon summary petition, and such resale may be proceeded with, after the same notices and advertisements, and with the same effect and consequence as to the false bidder and all others, and by means of proceedings similar to those provided in ordinary cases for such resales, in all essential particulars and as nearly as may be without being inconsistent with this Act. As soon as immovables are sold by the liquidator he shall procure from the registrar of the registration division in which each immovable is situate a certificate of the hypothecs charged upon such immovable and registered up to the date of insolvency. Such certificate shall contain all the facts and circumstances required in the registrar's certificate obtained by the sheriff subsequent to the adjudication of an immovable in conformity with the law of the province of Quebec, and shall be made and charged for by the registrar in like manner, and the provisions

of the said law as to the collocation of hypothecary and privileged creditors, the necessity for and the filing of oppositions for payment and the costs thereon, shall apply thereto under this Act as nearly as the nature of the case will admit; and the collocation and distribution of the moneys arising from such sale shall be made in the dividend sheet among the creditors having privileged or hypothecary claims thereon after the collocation of such costs and expenses as were necessary to effect such sale, or were incident thereto, including the commission of the liquidator, which shall not exceed the poundage of the sheriff in the province of Quebec, in the same manner as to all essential parts thereof as the collocation and distribution of moneys arising from the sale of immovables are made in the appropriate court in ordinary cases, except in so far as the same may be inconsistent with the provisions of this Act; but no portion of the general expenses incurred in the winding up of the estate shall be chargeable to or payable out of the said moneys, except on such balance as may remain after the payment of all privileged and hypothecary claims. Any balance remaining after the collocation of the said necessary costs and expenses and of the privileged and hypothecary claims shall be added to and form part of the general assets of the estate.

**64.** In the province of Quebec any privileged or hypothecary creditor, whose claim is actually due and payable, shall have the right to obtain from the court an order that the liquidator proceed without delay to the sale, in the mode in this Act prescribed, of any immovable or movable property which is subject to his privileged or hypothecary claim, and such creditor may, at the expiration of one month after the sale has taken place, or of one month after the liquidator has received the price thereof, if not paid at the time of sale, obtain an order from the court to compel the liquidator to make a dividend of the proceeds of such sale.

Order in Quebec for sale without delay.

Order for dividend.

**65.** If at the date of insolvency any real estate or immovable property of the insolvent seized by the sheriff or other proper officer under any writ of execution or other order of a competent court is advertised for sale by such sheriff or officer, such sale shall be proceeded with by him unless stayed by order of the court upon the application of the liquidator, upon special cause shown and after notice to the plaintiff, reserving to the party prosecuting the sale his privileged claims on the proceeds of any subsequent sale for such costs as he would have been entitled to cut of the proceeds of the sale of such property, if made under such writ or order; but if such sale is proceeded with, the moneys levied there from shall be returned into the court on whose order the sale was made to be distributed and paid over to the creditors who have any privileged mortgage or hypothecary claims the rein, according to the rank and priority of such claims; and the balance of such moneys after the payment of such claims shall be ordered to be paid to the liquidator to be distributed with the other assets of the estate.

As to sales advertised before date of insolvency.

Disclaimer of property by liquidator in certain cases.

reason of its binding the possessor thereof to the performance of any onerous act or to the payment of a sum of money, the liquidator may, with the authority of the creditors or of inspectors, by writing under his hand disclaim such property at any time within six months from the date of his appointment, notwithstanding that he has endeavoured to sell, or has taken possession of such property, or has exercised any act of ownership in relation thereto; provided that when any such property has not come to the knowledge of any creditor within six months after his appointment he may disclaim such property at any time within six months after he first became aware thereof.

Operation of disclaimer.

2. Such disclaimer shall operate to determine as from the date thereof the rights, interests and liabilities of the insolvent and his property in or in respect of the property disclaimed, and shall also discharge the liquidator from all personal liability in respect of the property disclaimed as from the date when the property vested in him, but shall not, except so far as is necessary for the purpose of releasing the insolvent and his property and the liquidator from liability, affect the rights or liabilities of any other person.

Disclaimer not allowed in certain case.

3. The liquidator shall not be entitled to disclaim any property in pursuance of this section in any case where an application in writing has been made to the liquidator by any person interested in the property, requiring him to decide whether he will disclaim or not, and the liquidator has for a period of one month after the receipt of application, or such extended period as may be allowed by the court, declined or neglected to give notice whether he disclaims the property or not; and in the case of a contract, if the liquidator, after such application as aforesaid, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

Court may rescind contracts.

4. The court may, on the application of any person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the insolvent make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise, as to the court may seem equitable and any damages payable under the order to any such person may be proved by him as a debt provable under this Act against the estate of the insolvent.

Damages provable as debts.

Further powers of court as to disclaim property etc.

5. The court may, on application by any person either claiming an interest in any disclaim property, or under any liability not discharged by this Act in respect of any disclaim property, and on hearing such persons as it thinks fit make an order for the vesting of the property in or delivery thereof to any person entitled there to, or to whom it may seem just that the same should be delivered by way of compensation for such liability as aforesaid, or a trustee for him and on such terms as the court thinks just; and on any such vesting order being made the property comprised therein shall vest accordingly in the person named therein in that behalf without any conveyance for assignment for the purpose.

Vesting order.

Injury provable as claim.

6. Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the in-

solvent to the extent of the injury and may prove the same as a debt provable under this Act against the estate of the insolvent.

7. The provisions of this section shall not extend to leases 5 or leasehold property. Exception as to leases.

#### DISTRIBUTION OF PROPERTY.

67. The liquidator shall prepare dividend sheets of the estate of the insolvent whenever the amount of money realized will justify a division thereof, and also whenever he is required by the inspectors or ordered so to do; and so soon as the 10 dividend sheet is prepared notice thereof shall be mailed, post-paid and registered, to each creditor, with which shall be inclosed a copy of the dividend sheet and such notice shall name a date, being not less than ten days from the date of the mailing of such notice, before which date objection may be made 16 to such dividend sheets, or to any item therein, and after the date so named all dividends which have not been objected to within that period shall be paid. (Form No. 12).

2. Every dividend sheet so prepared shall be filed in the office of the liquidator and shall be open to inspection at all 20 reasonable hours by the insolvent, or any creditor or the duly authorized representative of a creditor. Preparation of dividend sheets. Notice. Filing and inspection.

68. No dividend shall be allowed or paid to any creditor until the amount of his claim against the estate has been proved, determined and established, as in this Act provided, but the 25 liquidator shall reserve a sufficient amount to pay such dividends in all claims provable against the estate of which he has knowledge which have not been so proved, determined or established. Dividends not to be paid till claims proved.

69. No dividend shall be paid on any claim based upon a 30 negotiable instrument, unless a creditor claiming such dividend produces to the liquidator the original instrument and the liquidator may endorse on such instruments a memorandum of the amount paid by him thereon, or unless it is established to the satisfaction of the liquidator that such instrument 35 has been lost and consequently cannot be produced, in which case the dividend may be paid on the claimant making the affidavit as aforesaid and giving security to the satisfaction of the liquidator, or of the court indemnifying the estate against loss in the case of the production of such instrument and the 40 dividend thereon being claimed by any other person. On claims based on negotiable instruments.

70. The creditor may allot to the insolvent, by way of gift or allowance any sum of money or any property they think proper, and the allotment so made shall be inserted in the then next dividend sheet; and such allotment shall be subject to 45 contestation like any other item collocated in the dividend sheet. Allowance to insolvent, how made.

71. It shall be the duty of the inspectors, from time to time, to examine with the liquidator each claim made against the estate and each dividend sheet prepared and to instruct the 50 liquidator as to what claims, or what portions of such claims, Examination and contestation of claims, when there are inspectors.

shall be contested (if any), and in case the liquidator is instructed by the inspectors or by the creditors to contest a claim, or a portion of a claim he shall forthwith serve the claimant with a notice that his claim, or the portion thereof objected to, is contested and the grounds of such contestation, and a claim may be contested, notwithstanding a dividend has been paid thereon. 5

When no inspectors.

2. If there are no inspectors, the liquidator may, with the consent in writing and under the authority of three creditors having each claims of one hundred dollars and upwards, contest such claims as he thinks should be contested, and it shall be his duty in any case to report to the creditors at each meeting what claims have been or should in his opinion be contested and the reasons therefor. 10

Costs.

3. The costs of any contestation made by the liquidator in accordance with this section shall, if not recovered from the opposite party, be paid out of the estate, and the liquidator shall set aside and reserve pending the contestation proceedings an amount sufficient to pay any dividends that may be declared in respect of a claim so contested, and all costs connected with the contestation of such claims. 20

Notice of contestation and service.

4. The notice of contestation by the liquidator shall contain the name and place of business of an attorney or solicitor duly authorized to practice in the courts of the province wherein the estate is being wound up, upon whom service of the writ may be made; and service upon such attorney or solicitor shall be deemed sufficient service of the writ or any other papers or documents in connection with the contestation. 25

Proceedings on contestation by liquidator.

71. If notice of contestation of a claim is served by the liquidator upon a claimant as provided in the next preceding section and no agreement as to such claim can be reached between the parties, the claimant may within ten days after the receipt of the notice, or such further time as the court may on application allow, bring an action against the liquidator to establish the claim, or the portion thereof contested, in the court having jurisdiction to entertain an action against the insolvent in respect thereof and in default of such action being brought within the time aforesaid the claim so contested shall cease to be provable against the estate. 30 35

Payment of dividend when contested by insolvent or creditor.

72. If before a dividend is paid the liquidator is served with notice in writing by the insolvent, or by any creditor, that he contests the payment of all or any of the dividends or the claim of any creditor, or the amount thereof or the ranking or privilege of any creditor, and the liquidator is also served with an order of the court allowing such contestation which order may be granted by the court on the application of the insolvent or of a creditor having an unsecured claim against the estate of one hundred dollars or upwards, the liquidator shall not make any payment in respect of the dividend or dividends or claim contested until such contestation is determined as in this section provided, but no such order shall be given unless it is shown to the satisfaction of the court that otherwise substantial injustice would result. 40 45 50

Procedure on such contestation.

2. The grounds of contestation shall be distinctly stated in the notice so served as aforesaid, and the contestant shall file 55



at the same time the evidence of previous service of a copy thereof on the claimant, and the claimant shall have three days thereafter to answer the same, which time may be enlarged by the court, with a like delay to the contestant to 5 reply; and upon the completion of an issue upon such contestation, the liquidator shall transmit to the clerk of the court the dividend sheet, or a copy thereof, with all the papers and documents relating to such contestation and shall notify the contesting party thereof, who shall within one week thereafter 10 make application to the court to name a day, of which two days' notice shall be given to the adverse party, or such further notice as the court may direct, for proceeding to take evidence thereon before the court and proceedings thereon shall continue from day to day until the evidence has been closed, the 15 case heard and the judgment rendered, which judgment may be appealed from in the manner hereinafter provided.

3. The court may at any stage of the proceedings on the application of any person interested, order the contestant to give security for the costs of the proceedings, or it may dismiss the proceedings with or without costs, in case of delay, 20 or it may make any order in reference to or in connection with such proceedings as it deems just.

**73.** If the liquidator becomes aware that the insolvent has creditors to whose claims a discharge under this Act would 25 apply who have not proved such claims, it shall be his duty to reserve dividends for such creditors according to the nature of their claims and to notify them of such reservation, and if such creditors do not prove their claims and apply for such dividends before the declaration of the last dividend, the 30 dividends reserved for them shall be distributed to other creditors.

**74.** All dividends remaining unclaimed at the time of the discharge of the liquidator shall be paid over to the Minister of Finance and Receiver General of Canada; and if afterwards 35 claimed shall be paid over to the person entitled thereto, with interest from the time of the reception thereof by the Minister of Finance and Receiver General of Canada at the rate from time to time paid to depositors in the Post Office Savings Banks.

**75.** If any balance remains of the estate of the insolvent or of the proceeds thereof, after the payment in full of all his debts and liabilities and the costs of winding up his estate, such balance shall be paid or transferred to the insolvent. 40

**76.** One per centum upon all moneys proceeding from the 45 sale by a liquidator under the provision of this Act of any immovable property in the province of Quebec shall be retained by the liquidator out of such moneys, and shall by such liquidator be paid over to the sheriff of the district, or of either of the counties of Gaspé or Bonaventure, as the case may be, 50 within which the immovable property sold is situate to form part of the building or jury fund of such district or county.

2. This Act shall not interfere with the powers with respect to imposing a tax or duty upon proceedings hereunder, which

Hearing.

Security for costs.

Creditors not claiming how treated.

Unclaimed dividends.

Balance of estate to go to insolvent.

Percentage retained for building and jury fund in Quebec.

Authority to impose taxes for court

houses and jails in Quebec not interfered with.

are conferred upon the Lieutenant Governor in Council by the Revised Statutes of the province of Quebec for the purpose of making provision for the erection and repair of court-houses and jails.

#### BENEFIT OF PROCEEDINGS.

Creditor may obtain order to take proceedings in name of liquidator.

**77.** If at any time any creditor desires to cause any proceeding to be taken which in his opinion would be for the benefit of the estate, and the liquidator, under the authority of the creditors or of the inspectors, refuses or neglects to take such proceedings, after being duly required so to do, such creditor shall, on satisfying the court that he is acting *bona fide* and not in collusion with the liquidator, has the right to obtain an order of the court, authorizing him to take such proceedings in the name of the liquidator, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator as the court prescribes, and thereupon any moneys resulting from such proceedings shall be applied first in payment of the costs of and expenses connected with the proceedings, and then in payment to the creditors taking such proceedings of the full amount of his claim against the insolvent or his estate, and the remainder shall form a part of the estate of the insolvent; provided always, that if before such order is granted the liquidator signifies to the court his readiness to institute such proceedings for the benefit of the creditors, an order shall be made prescribing the time within which it shall do so, and in that case the advent derived from such proceedings, if instituted within such time, shall appertain to the estate.

Distribution of moneys resulting from such proceedings.

#### PART IV.

#### SMALL ESTATES.

Estates under \$5,000 may be administered summarily.

**78.** The court may, at the time or at any time after the making of the receiving order, on being satisfied by affidavit or otherwise that the assets of the insolvent are not likely to realize in value the sum of five thousand dollars, make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications:—

Modifications of Act.

(a). The court shall thereupon, if no liquidator has been appointed, and upon his being shown to its satisfaction that creditors representing a majority in amount of the unsecured claims provable against the estate have assented to the appointment as liquidator of a person eligible for such appointment, appoint such person liquidator and on such appointment being made and security (if any) given the estate of the insolvent shall be transferred to and vested in the liquidator so appointed, and he shall without delay proceed to make an inventory and statement of the assets and liabilities of the estate, and to wind up the estate, in accordance with the provisions of this Act in the same manner as if he had been appointed by the creditors at the first meeting;

Appointment of liquidator, etc.

Powers of creditors.

(b). The creditors at any meeting called for that purpose may appoint a person to be liquidator of the estate in the place

of the liquidator appointed by the court and may do any act or pass any resolution which they might have done or passed, had the order for summary administration of the estate not been made.

## PART V.

### LIQUIDATORS.

- 5 **79.** The creditors may, at the first or at any subsequent meeting, require the liquidator to give security for the due performance of his duties as such, such security to be to such an amount and of such a character, personal or otherwise, as the creditors determine, and they may at any meeting increase  
10 the amount of such security so required, or may direct any change in the securities given, or in the character thereof.
2. In any such case the liquidator shall not be deemed to be appointed under this Act, or if appointed shall cease to act as such, until he has provided the necessary security to the  
15 satisfaction of the inspectors of the estate, or, if there are no inspectors, to the satisfaction of the court, or to the satisfaction of such person or persons as may be indicated in the resolution passed in reference thereto.
3. If not otherwise specified in the resolution, the security  
20 or increase, or change of security shall be given or made within one week from the close of the meeting at which such resolution was passed, and if not given or made within such time the resolution appointing the liquidator shall be deemed to be cancelled, or if a liquidator has been appointed he shall be con-  
25 sidered as removed from office.
4. Any security given under this section shall be deposited with the clerk of the court, who shall be responsible for its safe keeping and it shall be by him kept as part of the record of the court subject to the right of any person entitled to sue  
30 thereon to such production and delivery thereof as may be necessary in order to exercise such right.
5. Any creditor may inspect such security, and the court may, on the application of any creditor having an unsecured claim of one hundred dollars or upwards, and on being satisfied  
35 that the security given is insufficient, make such order with reference thereto and to the costs of such application as it deems right.
- 80.** The liquidator shall keep a register showing the name of the insolvent, his residence, place of business and the nature  
40 of his trade or business, the date of the issue of the receiving order, the date of each meeting of creditors and of the appointment of the liquidator, a summarized statement of the liabilities and assets of the estate, the claims proved dividing them according to their nature, the ratio of each dividend declared  
45 and the amount paid on each claim, and if a discharge is granted to the insolvent under a deed of composition and discharge the terms and conditions thereof, and any conditions imposed on the insolvent by the court in connection with the confirmation of a deed of composition and discharge, and such  
50 other information as the liquidator deems of general interest with reference to the estate; and he shall also keep regular

Security may be required from liquidator.

Liquidator not to act or to cease to act till security given.

Time for giving security.

Deposit for security.

Inspection and provision for insufficiency of security.

Register to be kept by liquidator.

Particulars to be entered therein.

- Accounts. accounts of the affairs of the estate, which register and accounts shall be open to the inspection of the inspectors and of the creditors, or their duly authorized agents, during business hours at the office of the liquidator.
- Disposal of books in case of death, or removal of liquidator. 2. Such register and all books, papers and documents in any way relating to the estate shall on the death or removal from office of the liquidator before the final winding up of the estate be transferred to the clerk of the court to be by him transferred to the liquidator thereafter appointed, and on the final winding up of the estate shall be deposited with the clerk of the court. 5
- Moneys to be deposited in bank. **§1.** The liquidator shall from time to time deposit the moneys of the estate in his hands in some chartered bank to be indicated by the creditors or by the inspectors, and whenever such moneys amount to over two hundred dollars in addition to such sum as the inspectors may direct to be kept by the liquidator to meet ordinary current expenses connected with the winding up of the estate, they shall be deposited at interest in such bank or in some other chartered bank to be indicated as aforesaid, and the interest accruing on any such deposit shall be part of the estate and shall be accounted for and distributed by the liquidator in the same manner and subject to the same rights and privileges as the capital from which such interest accrued. 15 28
- Interest.
- Employment of counsel. **§2.** No liquidator shall employ in or about the business of the estate any council or attorney-at-law or solicitor without the consent of the inspectors, or of the creditors, but expenses incurred by employing such counsel or attorney or solicitor with such consent shall be paid out of the estate, if not otherwise paid, and in no case shall any liquidator employ any inspector, nor shall any inspector employ any person being his partner or being the partner of any liquidator, or the partner of any inspector, as counsel, advocate, attorney, solicitor or agent in respect of such estate. 25 30
- Remuneration of liquidator. **§3.** The liquidator shall receive such remuneration as may be voted him by the creditors, or in default thereof fixed by the inspectors; but if such remuneration is not voted by the creditors or fixed by the inspectors, before the declaration of the final dividend or the preparation of the final account of the liquidator, if there is no dividend, if so voted or fixed, the liquidator is dissatisfied with the amount so voted or fixed he may apply to the court, giving notice to the inspectors of such application, and the court shall thereupon determine the amount of such remuneration, having regard to the nature and value of the estate, the work done and services performed by the liquidator and the responsibility involved. 35 40 45
- Court to determine remuneration in certain cases.
- Costs. 2. The costs of all proceedings under this section shall be in the discretion of the court.
- Provision in case of death or removal of liquidator. **§4.** Upon the death of a liquidator, or upon his removal from office the estate shall remain under the control of the court until the appointment of another liquidator, and the court may, upon the application of the inspectors or of any creditor, order the holding of a meeting, at such time and on 50

such short notice as the court may order, for the appointment of a liquidator, and upon such appointment being made, the estate and all papers and records relating thereto shall become vested in the liquidator so appointed.

- 5 **S5.** After the declaration of the final dividend he shall prepare his final account and make application to the court for his discharge, giving at least ten days' previous notice of such application to the insolvent, and to the inspectors, if any have been appointed, and to the creditors by circular; and he shall produce and file on such application a bank certificate of the deposit of any dividends remaining unclaimed and of any balance in his hands and also a statement under oath showing the nominal and realized value of the assets of the insolvent, the amount of claims proved, dividing them into classes according to the nature thereof, the amount and rate upon the dollar of dividends paid to the creditors, and the entire expense of winding up the estate. The court may, after causing the accounts of the liquidator to be audited by the inspectors, or by such creditor or creditors, or by such competent person or persons as the court may name, and after hearing all parties interested, grant conditionally and unconditionally the application for discharge or refuse it.
- Discharge of liquidator when and how obtained.

## PART VI.

### OFFENCES AND PENALTIES.

- 25 **S6.** Any person who for himself or for any firm, partnership or company of which he is a member, or as the manager, trustee, agent, or employee of any person, firm, co-partnership, or company subject to the provisions of this Act purchasing goods on credit, or procures an advance in money, or procures endorsement or acceptance of any negotiable paper without consideration, or induces any person to become security for him or for the person, firm, co-partnership, or company for which he is acting, knowing or having cause for believing himself or such person, firm, co-partnership, or company to be unable to meet his or its engagements, and concealing the fact from the person thereby becoming such creditor or surety, with the intent to defraud such person which intent shall be presumed from such knowledge or from such concealment, or to, by any false pretense or by exhibiting a false balance sheet, or by any other fraudulent method, obtains a term of credit for the payment of any advance or loan of money, or of the price or any part of the price, of any goods, wares or merchandise, or the discount of any negotiable paper purporting to be for a certain value when no such value or no value whatever has been given, with the intent to defraud the person thereby becoming his creditor or the creditor of such person, firm, co-partnership, or company and who has not afterwards paid or cause to be paid the debt or debts so incurred, is guilty of an indictable offence and liable to two years' imprisonment, or to any greater punishment attached to the offence by any other statutes.
- Persons being insolvents purchasing goods on credit, etc., with intent to defraud.  
Or obtaining credit by false pretenses, etc.  
Guilty of indictable offence.
- 50 **S7.** The insolvent or his partner or any person in any way connected with the business of the insolvent who does, or
- Indictable offences by insolvent

or persons connected with business of insolvent or insolvent company.	neglects, or refuses to do any of the acts or things following with intent to defraud or to defeat the rights of his or its creditors, or to conceal the state of his or its affairs, or to defeat the object of this Act or any part thereof, is guilty of an indictable offence, and is liable, at the discretion of the court before which he is convicted, to punishment by imprisonment for not more than three years, or to any greater punishment attached to the offence by any other statute :—	5
Penalty.		
Not making full discovery of property and causes of insolvency.	(a.) If he does not fully and truly disclose to the best of his knowledge and belief all the property, real and personal debts and credits, belonging to the insolvent or to the insolvent company, and how and to whom, and for what consideration, and when the same or any part thereof were disposed of, assigned or transferred, and fully, clearly and truly state the causes to which the insolvency is owing ;	10 15
Not delivering up all property, books, etc.	(b.) If he does not deliver to the guardian or liquidator all such property as is in or may come into his possession, custody or under his control, (except such part thereof as does not vest in the liquidator as hereinbefore provided), and all money and securities for money, books, letters, or other documents, papers and writings in his possession, custody or under his control relating to the property or affairs of the insolvent or of the insolvent company ;	20
Concealing or secreting property.	(c.) If within thirty days prior to the date of insolvency he removes, conceals, or secretes any part of such property to the value of fifty dollars or upwards ;	25
Not disclosing false claims.	(d.) If in case of any person having to his knowledge or in his belief proved a false claim against the insolvent estate he fails to disclose the same to the liquidator within one month after coming to the knowledge or belief thereof ;	30
Wilful omission from statements.	(e.) If he wilfully and fraudently omits from any statement any of the effects or property whatsoever of the insolvent ;	
Concealment of books, etc.	(f.) If he conceals or prevents or withholds the production of any book, deed, paper or writing relating to such property, dealings or affairs ;	35
Mutilation or falsification of books.	(g.) If he parts with, assigns, conceals, destroys, alters, mutilates, or falsifies, or causes to be concealed, destroyed, altered, mutilated or falsified any book, paper, writing, security or document relating to the property, trade, dealings or affairs of the insolvent ; or makes or is privy to the making of any false or fraudulent entry or omission from any book, paper, document, or writing relating thereto ;	40
False entries.		
False representation of losses, etc.	(h.) If at any examination or at any meeting of creditors held under this Act, he attempts to account for the non-production or absence of any such property by a representation of fictitious losses or expenses ;	45
Disposing of property unpaid for.	(i.) If within the three months next preceding the date of insolvency he pawns, pledges, or disposes of, otherwise than in the ordinary way of trade, any of such property, goods or effects, the price of which remains unpaid by him at the date of insolvency.	50

**88.** If after the date of insolvency the insolvent retains or receives any portion of his estate or effects, or of any moneys, securities for money, business papers, documents, books of account, or evidences of debt, belonging or appertaining to his business or estate, and retains and withholds the same from the

guardian or from the liquidator, without lawful right, the guardian or liquidator may apply to the court for an order for the delivery thereof to him, and in default of delivery in conformity with such order of the court the insolvent may be  
 5 imprisoned in the common jail until the same are delivered, or for such time, not exceeding one year, as the court may order; but nothing herein shall interfere with or diminish any other penalty to which under this Act he may be subject in consequence of the non-delivery of such property, effects, documents  
 10 or money.

**89.** If any creditor, directly or indirectly, takes or receives from the insolvent any payment, gift, gratuity or preference, or any promise of payment, gift, gratuity, or preference, as a consideration or inducement to consent to the discharge of such  
 15 insolvent, or to execute a deed of composition and discharge; or if any person proves, or causes, or permits to be proved, a claim on the insolvent's estate for a sum of money not owing by the insolvent or by his estate to the person so proving the claim, or on whose behalf the claim is proved, such person  
 20 knowing the same to be not so owing to him by the insolvent or by his estate, or if he votes or offers to vote at any meeting of creditors upon any such claim, or upon any such claim being collocated in a dividend sheet he does not disclaim the same previous to the date on which the dividend becomes  
 25 payable; such creditor or person shall pay to the liquidator of the estate for the benefit of the estate twice the amount or value of the payment, gift, gratuity, or preference so taken, received or promised, or of the claim so proved or permitted to be proved, and the amount so payable shall be recoverable by  
 30 the liquidator in any court of competent jurisdiction, and such creditor or person is also guilty of an indictable offence and liable to three years imprisonment or to any greater punishment attached to the offence by any other statute.

Indictable offences by creditor.

Penalty.

**90.** The liquidator is guilty of an indictable offence and  
 35 liable to three years imprisonment if in any certificate required by this Act he wilfully misstates or falsely represents any material fact, or if he makes any false entry in any pass book, book of account, register or other book, paper or document related to or connected with the estate.

2. If the guardian or liquidator takes or receives directly  
 40 or indirectly for his own use, whether by permission, discount or otherwise, any part of the moneys charged against the estate of the insolvent as disbursements, or if he charges in his accounts against the estate as a disbursement any sum not actual-  
 45 ly and *bonâ fide* paid by him, or if he enters into any arrangement or agreement whereby he receives or is to receive, directly or indirectly for his own use, any commission, discount, payment or consideration in respect of any sum charged against the estate as a disbursement, he shall pay to the estate  
 50 twice the amount so taken or received, and the same shall be recoverable for the benefit of the estate, by suit in any court of competent jurisdiction by the liquidator in case the amount is payable by the guardian, or by the inspectors, or by any creditor in case the amount is payable by the liquidator, and  
 55 such guardian or liquidator is also guilty of an indictable offence and liable to three years' imprisonment.

Indictable offences by liquidator.

Further indictable offences by guardian or liquidator.

Penalty.

Penalty  
for voting on  
unauthorized  
telegrams.

**91.** Any person who votes at any meeting of creditors, or does any other act as agent of or as representing a creditor, under the authority of a telegraphic message which he knows to be unauthorized, is guilty of an indictable offence and liable to three years' imprisonment.

5

## PART VII.

### PROCEDURE GENERALLY.

#### MEETING OF CREDITORS.

Calling  
of meetings.

**92.** The liquidator shall call meetings of creditors whenever required in writing so to do by the inspectors, or by five creditors for over one hundred dollars each if there are five or more, or by all the creditors for over one hundred dollars each if there are less than five; and every notice of a meeting of creditors shall state in general terms the object of such meetings. 10

How notices  
may be given.

2. Notices of meetings of creditors and all other notices required to be given to creditors, where not otherwise provided by this Act, shall be given by registered letter mailed to the creditors or to the representatives within Canada of foreign creditors, or to the address given by any creditor at least five clear days before the date on which the meeting or other proceedings is to take place. 15

Place  
of meeting.

**93.** The creditors may at any meeting determine where subsequent meetings shall be held, but in default of their doing so, all such meetings after the first meeting shall be held at the office or place of business of the liquidator. 20

Chairman.

**94.** At all meetings the creditors may appoint the chairman, and in default of such appointment the liquidator shall be chairman. 25

Powers as  
to decision  
of disputes.

2. The chairman shall decide all disputes or questions that may be raised at such meetings as to the eligibility of a creditor to vote or as to the amount on which he should vote, on any other question of procedure at such meetings. 30

Minutes.

3. The chairman shall cause to be kept full minutes for all proceedings, resolutions and decisions at such meetings, and shall include therein an accurate list of the creditors present or represented, which minutes shall be signed by him and shall be filed with and kept by the liquidator and on the final discharge of the liquidator shall be deposited with the clerk of the court. 35

When and to  
what extent  
creditors  
may vote.

**95.** A creditor shall be entitled to vote at any meeting of creditors in respect of and to the extent of his claim against the estate as determined by this Act, but such creditor shall not be entitled to vote at any meeting of creditors until he has proved his claim in manner hereinbefore provided, and, if his claim is dependent upon a condition or contingency, or for other reason does not bear a certain value, not until the value of such claim has been ascertained in manner hereinbefore provided. 45



2. In the case of contested claims the creditor shall until such contestation is decided, or an agreement between such creditors and the liquidator is arrived at, be considered as a creditor for the amount decided or agreed to. Status of creditors whose claim is contested.
- 5 3. Persons purchasing claims against the estate after the date of insolvency and creditors to whom a discharge under this Act does not apply, shall not be entitled to vote in respect of such claims, but shall, in all other respects unless otherwise specially provided have the same rights as other creditors. Certain persons not entitled to vote.
- 10 4. The guardian, his partner, agent, clerk or employee, or any other person in the employ of a partnership, or company, of which he is a member, shall not in any case be entitled to vote at a meeting of creditors. Guardian not entitled to vote.
- 15 5. The liquidator, his partner, agent, clerk or employee or any person in the employ of a partnership or company of which he is a member, shall not be entitled to vote upon any resolution affecting the remuneration, or removal from office, or the conduct of the liquidator, or the security to be given by him, but on all other questions, if creditors, they may vote as such creditors. Rights of liquidator as to voting.
- 20 96. Except as herein otherwise provided, no creditor shall vote at any meeting, unless present personally or represented by some person having written authority, which may be by power of attorney, letter, post-card, or telegraphic message, such authority to be filed with the guardian or liquidator. Such authority may be either general or limited, but in no case shall the guardian or liquidator, his partner, or any one in his employ, or in the employ of a partnership, or company of which he is a member, act for or represent any creditor of the estate. Vote to be personal or by written proxy.
- 25 97. All questions at meetings of creditors shall be decided by a resolution passed by creditors present or represented at the meeting and entitled to vote and representing a majority in value of the claims of one hundred dollars and over all creditors present or represented at such meeting in respect of which they are entitled to vote; and whenever in this Act anything is to be done or proceeding to be taken under or on the authority or by the direction of the creditors, such authority or direction shall be evidenced and given by a resolution of the creditors passed as in this section provided. Who may not act for creditors.
- 30 Resolutions how decided.

#### POWERS AND JURISDICTION OF COURT.

98. Every guardian and every liquidator shall be subject to the summary jurisdiction of the court in the same manner and to the same extent as the ordinary officers of the court are subject to its jurisdiction, and the court may compel them to perform their duties, or may restrain them from taking or continuing proceedings which are not in the interest of the estate, or of the creditors generally, and obedience by the guardian or liquidator, to any order of the court may be enforced by the court under the penalty of imprisonment as for contempt of court, or in the case of a liquidator by removal from his office. Guardian and liquidators to be officers of court.
- 45 50

Province  
of Quebec.

Rules of  
practice and  
tariffs of fees.

Taxation  
of costs.

Other  
provinces  
and N.W.T.

Costs  
and fees.

Temporary  
provision for  
procedure  
and costs, etc.

Absence  
of judge  
in Quebec.

Absence of  
judge in other  
provinces.

**99.** In the province of Quebec rules of practice for regulating the due conduct of proceedings under this Act before the court or a judge thereof, and tariffs of fees for the officers of the court and for advocates and attorneys practising in relation to such proceedings, or for any service performed, or work done for which costs are allowed by this Act, but the amount whereof is not hereby fixed, shall be made forthwith after the passing of this Act, and when necessary repealed or amended, and shall be so made, repealed, or amended, and shall be promulgated under and by the same authority and in the same manner as the rules of practice and tariff of fees of the superior courts of law, and shall apply in the same manner and have the same effect in respect of proceedings under this Act as the rules of practice and tariff of fees of the superior courts apply to and affect proceedings before that court; and bills of costs upon proceedings under this Act may be taxed and proceeded upon in the like manner as bills of costs are now taxed and proceeded upon in the said superior court.

2. In the province of Ontario the judges of the Court of Appeal or any three of them, of whom the Chief Justice shall be one, and in the other provinces and in the North-west Territories the judges of the Superior Court of Judicature in such province or in the North-west Territories, or a majority of them, shall forthwith make and frame and settle the rules and regulations to be followed and observed in the said provinces respectively, or in the North-west Territories, in proceedings under this Act, and shall fix and settle the costs, fees and charges which shall or may be had, taken or paid in all such cases by or to attorneys, solicitors, counsels and officers of the court, whether for the officer, or for the Crown, as a fee for the fee fund or otherwise. or for any service performed or work done for which costs are allowed by this Act.

3. Until the rules of procedure are made, and the costs, fees and charges to be taken or paid are settled as above provided, the proceedings under this Act shall follow as nearly as may be similar proceedings in ordinary suits before the court in which the proceedings under this Act are had, and the same fees and charges shall be taxed as are taxed and allowed for similar proceedings in such ordinary suits.

**100.** In the absence of the judge from the chief place of any district in the province of Quebec, or in case of his death or inability to act, the prothonotary of the court may make any order which the judge is empowered to make, but if any objection in writing to such order is filed with such prothonotary within two days from the date thereof, such order shall not be executed, but the papers and proceedings relating thereto shall be referred to the judge, or in case of his death, absence from the province, or inability to act, to the judge of the Superior Court of the district nearest to that in which the proceedings are instituted and such judge shall adjudicate upon the same.

2. In the other provinces in the case of death, absence or inability to act from any cause of the judge of the County Court, having jurisdiction, any proceedings under this Act

may be had before the judge of the County Court of the district nearest to the place in which such proceedings are instituted.

- 101.** The court or judge shall have the same power and  
 5 authority in respect of the issuing and dealing with commis-  
 sions for the examination of witnesses as are possessed by the  
 ordinary courts of record in the province in which the pro-  
 ceedings are carried on and may order a subpoena and *testifi-*  
*candum* or subpoena *duces tecum* to issue, commanding the  
 10 attendance as a witness, or for examination under the pro-  
 visions of this Act, of any person within the limits of Canada.
- 2 In case any person so served with a writ of subpoena  
 does not appear according to the exigency of such writ the  
 court or the judge on whose order or within the limits of  
 15 whose territorial jurisdiction the same is issued may, upon  
 proof made of the service thereof and on such default, if the  
 person served therewith is domiciled within the limits of the  
 province, within which such writ issued, constrained such per-  
 son to appear and testify and punish him for non-appearance  
 20 or for not testifying in the same manner as if such person had  
 been summoned as a witness before such court or judge in an  
 ordinary suit, but subject to the same excuses, defences or  
 justifications for not appearing under such writs, as in cases  
 25 making the default as has his domicile beyond the limits of  
 the province within which such writ was issued, such court or  
 judge may transmit a certificate of such default to any of Her  
 Majesty's Superior Courts of law or equity, in that part of  
 Canada in which the person so served resides; and the court  
 30 to which such certificate is sent shall thereupon proceed  
 against and punish such person so having made default in like  
 manner as it might have done if such person had neglected or  
 refused to appear to a writ of subpoena or other similar pro-  
 35 cess issued out of such last mentioned court. Such certificate  
 of default attested by the court or judge before whom default  
 was made and the copies of such writ and of the return of  
 service thereof certified by the clerk of the court in which the  
 order for transmission is made, shall be *prima facie* proof of  
 40 such writ or order, service, return, and of such default. No  
 such certificate of default shall be so transmitted, nor shall  
 any person be punished for neglect or refusal to attend for  
 examination in obedience to any subpoena or other similar pro-  
 45 cess, unless it is made to appear to the court or judge trans-  
 mitting and also to the court or judge receiving such certi-  
 ficate, that a reasonable and sufficient sum of money, accord-  
 ing to the rate per diem and mile allowed witnesses by the  
 law and practice of the court within the jurisdiction of which  
 such person was found, to defray the expenses of coming and  
 50 attending to give evidence and of returning from giving  
 evidence, had been tendered to such person at the same time  
 when the writ of subpoena or similar process was served upon  
 him.

Commissions  
for examining  
witnesses.

Writs of  
subpoena.

Compelling  
attendance  
and testimony  
of witnesses.

Procedure  
where witness  
is domiciled  
out of the  
province.

Expenses to  
be tendered.

- 102.** Unless otherwise specially provided, the court shall  
 55 have power on cause shown therefor, to enlarge or extend the  
 time named in this Act for taking any proceedings hereunder.

Enlargement,  
extensions and  
adjournments.

or to adjourn such proceedings from time to time, but such power shall not be exercised if it appears that such enlargement or extension or adjournment will be prejudicial to the interests of the creditors or of the insolvent.

What judgments are final.

**103.** All decisions, judgments, rules and orders made by the court, in respect of the appointment of a liquidator or of the performance by the official receiver or liquidator of his duties under this Act, or in respect of the security, charges, remunerations, fees or disbursements of the official receiver or liquidator, or in respect of any matter appertaining to the discipline of the court, or in respect of any matter of routine in the proceedings for winding up the estate shall be final and conclusive. 5

Limit of appeal in other cases.

2. In all other cases appeal may be taken from any decision, judgment, rule or order of the court; but the judgment upon such appeal of the highest court of judicature in each province and in the North-west Territories shall be final and shall not be appealed from to any other court. 15

Review and appeal in Quebec.

3. In the province of Quebec all such decisions, judgments, rules or orders may be inscribed for revision or may be appealed from by the parties aggrieved in the same cases and in the same manner as they might be inscribed for revision or appeal from the decision, judgment, rule or order of the Superior Court in ordinary cases under the law in force when such decision is rendered. In the other provinces appeal may be made in the Province of Ontario to the Court of Appeal; in the province of Manitoba to the Court of Queen's Bench of the said province; and in the other provinces to the Supreme Court of Judicature of the province; and in the North-west Territories to the Supreme Court. 20 25 30

Appeal in other provinces and N.W.T.

Limit of time for appeal.

4. No such appeal or proceedings in revision or on review shall be entertained unless the appellant or party appealing has, within ten days from the rendering of the order or judgment appealed from, or adopted proceedings on the said appeal, revision or review, nor unless he has, within such time, made a deposit, or given security to the satisfaction of the court, that he will prosecute such appeal or proceedings on revision or review, and pay such damages and costs as may be awarded to the respondent. 35

Security for appeal.

5. If the party appellant does not receive with his appeal or on review, as the case may be according to the law or rules of practice, and without delay, the court, on application of the respondent, may dismiss the appeal and may make such order as to the costs thereof as to it seems just. 40

Dismissal for non-prosecution.

Court may enforce judgments.

**104.** All judgments, orders or rules may, by any court having jurisdiction under this Act, and all costs in connection therewith, shall be enforceable and recoverable in the same manner as judgments, rules, orders and costs in ordinary suits before such court are enforceable and recoverable. 45

#### OTHER MATTERS OF PROCEDURE.

Appeal by creditors from resolutions, orders, decisions at meetings.

**105.** Any one or more creditors whose claims in the aggregate exceed ten per cent in value of all claims ranking against the estate, who are entitled to vote, and who are dissatisfied with any resolution adopted, or orders made by the creditors 50

or the inspectors, or with any action of the liquidator, for the disposal of the estate, or any part thereof, or for postponing the disposal of the estate, or any part thereof, or for the disposal of the same, or with reference to any matter connected  
 5 with the management or the winding up of an estate, or with any decision of the chairman of a meeting, may, within twenty-four hours after the adoption of the resolution, or the making of the order or decision, or the performance of the action complained of, give to the liquidator notice that he or they will  
 10 apply to the court on the day, and at the hour fixed in such notice, not being later than forty-eight hours after such notice has been given, or as soon thereafter as the parties may be heard before such court, to rescind such resolution or order or to reverse such decision, or for such order of the court as  
 15 is indicated in such notice, and the court, after hearing the inspectors, the liquidator and creditors present at the time and place so fixed, may approve of, rescind, or modify the said resolution, or order, decision or action, or make such order in the premises, as to the said court seems proper. In case of  
 20 the application not being proceeded with, or being refused, the parties shall pay all costs occasioned thereby, otherwise the costs and the expenses shall be at the discretion of the court.

Notice.  
Powers of court.  
Costs.

**106.** Any affidavit required in proceedings under this Act  
 25 may be made by the person interested, his agent or the other person having a personal knowledge of the matters therein stated, and may be sworn in Canada, before the liquidator, or before any judge, notary public, commissioner for taking affidavits, or justice of the peace; and, out of Canada, before  
 30 the judge of a court of record, any duly appointed commissioner for taking affidavits to be used in the province in which the proceedings are instituted, a notary public, the mayor or chief municipal officer of any town or city; or any British Consul on vice-consul, or before any person authorized  
 35 by any statute of the Dominion, or of any province thereof to take affidavits to be used in any court of justice in any part of Canada.

Affidavits, before whom made.

**107.** Except when otherwise provided by this Act, or  
 except when in the opinion of the court, further notice is  
 40 necessary, one clear juridical day's notice of any petition, application, motion, order or rule, shall be sufficient, and service of any rule, writ or subpoena, order or warrant issued by any court or judge in any matter, or proceeding under this Act, or of any notice or other paper or document required to be served  
 45 under this Act, shall be made in the manner described for service of an ordinary writ in suits before the Court, or for similar service in the province within which the service is to made, or in such manner as is prescribed by any general or special or special rules made under this Act, or in such manner  
 50 as the court directs; and any such service may be validly made and enforced in any part of Canada upon any party affected, or to be affected thereby, and the person charged with such service shall make his return thereof, under oath, or if a sheriff or bailiff in the province of Quebec may make  
 55 such return under his oath of office.

Notices in cases not specially provided for.  
Service of writs, etc.  
Service may be made anywhere in Canada.  
Return of service.

- 108.** The rules of procedure as to amendment of pleadings, which are in force in any place where any proceedings under this Act are being carried on, shall apply to all proceedings under this Act; and no pleading or pleadings shall be void by reason of any irregularity or default which can and may be amended under the rules and practice of the court. 5
- 109.** The death of the insolvent pending proceedings under this Act shall not affect or interrupt such proceedings, and the provisions of this Act shall apply to his heirs, executors, administrators, or other legal representatives, and without their being held to be liable for the debts of the deceased to any greater extent than they would have been if this Act had not been passed. 10
- 110.** No plea or exception alleging or setting up any discharge, or certificate of discharge granted under the bankruptcy law of any country whatsoever beyond the limits of Canada, shall be a valid defence or bar to any action instituted in any court of competent jurisdiction in Canada, for the recovery of any debt or obligation contracted within Canada. 15 20
- 111.** Deed of transfer made under the provisions of this Act, or, in the province of Quebec, authentic copies thereof, or a copy of the receiving order or any order of a court under this Act, certified by the clerk of the court, making the same under the seal of the court, and copies of all resolutions, and copies of minutes of the proceedings at any meeting of creditors, signed by, or purporting to be signed by the chairman of such meeting and certified by the liquidator as deposited with him as resolutions passed at, or as the minutes of such meeting, shall be *prima facie* evidence in all courts, whether civil or criminal, of any such deeds, orders, resolutions or proceedings, and of the regularity of all necessary proceedings in connection therewith. 25 30
- 112.** If the insolvent at the date of insolvency is confined in jail or on the jail limits in any civil suit, any such insolvent makes application to the court having jurisdiction in the district in which he is confined, such court may, on such application, appoint a day for his examination for discharge from custody under this Act, which day so appointed shall be subsequent to the first meeting of his creditors, and notice thereof shall be served on the liquidator and on the plaintiff or his attorney in the suit in respect of which the insolvent is confined; and on the day appointed the insolvent shall be examined, and if it appears to the satisfaction of the court that he has submitted to examination at such meeting of creditors, and made a full disclosure of his affairs, and that he has not been guilty of any fraudulent disposal, or concealment, or retention of his estate, or of any part thereof, or of his books, or accounts, or any material portion thereof, and that he has not otherwise contravened the provisions of this Act, the court may make an order for his discharge from confinement as aforesaid, and on production of such order to the sheriff or jailer the insolvent shall forthwith be discharged. 35 40 45 50

Amendment  
of pleadings.

Provision  
in case of  
insolvent's  
death.

Representati-  
ves how far  
liable.

Discharge  
under form  
insolvency  
law not a  
valid defence.

Form of  
deeds, etc.,  
and effect  
as evidence.

Discharge of  
insolvent if  
imprisoned  
at date of  
insolvency.

Notice.

Examination.

Order  
of court.

2. If thereafter he is arrested in any civil suit for causes of action arising previous to the date of insolvency, he may be forthwith discharged on application to any judge and on producing the previous discharge, but nothing herein is to interfere with the imprisonment of the insolvent under provisions of this Act. Effect of such discharge.

3. In case of the confinement of the insolvent as aforesaid at the date of the first or any meeting of creditors, the court may, on application of any creditor, make an order for his attendance at such meeting in custody of the sheriff or jailer, and any costs and expenses in connection with such attendance shall be paid out of his estate. Compelling attendance of insolvent so imprisoned.

4. The sheriff or jailer, while obeying any order of the court under this section, shall not be liable for any action for the escape of the insolvent from his custody, unless the escape had happened through his default or negligence. Liability of sheriff and jailer.

## BANKS.

113. Nothing in the provisions of this Act shall interfere with or restrict the rights and privileges conferred on banks and banking corporations by *The Banking Act*. Banks.

## FORM No. 1.

## RECEIVING ORDER.

*Insolvency Act, 1898.*

Province of \_\_\_\_\_ in the (*name of Court*)  
in the matter of \_\_\_\_\_ an insolvent, on the appli-  
cation of \_\_\_\_\_ a creditor, it is ordered that  
the estate of \_\_\_\_\_ be appointed guardian (*or liquidator*) to

Dated,

By the Court,  
*Clerk (or as the case may be.)*

(Seal of Court).

## FORM No. 2.

## NOTICE OF APPLICATION FOR RECEIVING ORDER.

*The Insolvency Act, 1898.*

Province of \_\_\_\_\_ in the (*name of Court*)  
to (*name, address and description of debtor*).  
Take notice that on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_  
instant (*or, next*) an application will be  
made by (*name, address and description of creditor*) to (*name of Judge*) Judge of above named Court at (*place where application will be made*) for a receiving order under the above cited Act in respect of your estate on the ground that you have ceased to meet your liabilities as they came due, and

that on such application the affidavit (or affidavits) a copy (or copies) of which is (or, are) hereto annexed will be read in support of such application.

Dated, &c.,

*Signature of Applicant or his Attorney.*

### FORM No. 3.

#### AFFIDAVIT BY INSOLVENT OF STATEMENT OF ASSETS AND LIABILITIES.

*The Insolvency Act, 1898.*

In the matter of A. B. an insolvent.

I, A. B., being duly sworn, make oath and say:—

1. I am the insolvent above named.  
 2. The annexed statement and the details thereof signed by me contain a full and true account to the best of my knowledge and belief of all debts of whatever nature due to me and of all my assets, estate and effects, real and personal, wheresoever situate, vested in the guardian under the above named Act, and the said statement contains a full and true account of all debts due by me or liabilities or demands upon me.

3. I have delivered up all the books, documents, accounts, vouchers and papers of every kind belonging to me, which in any way relate to my estate, and which were in my possession or custody, or under my control, and of which I have any knowledge, and I have made a full disclosure of every particular relating to my affairs.

Sworn, &c.

(NOTE.—In cases of partnership, the statements and affidavits are to be altered so as to make each partner's statement and affidavit cover above particulars in reference to both the partnership and his individual estate.)

### FORM No. 4.

#### NOTICE OF FIRST MEETING OF CREDITORS.

*The Insolvency Act, 1898.*

In the matter of A. B., an insolvent.

A receiving order having been issued in this matter, the creditors of the above named A. B., are notified to meet at  
 \_\_\_\_\_ in the \_\_\_\_\_ of \_\_\_\_\_  
 on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_  
 at \_\_\_\_\_ o'clock, in the \_\_\_\_\_ noon, to appoint  
 a liquidator and inspectors.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day  
 18 . . . . .

G. H.,  
*Guardian.*

(NOTE.—This form with necessary alterations may be used in calling other meetings of creditors under this Act.)



## FORM No. 5.

## NOTICE OF APPOINTMENT OF LIQUIDATOR.

*The Insolvency Act, 1898.*

In the matter of A. B., an insolvent.

I, the undersigned (*name and address*) have been appointed liquidator in this matter. Creditors are requested to file their claims with me without delay.

Dated at                      this                      day of  
18 .

L. M.,  
*Liquidator.*

## FORM No. 6.

## NOTICE OF MEETING TO CONSIDER DEED OF COMPOSITION AND DISCHARGE.

*The Insolvency Act, 1898.*

In the matter of A. B., an insolvent.

The above named insolvent has filed with me a deed of composition and discharge executed by his creditors as required by the above named Act, and notice is hereby given that a meeting of the creditors of the above named A. B. will be held at my office on                      street, in the  
of                      on                      the                      day  
of                      at                      o'clock in the  
noon, to take such deed into consideration and to transact such business as may lawfully be transacted at such meeting.

*In the notice sent to creditors shall be added the following:—*

The terms of such deed are:—(*Here set out briefly the terms thereof.*)

L. M.,  
*Liquidator.*

## FORM No. 7.

## NOTICE BY INSOLVENT OF INTENTION TO APPLY FOR CONFIRMATION OF DEED OF COMPOSITION AND DISCHARGE.

*The Insolvency Act, 1898.*

Province of

In the (*name of court*)

In the matter of A. B., an insolvent.

The above named insolvent, having filed a deed of composition and discharge, duly approved by his creditors, with the liquidator of his estate under the above cited Act, hereby gives notice that he will on                      the  
day                      at                      o'clock in the  
noon, apply to the Honourable                      Judge of

the said court, at (*place where application will be heard*) for a confirmation of such deed of composition and discharge.

*In the notices sent to creditors the following shall be added:—*

The terms of such deed are:—(*here set out briefly the terms thereof.*)

Dated, &c.

(Signature of insolvent or his attorney.)

## FORM No. 8.

### RECONVEYANCE TO INSOLVENT.

*The Insolvency Act, 1898.*

In the matter of A. B., an insolvent.

This deed of transfer made under the provisions of the above named Act between L. M., liquidator of the estate of A. B., of the above named insolvent, of the first part, and the said A. B., of the second part:—

Whereas a deed of composition and discharge made by the said A. B. and duly executed by his creditors has been confirmed by order of the Honourable Judge of the (*name of court*) dated the day of

Now, therefore, these presents witness that the said L. M., in his capacity as liquidator of the estate of the said A. B., hereby transfers to the said A. B., the estate and effects vested in the said L. M., as liquidator of the estate of the said A. B.: To have and to hold the same unto the said A. B., his heirs, executors, administrators and assigns for ever, subject to the provisions of the said deed of composition and discharge, and of the order of the court aforesaid, and the provisions of the above cited Act.

In witness whereof, etc.

NOTE.—This form may be adapted in the province of Quebec to the notarial form of documents prevailing in that province.

## FORM No. 9.

### PROOF OF DEBTS.

*The Insolvency Act, 1898.*

In the matter of A. B., an insolvent, and claimant.

I, of , being duly sworn in this matter, depose and say:—

1. I am the claimant (*or, a member of the firm of the claimants herein, and the said firm is composed of myself and or, the duly authorized agent of the claimant in this behalf*), and I have a personal knowledge of the matters herein deposed to.

2. The insolvent is indebted to me (*or, to the claimant, as the case may be*) in the sum of \$ , for (*here state nature and particulars of debt for which purpose reference may be had to documents annexed.*)

3. Annexed hereto, marked is a list of

negotiable instruments on which my claim (or, the claim of the claimant) is based in whole (or in part, *as the case may be*) and the particulars of such negotiable instruments, and a list of such instruments must be annexed, setting forth the amount of each such instrument, its due date, and the names of all persons liable thereon, and in what capacity, and in what order liable.

4. I (or the claimant, *as the case may be*), hold no security for the said claim or any part thereof.

Or, I hold the following and no other security for the said claim, that is to say (*state fully the particulars of such security*) and the said security is hereby valued at the sum of \$

Or, I hold security for my claim, which I have assigned to the official receiver (or, liquidator) for the benefit of the estate, and I now hold no security for my said claim or any part thereof.

Sworn, &c.

#### FORM No. 10.

##### TRANSFER OF DEBTS.

##### *The Insolvency Act, 1898.*

In consideration of the sum of \$ \_\_\_\_\_, whereof quit, L. M., of \_\_\_\_\_, liquidator of the estate and effects of the above named insolvent, and acting in that capacity, hereby sells and assigns to \_\_\_\_\_, accepting thereof all claim by the insolvent against \_\_\_\_\_ of \_\_\_\_\_ with the evidences of debt and securities thereto appertaining, but without any warranty of any kind or nature whatsoever.

In witness whereof, &c.

#### FORM No. 11.

##### TRANSFER OF REAL ESTATE.

##### *The Insolvency Act, 1893.*

In the matter of A. B., an insolvent.

This deed made under the provisions of the above cited Act this \_\_\_\_\_ day of \_\_\_\_\_ A.D., between L.M., of \_\_\_\_\_, in his capacity of liquidator of the estate and effects of the above named A.B., of the one part, and P.Q., of \_\_\_\_\_ (*the purchaser*) of the latter part, witnesseth:—

The said liquidator in his said capacity, having taken the steps necessary for the sale of the real estate hereinbefore referred to, doth hereby grant, bargain, sell and assign unto the said P.Q., his heirs and assigns, for ever, all the rights and interests of the said insolvent in that certain parcel or tract of land, &c., (*here insert a description of the property sold, and in the province of Quebec omit the words "the rights and interests of the said insolvent in"*): To have and to hold the same, with the appurtenances thereof, unto the said P.Q., his heirs and assigns for ever, subject to all mortgages, hypothecs

or liens thereon. The said sale is made for and in consideration of the sum of \$ \_\_\_\_\_ in hand paid by the said P. Q. to the said liquidator, the receipt whereof is hereby acknowledged.

*Or,*  
Of which the said P. Q., hath paid to the said liquidator the sum of \$ \_\_\_\_\_, the receipt whereof is hereby acknowledged, and the balance of such sum of \$ \_\_\_\_\_, the receipt whereof is hereby acknowledged, and the balance of such sum of \$ \_\_\_\_\_ the said P. Q. hereby promises to pay to the said liquidator in his said capacity as follows: To wit: (*here state terms of payment*), the whole with interest at the rate of \_\_\_\_\_ per centum per annum, payable \_\_\_\_\_ and as security for the payment so to be made the said P. Q. hereby mortgages and hypothecates to and in favour of the said liquidator in his said capacity the lot of land and premises hereby sold.

In witness whereof, &c.

Signed, sealed and delivered, &c.

NOTE.—This form shall in the province of Quebec be adapted to the notarial form of execution, of documents prevailing there.

#### FORM No. 12.

#### DISCHARGE OF MORTGAGE CONTAINED IN DEED OF TRANSFER OF REAL ESTATE BY LIQUIDATOR.

*The Insolvency Act, 1898.*

In the matter of A. B., an insolvent.

To all whom it may concern, I (*name of liquidator*) the liquidator of the estate and effects of the abover named A. B. send greeting.

Whereas, under and by virtue of a certain deed made under the provisions of the above cited Act on the day of \_\_\_\_\_ A. B., \_\_\_\_\_ between me; in my capacity of liquidator of the estate and effect of the above named A. B. of the one part, and P. Q., of \_\_\_\_\_ (*the purchaser*) of the other part, I, the said liquidator in my said capacity, having taken the steps necessary for the sale of the real estate hereinafter referred to, did thereby grant, bargain, sell and assign unto the said P. Q., his heirs and assigns, for ever, all the rights and interests of the said insolvent in that certain parcel or tract of land, &c., (*here insert a description of the property sold, and in the province of Quebec omit the words "the rights and interests of the said insolvent in"*): To have and to hold the same, with the appurtenances thereof, unto the said P. Q., his heir and assigns for ever, subject to all mortgages, hypothecs or liens thereon, and the said P. Q. did by such deed as security for certain payments to be made by him as therein set forth mortgage and hypothecate to and in favour of the said liquidator in his capacity the lot of land and premises thereby sold:—

Now therefore know ye that all moneys payable under and by virtue of the said deed to the liquidator of the said estate have been fully paid and satisfied, and I do hereby, in my said

capacity of liquidator of the said estate and under the provisions of the above cited Act, release and discharge the said land and premises of and from any mortgage or hypothecation or charge therein, under and by virtue of the deed hereinbefore referred to in respect any moneys payable thereunder to the estate of the said insolvent.

In witness whereof, &c., &c.

(NOTE.—This form shall, in the province of Quebec, be adapted to the notarial form of execution of documents prevailing there).

### FORM No. 13.

#### NOTICE OF DIVIDEND.

*The Insolvency Act, 1898.*

In the matter of A. B., an insolvent.

A dividend sheet has been prepared, open to objection until  
the day of after  
which dividends not objected to will be paid.

Dated at this day of

L. M.,  
Liquidator.