ple cesación de pagos, el Tribunal podrá emitir un auto declarando al deudor en estado de insolvencia, si, a juicio del Tribunal, el deudor no está comprendido en ninguno de los casos de quiebra definidos en esta ley. Los procedimientos continuarán con arreglo al Capítulo II, sin la necesidad de nuevo juramento.

ARTICULO 119.— Esta Ley no tendrá efecto retroactivo, a no ser en los casos expresamente previstos en la misma.

ARTICULO 120.— Toda ley o parte de ley contraria a la presente queda derogada.

S. S. ROBISON,
Contra-Almirante, Armada de los Estados Unidos,
Gobernador Militar de Santo Domingo.

Santo Domingo, R. D.,
Junio 13 de 1922.

MILITARY GOVERNMENT OF SANTO DOMINGO.

Executive Order No. 759.

INSOLVENCY LAW.

O. G. No. 3340.

By virtue of the powers vested in the Military Government of Santo Domingo, the following Executive Order is hereby promulgated:

ARTICLE 1. *Definitions.* The following definitions of words and phrases as used in this Law and in proceedings pursuant hereto shall govern, unless inconsistent with the context:

(a) "debtor" shall mean a commercial debtor who has voluntarily filed a petition as well as one against whom a petition has been filed;

(b) "creditor" shall include any one who owns a credit or claim provable in proceedings under this Law, and may include his duly authorized agent, attorney or proxy;

(c) "debt" shall mean any claim, credit or debt provable in proceedings under this Law;

(d) "discharge" shall mean the release of a debtor from all his debts except such as are excepted by this Law;

(e) "Court" shall mean the Court of Commerce in which are pending the proceedings defined in this Law, or any officer or appointee thereof acting within the scope of his authority as its representative;

(f) "Judge" shall mean the Judge of the Court of Commerce in which are pending the proceedings, or any officer or appointee thereof acting within the scope or his authority as its representative;

(g) "Secretary" shall mean the Secretary of the Court of Commerce in which are pending the proceedings, and shall include anyone lawfully acting as such therein;

(h) "proceedings" shall mean the proceedings under this Law;

(i) "Referee" shall mean the Referee who is functioning in the case under the authority or this Law;

(j) "Assignee" shall mean the assignee who is functioning in the case under the authority or this Law;

(k) "insolvent" shall mean a debtor in good faith whose liabilities exceed his assets;

(l) "composition" shall mean the terms proposed by the debtor ratified by the meeting of the creditors, and it shall likewise mean the adjustment agreement reached by the majority vote as provided in this Law, whether in accordance with the terms proposed by the debtor or otherwise;

(m) Words importing the masculine gender shall include corporations, partnerships and women;

(n) Words importing the plural number may be applied to and mean only a single person or thing;

(o) Words importing the singular may be applied to and mean several persons or things;

(p) All references by chapter or by article, unless otherwise indicated, shall be to parts of this Law.

CHAPTER I.

ARTICLE 2. The debtor who, possessing property enough to cover all his debts, finds himself in the position of not being able to pay one or more of them or foresees the impossibility of continuing to meet his obligations as they fall due, may petition the Court of Commerce of the district where he has his principal place of business to be declared in the state of "simple suspensión of payments". He must necessarily attach to his petition an exact schedule and inventory, in accordance with the provisions of Articles 3 and 4, a brief of his assets and liabilities with the balance, and the terms of composition for submission to his creditors. The petition must contain, besides its purpose, the date of its presentation and the corporate or firm name and domicile, if a company, and the names and surnames and domicile of the co-partners, if a co-partnership, and the names and surnames status and domicile of the debtor, if an individual. It must be signed by the petitioner, and if he does not know how to write, by the Judge to whom it is presented, or by the Secretary, *Alcalde,* or Notary, after inserting at the foot of the said petition a note drafted in conformity with what appears at the foot of Form No. 1.

ARTICLE 3. The schedule referred to in Article 2 must contain a correct statement in detail of all debts and obligations of the debtor, with the list of those to whom he owes said amounts and obligations; the place of residence of each; the amount owed each, the character of the debts and obligations if based on written contract or other evidence; the real origin of the debt or obligation; the date on which contracted, and the date of maturity and place where payable; and pledged property, right of preference, mortgage, decision, or other existing security for the payment of the debt or obligation and their dates, and a statement of facts which might or could form a basis of a cause of action against the debtor.

ARTICLE 4. Besides the list of assets and liabilities and a statement of the profits, losses, and expenditures, the inventory should contain an exact list of all the debtor's property, both real and personal, and should itemize the value of said property and effects, the place in which located, the encumbrances thereon, and the dates of such encumbrances. The value of the merchandise or effects inventoried by the debtor shall be represented by the cost price. If the value of merchandise and effects, or any portion thereof, has decreased, such decrease will be stated in a footnote to the inventory; if there is any increase in

value the same procedure shall be observed, unless the fall or rise in value depends upon circumstances that may disappear at any moment. The value, if any, of merchandise in poor condition shall be its real value. The value of other personal property, machinery, and other serviceable effects, shall be their estimated value at the time the inventory is made.

At the end of the inventory shall appear a declaration of facts which might or could form a basis of a cause of action in favor of the debtor, and a copy of the last general annual balance of such debtor shall be attached thereto.

ARTICLE 5. The petition, schedule, and inventory, as well as a copy of the general annual balance referred to in the proceeding Articles, shall be ratified by petitioner in a sworn statement in substantial conformity with Form No. 2.

ARTICLE 6. Upon receipt of the petition, together with the documents referred to in the foregoing Articles, the Judge shall forthwith issue a writ calling upon all the creditors mentioned in the schedule, and upon those who believe themselves to be creditors, to form a board, on the day and at the hour and place indicated in the writ, and in his presence to hold discussions and make resolutions. Such writ shall further contain an absolute prohibition forbidding the debtor in any manner to dispose of his property, except insofar as concerns the ordinary operations of commerce or of industry in which the debtor is engaged and furthermore to make any payments outside of the necessary and legitimate expenses of his business or industry so long as the proceedings are pending, and said proceedings for the purposes of this Law shall be deemed to have been instituted from the date of the filing of the petition. The writ shall be published in the newspaper or newspapers which the Judge considers best fitted to give actual notice to the creditors of the debtor, the publication to be made as often as the Judge may require during the time of convocation.

ARTICLE 7. The Secretary shall be charged with the registration and publication of the said writ and shall send a copy thereof to each one of the creditors appearing in the schedule, and to such as notify him that they are creditors. In addition to the fee of twenty-five dollars ($25) which shall be deposited with the Secretary and which shall be covered into the National Treasury, the petitioner shall deposit an additional sum to cover the expense of publication and postage. The debtor shall be invited to attend the meetings, and may attend them personally or by representative.

The Secretary, upon request of any creditor, shall furnish him with a certified copy of any document in the proceedings upon the payment of the corresponding fees as prescribed in Article 89.

Each creditor may also examine personally or through his attorney-in-fact any of the documents in the office of the Secretary.

In order to facilitate the examination of such documents, the debtor shall remit two or more additional copies thereof to the Office of the Secretary within twenty-four hours after the presentation of said petition.

ARTICLE 8. If any execution be pending against the debtor the course thereof shall be suspended before sale of the attached property is made except when the execution is against mortgaged property, which is hereby exempted from the provisions of this Article. The suspension ordered by virtue of this Article shall be deemed to have been lifted *ipso facto* whenever fifteen days shall have passed after the formation of the board in accordance with paragraph (a) of Article 10, without the terms of composition being accepted by the creditors, or as soon as the said terms are rejected by the creditors, or in case of opposition, from the moment when the composition is cancelled. No creditor other than those mentioned in the first paragraph of Article 11 can bring or carry on actions or suits against the debtor for the collection of a debt from the time the petition in suspension of payment is presented and while the proceedings are pending. Any creditor not included in the schedule and any interested party whose name does not appear thereon may send his claim to the Judge within the time fixed for proving claims.

1. Creditors not mentioned in the schedule, whose claims have been allowed by the Judge, may attend the meeting and take part in the deliberation and voting.

2. After the expiration of the period prescribed by Article 92, creditors who have not put in their claims in accordance with this Article or Article 24 shall have no recourse from the action of the board, irrespective of whether there is a composition, but they shall retain their rights against the debtor and may exercise them against him insofar as this does not affect the terms of the agreement or of the composition.

CREDITORS' MEETINGS.

ARTICLE 9. A date shall be set for the assembling of the creditors to form the Board described by Article 6, taking into consideration the following rules:

(a) The order of convocation shall allow not less than twenty nor more than thirty days' notice counting from the first day of the publication of the writ.

(b) At the request of the Referee this period may be extended for not more than thirty days additional. In such case the meeting is postponed and a notice to that effect must be published indicating in due form the day, hour and place for the meeting.

(c) The Judge may likewise reduce the period prescribed in paragraph (a) to not less than ten days, but only when the total claims of the creditors residing outside of the commune in which the debtor has his principal place of business, represent less than one twentieth of the liabilities.

ARTICLE 10. In order that a creditors' meeting may be held it is necessary that the proofs of claim of those present shall represent at least two thirds of the liabilities. The meeting shall take place on the day and at the hour and place set, with the Judge presiding as chairman. The Secretary shall be present at the meeting which shall be governed by the following rules:

(a) The Secretary shall take notes, to be entered in his minutes, of those present and their claims, and the Judge in turn shall examine the proofs of claim and the powers of attorney. In cases of suspension of payments the Judge will pass on all proofs of claim either rejecting them or admitting them provisionally, in whole or in part, availing himself of the advise of the Referee and of the Assignee. Claims secured by mortgages or pledges shall not be computed as forming part of liabilities, save to the extent of their excess over the value of the property pledged. The total of liabilities shall then be determined by the Judge. If the proofs of claim, which have been admitted, represent the majority required by this Article, the Judge shall declare the meeting open for business.

(b) The Secretary shall forthwith read the debtor's petition, the schedule, and the statement of assets and liabilities. After the reading of these documents, the report of the Referee and of the Assignee will be read. As soon as these reports have been read, the terms of the composition presented by the debtor shall be read, and the discussion shall be opened.

(c) The debtor may modity his proposal in view of the result of the debate or insist on the one already presented and the Judge without further discussion shall clearly and succinctly place before the meeting that which is to be voted upon.

The Judge shall in no case of suspension of payments place the composition before the meeting when, in his opinion, in view of the facts brought to his knowledge in accordance with paragraph (b), the debtor's liabilities exceeded his assets by more than five per cent on the day he presented his petition. In such case, the Judge, whether upon request of any creditor or upon recommendation of the Referee or upon his own motion, shall order the proceedings terminated and direct the institution of proceedings in bankruptcy. Nor shall any composition, calling for an adjustment on a basis of less than one hundred cents on a dollar, in cases of suspension of payments, be placed before the meeting by the Judge unless immediate settlement is guaranteed.

(d) The voting shall be by calling names and a record thereof shall be inserted in the minutes. In order that the composition shall be valid and binding on the creditors a majority must ratify it.

Persons appearing for more than one creditor shall have only one personal vote, but the claims presented by them shall be taken into consideration for the purpose of arriving at the majority of the amount represented.

(e) In order to constitute a majority it is necessary:

1. That two-thirds of the creditors voting agree on the same point.

2. That the claims represented by said majority vote amount to at least three-fifths of the total of the liabilities of the debtor.

(f) After the result of the voting has been announced all protests made against the majority vote shall be admitted and stated in the record and the meeting shall be closed.

(g) The minutes of the meeting containing a succinct statement of all proceedings had thereunder, shall be drawn up immediately by the Secretary and there shall be inserted the composition accepted, which, after having been read and approved, shall be signed by the Judge together with all persons who took part in the voting. If any such person shall be unable to write, at his request one of those present shall sign, to all of which facts the Secretary shall certify.

(h) The Judge may adjourn the meetings and if necessary order them reconvened within the fourteen days following the formation of the board.

ARTICLE 11. Creditors secured by mortgages, whether registered or exempt from registration, may refrain from attending the meeting or taking part in the voting. If they take part in the proceedings or in the voting they shall be bound by the terms of the composition in the same manner as are the other creditors.

The following shall be privileged claims which shall be paid in the order named:

(a) Legal expenses, and expenses incurred in the administration of the debtor's estate for the common interest of the creditors, when properly authorized and approved by the Referee in his capacity as an officer of the Court;

(b) Necessary funeral expenses of the debtor, or of his wife, or children who are under their parental authority and have no property of their own, when approved by the Referee under the authority of the Court;

(c) Debts, taxes, and assessments due the Government of the Dominican Republic;

(d) Debts, taxes, and assessments due any commune of the Dominican Republic;

(e) Debts for personal services rendered the insolvent by clerks, laborers, or domestic servants during the sixty days immediately preceding the commencement of the proceedings, not to exceed one hundred dollars ($100) for any claimant, nor more than a total of five hundred dollars ($500) for all such claimants; and

(f) All other claims preferred under the laws now in force it being understood that Article 2101 of the Civil Code is hereby revoked insofar as it may refer to proceedings established by this Law.

Article 549 of the Code of Commerce is hereby amended by reducing the period or six months to two months. This amendment shall not apply to salaries or wages accruing prior to the promulgation of this Law, provided that no claim for salary or wages covering a period of more than two months shall be intitled to any privilege with respect to any period after the promulgation of this Law.

All other claims shall be paid pro rata.

ARTICLE 12. The composition shall be deemed rejected:

(a) When the majority prescribed by paragraph (e) of

Article 10, either fails to ratify or rejects it, whether in the first meeting or in the second meeting called in accordance with Article 13.

(b) When, after such second meeting, the creditors who attend do not represent two-thirds of the total liabilities.

ARTICLE 13. If on the day and hour set in the writ the creditors who meet are insufficient to form the majority prescribed by paragraph (e) of Article 10, the Judge will issue a new order in the manner prescribed for the first, fixing a period within which the meeting is to be held of not less than eight days nor more than fifteen, counting from the day set for holding the first meeting no matter where the creditors live. The expenses of the second meeting shall be advanced by the creditors who attended the first meeting; but they will be chargeable to and must be paid by the creditors not attending the said first meeting; or these expenses may be advanced by the debtor, subject to being charged against the creditors last mentioned.

ARTICLE 14. If the composition is deemed rejected as provided in Article 12, the proceedings shall be terminated without recourse and the prohibition as provided in Article 6 shall be dissolved and the interested parties shall be at liberty to exercise such rights as they may have. If the composition is ratified it may be attacked within ten days following the date of ratification, by any creditor, excepting those who attend the meeting and either expressly or tacitly assent to the composition or agreement. The opposition to and attack upon the action of the majority in favor of the debtor shall be proceeded with in the manner prescribed in Article 98 of this Law.

The Judge in deciding the objection will declare whether the agreement of the meeting is valid. In case the action of the meeting is declared null, the Court shall declare the proceedings terminated and the parties at liberty to exercise such rights as they may have; and in case the composition is declared valid or when no objection has been presented, or when, after objection has been entered, the objectors have withdrawn opposition, the Court shall order the composition to be carried out and shall dissolve the prohibition issued with the writ referred to in Article 6.

A bond to secure faithful compliance by the debtor with the terms of any composition entered into under the provisions of this Law, may be exacted as one of the terms of the composition. The formalities for receiving, accepting and approving the bond

shall be the same as those specified in the first paragraph of Article 39.

ARTICLE 15. In order to carry out the composition, the Judge may issue such process or orders as may be proper, always at the request of a legitimate party. The writ making effective the composition shall bind all creditors, whether included in the debtor's schedule or otherwise, provided they have been duly summoned; but it shall not bind those included in the first paragraph of Article 11 who have refrained from taking part in the discussion or voting, who, unless they have expressly or impliedly consented to the composition, shall retain their rights unaffected thereby; provided, however, that the order of preference of claims as established by the second paragraph of Article 11, shall not be affected by the writ. The Secretary shall certify and deliver to each creditor, at his request, a copy of the composition and minutes, the corresponding fees having first been paid.

Failure or omission on the part of the debtor, without reasonable excuse therefor, to include in his schedule any debt or the name of any creditor, shall constitute an act of fraudulent bankruptcy. In such case immediate steps shall be taken by the Referee under the provisions of Articles 93 and 94.

ARTICLE 16. The grounds for objecting to any action taken by the creditors' meeting and the annulment thereof, shall be:

(a) Any defect prejudicial to the right of the creditor presenting the objection, in the summons to the meeting, in the holding of the same, or in its deliberations;

(b) Fraudulent connivance between one or more creditors and the debtor to vote in favor of the composition;

(c) A fraudulent assignment of claims for the purpose of securing the majority.

ARTICLE 17. If the debtor, or his heirs, in case of his death, fail wholly or in part to carry out the composition accepted by the meeting of the creditors, all the rights of individual action both as against the property and as against the person of the debtor, shall revest in them by virtue of a decision rescinding the composition. In such case the debtor shall be liable to bankruptcy proceedings as hereinafter provided.

ARTICLE 18. If in the course of the proceedings, regardless of the stage reached, it is found that the debtor comes within

one or more of the cases of bankruptcy defined by this Law, that import fraud, the Judge shall order his imprisonment and shall cause proceedings to be begun. If a composition has been agreed upon it shall *ipso facto* be deemed null and the creditors shall be at liberty to exercise such rights as they had prior thereto.

ARTICLE 19. If the debtor should die during the course of the proceedings and before the acceptance of the composition, the proceedings shall be suspended *ipso facto* and the interested parties shall be at liberty to pursue their respective remedies, if within thirty days after his death no composition shall have been effected. If, however, the debtor should die, after such acceptance, the composition shall be binding if ratified by the Court, and the proceedings shall be continued and concluded in like manner and with like validity and effect as if he had lived.

ARTICLE 20. If, during the pendency of bankruptcy proceedings, an insolvency petition or one in simple suspension of payments is presented, it shall be deemed not received; if during the pendency of insolvency or simple suspension of payments proceedings, a bankruptcy petition is presented, the said proceedings shall be suspended and the bankruptcy proceedings instituted. After final termination of the bankruptcy proceedings the Court shall either dismiss the other proceedings or declare them open, according as the facts may warrant.

CHAPTER II.

INSOLVENCY.

ARTICLE 21. The insolvent debtor in good faith, may petition the Court of Commerce of the district where he has his principal place of business to be discharged from his debts and obligations. The petition shall set forth his place of residence at the time, the period of his residence therein, his inability to pay his debts in full, his willingness to surrender all his property and effects for the benefit of his creditors, or to reach an agreement for the payment of his debts and an application to have himself declared unable to meet his obligations. He shall annex to his petition, in addition to the balance of his assets and liabilities, an exact schedule and inventory in the form prescribed in Chapter I. The petition shall contain the declarations prescribed in the second part of Article 2 and shall be signed as therein prescribed.

ARTICLE 22. On receiving the petition accompanied by the said documents the Judge shall forthwith issue a writ which shall contain:

(a) A declaration that the debtor is insolvent;

(b) An absolute prohibition forbidding the debtor by himself or through another, subject to the provisions of this Law, to continue at the head of his business, to pay his debts, due or otherwise, to transfer or in any other way to encumber any of his property, or to dispose of it in any form, or to accept payment for any debt due him or to accept delivery of any property belonging to him;

(c) A summons directed to the Assignee, or the designation of an Assignee *ad-hoc* in cases in which this Law so provides;

(d) A summons directed to the Referee, or the designation of a Referee *ad-hoc* in cases in which this Law so provides;

(e) The designation of the official who must proceed with the affixing of the seals;

(f) The citation in the manner prescribed in Chapter I, for the creditors to meet and form a board.

For the purpose of notifying third persons, the Judge shall send to the Director of the Civil Registry a memorandum drafted in conformity with Form No. 3, in order that the latter may proceed with its inscription in a registry intended for the purpose. The cost shall be reserved. The Secretary shall immediately notify the Referee and the Assignee in regard to this writ.

ARTICLE 23. The writ by which the debtor is declared insolvent produces the following effects:

(a) It imports, *ipso facto,* from the date of issue, the separation of the debtor from the administration of his affairs, even those that may be restored to him during the pendency of the proceedings. From the date of the writ, every real and personal action shall be prosecuted by or against the Assignee only, and this rule shall govern with respect to every executive proceeding affecting real or personal property. When the Court deems it proper, it shall include the debtor as an intervening party;

(b) Makes debts payable by the debtor before maturity. In case the debtor is an indorser of a promissory note payable to order, or is the acceptor of a bill of exchange, or drawer under

non-acceptance, the other sureties shall give bond to guarantee payment at maturity; and

(c) Suspends, but only with respect to the estate, the interest on every credit not guaranteed by privilege, by pledge or by mortgage. The interest on guaranteed claims cannot be recovered excepting on sums arising out of properties subject to privilege, mortgage or pledge. Anything done in contravention of paragraph (b) of Article 22 shall be null and of no value as far as concerns the estate, from the day of the publication of said writ.

ARTICLE 24. No creditor, save those included in the first paragraph of Article 11, shall be able to begin suit or to institute or continue suits or proceedings to collect his claim against the debtor from the time when the writ mentioned in Article 22 is issued and while the proceedings are pending. Any creditor not included in the schedule, and any interested party whose name does not appear therein, may send his claim to the Judge in accordance with the provisions of Article 8 and within the period fixed by the said Article.

ARTICLE 25. The meeting of the creditors shall have for its object:

(a To take cognizance of the report of the Referee;

(b) To appoint an Assignee *ad hoc*. Failure to do so shall be deemed an acceptance of the Assignee appointed under the provisions of Article 56;

(c) To take cognizance of the report which the Assignee must make;

(d) To direct a supplementary investigation, if necessary;

(e) To take cognizance of the proposed composition if any be presented by the debtor, under which he may remain at the head of his business, and to accept it, modify it or reject it after taking cognizance of the final report of the Referee;

(f) To consent, or the contrary, to the allotment from the assets, of funds for the debtor's support;

(g) To take action on any complaint or irregularity of procedure;

(h) To fill a vacancy in the office of Assignee, created by his resignation or by his removal for cause;

(i) To take any other action not in conflict with this Law.

Whenever a liquidation is ordered, the Board shall specify the manner in which it is to be effected, and shall give orders and instructions therefor to the Assignee. Should the Board fail to agree in this regard, the Judge shall issue such orders and instructions. If the Board decides that the business be continued, it shall be for a period of not more than one year, unless an extension be granted by the Judge at the request of the Assignee, or with the approval of the Board. From the moment liquidation proceedings are commenced, the creditors shall form one body represented by the Assignee.

In order that the decisions of the Board be valid, they shall be approved by the majority in the manner prescribed in paragraph (e) of Article 10.

Before performing his duties, the Assignee appointed in accordance with paragraph (b) shall take oath and give bond in an amount net less than fifteen per cent nor more than thirty per cent of the assets.

ARTICLE 26. If the debtor remain at the head of his business by virtue of the composition, the work of the Assignee shall cease and the case be terminated.

ARTICLE 27. The composition shall not take effect until after ratification. It shall be presented to the Court by the Assignee for ratification after the period within which to attack it has transpired.

The Court shall confirm a composition if satisfied that (a) it is for the best interest of the creditors; (b) that the insolvent has not been guilty of any of the acts, or of a failure to perform any of the duties, which would create a bar to his discharge; and (c) that the offer and its acceptance are in good faith, and have not been made or procured except as provided in this Law, or by any means, promises, or acts herein forbidden.

The ratification of the composition makes it binding on all creditors in the same manner as prescribed in Article 15, and it shall conserve for each one of the creditors the mortgage on the debtor's real property, inscribed in accordance with paragraph (1) of Article 65. For this purpose the Assignee shall cause to be inscribed in the mortgage office the decree of ratification unless other disposition is made in the composition.

ARTICLE 28. No action to annul the composition shall lie after its confirmation; but the creditors, even though having

voted for the composition, shall retain their right to prosecute before the corresponding repressive jurisdiction the debtor or other person guilty of acts defined in paragraph (c) of Article 16 which have been brought to light after the period within which to request annulment of the composition. The provisions of this Article shall not affect the provisions of Article 31 in regard to rescission.

ARTICLE 29. From the moment of the ratification of the composition the duties of the Assignee shall cease, and he, after compliance with the provisions of Article 27, shall deliver to the debtor his final accounts in the presence of the Referee. These accounts shall be discussed and closed. The Assignee shall answer to the debtor for the whole of his property, books, papers and effects. The debtor shall give him a discharge and the Referee shall note everything in his minutes. In case of dispute the Court shall decide taking into consideration the report of the Referee.

The cancellation of the composition for one of the causes set forth in paragraph (b) of Article 16, shall carry with it, *ipso facto*, the release of the bondsmen who have intervened to guarantee compliance with the composition wholly or in part.

The discharge shall not be effective when the bondsman is principal, coprincipal or accomplice in the act defined in paragraph (b) of Article 16. Nor shall the bondsman be discharged in case of bankruptcy when he has been convicted as an accomplice of the debtor.

ARTICLE 30. Acts committed by the debtor after the decree of ratification and before the cancellation of the composition shall not be annulled, except in case of fraud against the right of the creditors.

ARTICLE 31. In case of non-compliance by the debtor, or, his heirs in case of his death, any creditor may ask the Court for rescission either through the appearance of the sureties, if any, or their formal citation. The rescission of the composition shall not effect the release of the sureties that have guaranteed performance in whole or in part.

ARTICLE 32. In case of the rescission of the composition, or when, after its ratification, the bankruptcy of the debtor intervenes, the creditors whose claims antedate the composition, shall be able to recover the entire amount of their claims with respect to the debtor only; but they shall not figure in the sum total of the assets, except in accordance with the following plan, to wit:

If they have received no part of the dividend, to the full extent of their claims; if they have received any part of the dividend in proportion to their original claims, that proportion of their original claims which corresponds to that part of the dividend promised but not yet paid.

ARTICLE 33. When a business partnership has been declared insolvent the creditors may consent to a composition in favor of one or various partners only. In such case, all the partnership's assets shall remain in the control of all the creditors. The individual property of those included in the composition shall be excepted from its terms, and the special agreement made with the owners of the property cannot obtain any promise to pay a dividend except on other than partnership assets. The partner who has obtained a special composition shall be exempt from all joint liabilities.

ARTICLE 34. In cases where insolvency proceedings turn into bankruptcy proceedings, there shall be no new verification of the claims, if this has already been done; without prejudice, nevertheless, to having those that have been paid in whole or in part, either rejected or reduced.

ARTICLE 35. Liquidation shall be begun inmediately in any of the following cases:

When the proposal of the debtor to have the management of his business restored to him is not accepted within a period of ten days after the formation of a board; or when in such case and within the same period the board has not determined upon the continued operation of the business; or when, after a second convocation in the manner stated in Article 13, the creditors have failed to meet, or have not met in sufficient numbers to form a majority; or when the resolution accepting the composition with the debtor has been annulled for one of the reasons defined in paragraphs (b) and (c) of Article 16.

The process of the entire liquidation shall be terminated within a year following the the date on which it was commenced, unless an extension is granted by the Judge at the request of the Assignee. After the liquidation is over, the Court shall convene the creditors in order that the Assignee may render his account. As soon as this account is rendered and settled, the board shall discharge the Assignee and the case will be closed. This meeting shall be presided over by the Judge. If there is not a majority at the second convocation, the account shall be rendered in the presence of the Judge who shall discharge the Assignee.

ARTICLE 36. When a debtor has suffered the total or partial loss of his property through fortuitous circumstances or through an occurrence which cannot be attributed to his fault, neglect, ignorance, or carelessness, and which is apart from the fluctuation of commerce, the Judge, after taking cognizance of the report of the Referee called for that purpose, will convene a creditors' meeting, following the rules hereinbefore provided. If the Judge and all the creditors who attend the meeting are convinced that the debtor is not blameworthy the case shall be closed and the debtor declared discharged from all obligations; or, in proper case, the corresponding part thereof.

If, after the case has been closed, it is discovered and proven that the debtor is blameworthy or that he has concealed his property, effects, or valuables, or that he has fraudulently sold, given away, or transferred property, the insolvency case shall be annulled and the creditors placed at liberty to pursue their respective remedies.

If in complying with his duties in any case, the Referee discovers the author or authors of a punishable offence, he will send immediately a copy of his records to the *Fiscal* of the district in order that the latter may take the corresponding action.

CHAPTER III.

BANKRUPTCY.

ARTICLE 37. A declaration of bankruptcy shall be made when a debtor comes within one or more of the following cases:

(a) When he is about to depart or has departed from the Dominican Republic, or remains absent therefrom with intent to defraud his creditors;

(b) When, within three months prior to the commencement of insolvency or of suspension of payment proceedings, he, under false pretenses of carrying on his business and dealing within the ordinary course of trade, obtains from any one on credit any goods or chattels with intent to defraud, or, with intent to defaud his creditors, pawns, pledges or, in any way other than within the ordinary methods of his trade, disposes of his goods and chattels which have been obtained on credit and re-

main unpaid for; or when he falsely swears to the schedule and inventory required by Articles 3 and 4 of this Law, with intent to defraud his creditors;

(c) Except with respect to ordinary operations of commerce or industry in which the debtor is engaged, and with respect to legitimate payments necessary in his business or industry, when he in any form makes payments, sales, cessions, or transfers under any title, or when he encumbers or in any way alienates the whole or part of his property, stock or credits, knowing that he is in a state of insolvency;

(d) When after having presented a petition to be declared in a state of simple suspension of payments it is shown that on the day on which the petition was presented his liabilities exceeded his assets by more than five per cent;

(e) When in cases of simple suspension of payments or insolvency, a fraudulent understaking between one or more creditors and the debtor to vote in favor of the composition, is discovered; or when under the same circumstances, the debtor has omitted or increased or altered one or various debts in his favor; or when he has made omissions as to one or more effects, valuables or property; or when in his schedule he has omitted or added one or more creditors or credits, or has altered the value of credits of one or more of his creditors with intent to defraud; or when he has failed to obey the prohibition provided by the writ issued in accordance with Article 6 or Article 22;

(f) When he hides his books, or destroys them, or makes substitutions in whole or in part, or alters one or more entries, or commits any other fraud with respect to such books, or when he has hidden or concealed or misrepresents the whole or part of his assets, or when he makes himself out to be debtor for sums not owing;

(g) When he hides, withdraws, cedes, or transfers in any manner or in any way encumbers any of his property, for the purpose of preventing its attachment, or with the intention of decreasing his assets; or when he suffers his property to be attached, or permits a judgment by default to be entered against him, whenever in these cases there arises any prejudice to the creditors, or when upon finding himself in the said state of insolvency, he does not present his petition in time, and this fact occasions the creditors a loss of more than six per cent;

(h) When he has spent excessive sums, whether in pure gambling transactions, or in fictitious operations, whether on the

exchange or in merchandise, or when he has made purchases for resale at a lower price, or has contracted burdensome loans, or put in circulation commercial paper, or has tried other ruinous ways or raising money, or has contracted on another's account, without getting value in return, obligations considered excessive in view of his situation at the time of contracting same, or when his domestic or personal expenditures may be adjudged excessive, taking into consideration his situación. When, being married, whether under the *régimen dotal,* or with his property separate, he does not conform to the provisions of Article 69 of the Code of Commerce, and this fact prejudices the creditors;

(i) When he abandons his business into the hands of another, in any form, when in such case creditors suffer prejudice;

(j) When he defaults in the payment of one or more accounts due, or current obligations, within a period of three days after payment has been demanded of him by his creditor, not counting day of demand;

(k) When he has not paid any account due not suject to litigation, when at the time of collection it is found that the entire property of the debtor is attached, unless it deals with the foreclosure of a conventional mortgage with due consent, and, in this case, whenever prejudice is not caused to the other creditors;

(l) When he disposes of another's property or money to meet his own obligations, or when, within a period of three days, not counting day of demand, after a lawful demand by a lawfully authorized person, he fails to deliver property or money placed in his hands or received by him in a fiduciary capacity;

(m) Whenever upon the constable's presenting himself for the purpose of levying an attachment for a sum of money, or other effects or valuables, that official does not find sufficient property which he may attach and which is subject to execution;

(n) Whenever, upon finding himself in the situation defined by Article 21, he has been guilty of an act or an omision as defined in this Article, when such an act or omission constitutes an offense chargeable to him, and by that fact the creditors suffer losses;

(o) Whenever the debtor, whatever may be his situation, is finally convicted of robbery, deceit, abuse of confidence, counterfeiting, or forgery of, instruments of credit, of commercial or bank paper or negotiable instruments of whatever kind, or of the signature thereon;

(p) Whenever the composition described by Article 10 has

been annulled for any of the causes specified in paragraph (b) of Article 16 or paragraph (e) of Article 37;

(q) Whenever the difference between assets and liabilities depends upon unjustifiable or unjustified losses, or upon such as can be ascribed to the guilt or negligence of the debtor;

(r) Whenever the debtor in a state of suspension of payments in the case defined by paragraph (a) of Article 87, of Executive Order No. 699, as amended by Executive Order No. 718, fails to abide by the provisions of Article 2 or Article 21 of this Insolvency Law, and, by continuous noncompliance with his obligations, allows his property to be attached or otherwise encumbered.

ARTICLE 38. The application for a declaration of bankruptcy may be presented by any creditor or creditors having a provable claim. It shall take the form of a petition to the Court, in which shall be made to appear the facts on which it is based. It shall be signed by the applicant or by his special representative with a power of attorney executed for that purpose.

The petition shall likewise conform to the requirements set forth in the last two sentences of Article 2. If, after the presentation of a petition, another is presented, the Judge will attach it to the record. The petition will close by offering the deposit of a sum of money as a bond, or the presentation of at least two sureties, whose names and surnames must be given. The applicants may amend their petition, but solely to accommodate or adapt it to the facts. Likewise they may discontinue within forty-eight hours after the issuance of the order prescribed by Article 40, by notifyng the debtor, the Judge, the Assignee and the Referee, provided that they pay expenditures, charges and fees, which, in such case, shall be fixed by the Judge in a sentence issued after a hearing in Chambers.

The bond shall not be required as regards paragraphs (j), (m), (o) and (r) of Article 37, it being sufficient in the case of paragraph (o) to present the final judgment of conviction with the petition; but in case of discontinuance, the debtor may request that the bond be maintained when he alleges to have suffered loss. In this case claim should be made within five days after the judgment supporting such discontinuance has been pronounced.

In any case of simple suspension of payments where a composition has been proposed or made effective, which contemplates the payment of claims on a basis of fifty per cent (50%) or less, or which contemplates the payment of claims after a delay of

more than one year and on a basis of less than one hundred per cent (100%), it shall be the duty of the *Ministerio Público,* upon the application of any creditor, to cause an immediate investigation to establish whether the debtor had come within the provisions of paragraph (d) of Article 37, If as a result of the investigation it is shown that the debtor's liabilities, on the day on which the petition was presented, exceeded his assets by more than five per cent (5%), the Judge shall proceed as provided in Article 18. For this purpose the proceedings in simple suspension of payments shall be deemed to have been pending so long as all the terms of the composition have not been complied with in full.

ARTICLE 39. The formalities for receiving, accepting, and approving a bond shall be solely the following:

On receipt of the application, the Judge will enter at its foot the names of the proposed sureties, and will fix the sum for which they are jointly liable. If the sureties are not acceptable to the Judge, or if sureties are not offered, he shall fix in like manner the amount of cash which should be deposited. A receipt should be issued against the deposit from the Municipal or the National Treasurer's office. If the bond is a personal one, it should be secured by a collateral obligation in the sum fixed by the Judge. This instrument shall be drawn by a Notary, if the sureties are unable to write; otherwise it will be sufficient if the instrument is signed in the presence of the Notary or of the Secretary, and that that fact be certified to at foot of the instrument. The Court may order, at the instance of a legitimate party, an additional bond with different sureties, or the conversion of the personal bond into a cash bond, if deemed necessary.

The bonds herein required shall serve to answer for all expenses, costs and damages caused by the proceedings, including the fees which may arise, in case the bankruptcy application is dismissed, or in case of discontinuance as provided in the preceding Article.

ARTICLE 40 .The provisions of the two articles immediately preceding having been complied with, the Judge shall issue a writ which shall contain the following:

(a) An order to the debtor to show cause why he should not be adjudged a bankrupt;

(b) An order for the debtor's imprisionment, if such imprisonment be required by law;

(c) An absolute prohibition against the debtor of the kind required by paragraph (b) of Article 22;

(d) A summons issued to the Referee or the designation of a Referee *ad hoc* in cases as provided by this Law;

(e) A summons issued to the Assignee or the designation or an Assignee *ad hoc* in cases as provided by this Law;

(f) The designation of the official who shall proceed with the affixing of the seals.

The writ shall be published immediately, in the manner specified in Article 6, and shall be communicated before registration thereof to the Referee and to the Assignee. The writ issued by virtue of this Article cannot be revoked, nor the execution thereof suspended, save after a final sentence and in case that the bankruptcy proceedings are dismissed; or when, after an order of dismissal in first instance or upon appeal, the applicant has allowed to expire, in the first case, the period of appeal, and in the second case, the period of cassation.

The Judge shall immediately send the Director of Registry a memorandum as provided in Article 22. The provisions of Article 23 shall be applied to this writ.

At the request of a creditor who has made application for a declaration of bankruptcy, the Judge shall summon the Referee and the Assignee before issuing his writ in order that they may proceed with the performance of their duties Prior to issuing the writ referred to in this Article the Judge may also order the arrest of the debtor, upon being requested to do so by the Referee who shall set forth in his petition the reasons justifying such a measure.

A debtor, arrested under the provisions of this Law, may be released on bail during the pendency of the proceedings, in accordance with Article 94.

The Judge shall not issue a warrant for the debtor's arrest, unless the act imputed to the latter be punishable with imprisonment; but he may be placed under the surveillance of the Police. The Judge shall, nevertheless, serve a warrant of arrest whenever the debtor is accused of either simple or fraudulent bankruptcy.

ARTICLE 41. If any debtor, being insolvent, or foreseeing his insolvency or bankruptcy, within sixty days before the filing of a petition by or against him, with a view to giving preference to any creditor or person having a claim against him or who is

under any liability for him, procures any part of his property to be attached, sequestered, or seized on execution, or makes any payment, pledge, antichresis, mortgage, assignment, transfer, sale, or conveyance of any part of his property, either directly or indirectly, absolutely or conditionally, to anyone, the person receiving such payment, pledge, antichresis, mortgage, assignment, transfer, sale or conveyance, or to be benefited thereby, or by such attachnment or seizure, having reasonable cause to believe that such debtor is insolvent, and that such attachment, sequestration, seizure, payment, pledge, antichresis, mortgage, conveyance, tranfer, sale, or assignment is made with a view to prevent his property from coming to the Assignee in insolvency or bankruptcy, or to prevent the same from being distributed ratably among his creditors, or to defeat the object of, or in any way hinder, impede, or delay the operation of or to evade any of the provisions of this Law, such attachnment, sequestration, seizure, payment, pledge, antichresis, mortgage, transfer, sale, assigment, or conveyance is void, and the Assignee may recover the property, or the value thereof, as assets of such debtor. If such payment, pledge, antichresis, mortgage, conveyance, sale, assignment, or transfer is not made in the usual and ordinary course of business of the debtor, or if such seizure is made under a judgment which the debtor has confessed or offered to allow, that fact shall be *prima facie* evidence of fraud. Any payment, made otherwise than in cash or by means of negotiable instruments, and any pledge, antichresis, mortgage, conveyance, sale, assignment, or transfer of property of whatever character made by the debtor within sixty days before the filing of a petition in insolvency or bankruptcy by or against him, except for a valuable pecuniary consideration made in good faith, shall be void. All assignments, transfers, conveyances, mortgages, or incumbrances of real estate shall be deemed, under this section, to have been made at the time the instrument conveying or affecting such realty was filed for record in the office of the register of deeds of the province where the same is situated.

The transfer of real or personal property by the debtor, for or without consideration, after he has been ordered to pay an account due, or a current obligation, provided the latter has not been paid, may be annulled when it is shown that such transfer was effected for the purpose of defrauding his creditors. In cases of simple suspension of payments, it shall be the duty of the Judge, when proof has been presented showing any act as defined herein, which is prejudicial to the creditors, to dismiss the proceedings and direct the institution of proceedings in bankruptcy.

ARTICLE 42. Action for the annulment of the acts and transactions referred to in the preceding Article must be begun, under penalty of lapse, within the period included between the date on which the proof of claims was begun and that upon which said proof was concluded in conformity with Article 92.

ARTICLE 43. The report of the Referee having been received, the Judge shall issue an order immediately setting the day, hour and place for the trial. Period of notice for the trial shall be not less than fifteen nor more than thirty days, counting from the date notice is given of the said order, to the debtor personally if he is a prisoner, and either personally or at his residence, if he is not.

The said order shall contain, besides the day, hour and place of trial, the names, surnames, profession, and residence of the applicant and of those whose statements have been taken by the Referee, and all persons shall be notified personally or at their residence, ten days before the day set for the trial. If the debtor or the applicant should have new witnesses to present, the Judge should be notified within three days following the date of the notice of the order. Nevertheless, the Judge can hear any witness presented, whether by the applicant or by the debtor, during the hearing after the examination of the witnesses who have been cited.

ARTICLE 44. The Judge can require the debtor's personal appearance, but both the latter and the applicant can appoint one or more lawyers without the necessity of giving notice of the appointment.

ARTICLE 45. The Judge shall prescribe the order of procedure at the hearings without prejudice to the rights of parties to be heard and to interrogate the witnesses directly with all the necessary freedom. The witnesses whose statements are of record shall not be permitted to vary a substantial part of their statements, but they can make such clarifying statements as may be pertinent. Persons whose evidence is not pertinent or who have no knowledge of the facts and circumstances favorable or unfavorable to the debtor will not be cited or heard at the trial.

ARTICLE 46. The decision shall be issued by the Judge within eight days from the date of the hearing, and shall state whether the bankruptcy proceedings will continue. It should give a clear recital of the facts which justify the declaration of bankruptcy, or the contrary. In the former case the decision shall contain the declaration of bankruptcy.

If the debtor or the applicant, or both, fail to appear, the

Judge shall issue a statement of default, and shall enter a decision without recourse as to whether the proceedings should continue.

ARTICLE 47. Every decision declaring that the bankruptcy proceedings shall be dismissed shall direct the applicant to pay costs and damages, not to exceed the amount of the bond. Every sentence which orders the continuance of the bankruptcy proceedings shall direct the debtor to pay costs and damages.

ARTICLE 48. After issuing the irrevocable decision declaring that the proceedings should be continued, or after the prescribed period within which to attack said decision, the Court shall, at the instance of the applicant, or of any creditor, or of the Assignee, or of its own accord, issue a writ convoking all the creditors of the bankrupt, on the day, and at the hour and place, which shall be determined in accordance with the provisions of Article 9. This writ shall be published in the manner prescribed in Article 6. Liquidation shall be considered as commenced from the date on which the writ mentioned in Article 40 was issued, even though business has been transacted or it has been decided to continue to do so.

Immediately after dictating the writ referred to in the preceding paragraph, the Judge shall remit the process and a copy of the sentence to the Fiscal for the prosecution of guilty persons before the corresponding repressive jurisdiction.

Any sentence handed down by the Correctional or Criminal Court shall not in any way affect the decision ordering the continuance of the bankruptcy proceedings.

ARTICLE 49 The time within which a appeal may be taken from a judgment supporting or denying a declaration of bankruptcy is one month from and after the date of notification thereof to the interested party, whether under arrest or at home.

The Court shall pronounce judgment within thirty days after the hearing has been had.

ARTICLE 50. After compliance with the provisions of paragraph (a) of Article 10, the Secretary shall read the decision and the report presented by the Assignee.

ARTICLE 51. Fifteen days after the formation of the board, the liquidation proceedings shall be commenced.

ARTICLE 52. Articles 9, 10, 11, 13, 20, 25 and 33, insofar as pertinent, are considered as included in this Chapter, and their provisions are declared to be applicable to bankruptcy pro-

ceedings. However, a composition shall at no time be had when the debtor is guilty of fraudulent bankruptcy.

ARTICLE 53. The resolutions of the board may be attacked by any creditor on any of the grounds mentioned in paragraphs (a) and (c) of Article 16 within the period and in the manner set forth in Article 14. The attack shall take the form of a simple pleading addressed to the Judge with notice to the Assignee and the accused and substantiated by the Referee in the manner provided in this Law. The decree which the Judge shall issue to this effect shall not be susceptible of attack nor of appeal and it shall state whether the resolution of the board is valid. In case of the declaration of the nullity of the resolution by virtue of paragraph (a) of Article 16, the Judge shall issue a new order of convocation in the manner hereinbefore provided, for the purpose of reconsidering the canceled resolutions and of reestablishing the resolutions which were in order. If the resolution should be annulled by virtue of paragraph (c) of Article 16 the liquidation shall be proceeded with. In case of the resolution being valid, or when there has been no attack upon it, or when, after an attack has been made, the complainant has discontinued, the Court shall validate the resolution and order its execution, dictating such ways and means as may be necessary. Said order shall not be subject to appeal or objection.

ARTICLE 54. The order ratifying the resolution and ordering its execution shall be binding on all creditors, in the same manner as prescribed in Article 15.

ARTICLE 55. A merchant may be declared a bankrupt after his death, if the same is done within six months thereafter. In such case the Judge shall designate a person to represent the deceased at the trial and at all other proceedings; but the record shall not be turned over to the repressive jurisdiction excepting in case there are other guilty persons.

Whenever a merchant has been declared bankrupt after his death, or whenever a bankrupt dies after the declaration of bankruptcy, his widow, children, and heirs shall have the right to appear or be represented, in order to aid in the correct striking of the balance and in all the other bankruptcy transactions.

CHAPTER IV.
REFEREES AND ASSIGNEES.
Appointment and Designation.

ARTICLE 56. The Executive Power shall appoint one

Referee and one Assignee for each judicial district. All Referees should be lawyers, but in places where there are no lawyers or an insufficient number of them, the Executive Power may appoint some other competent person. The appointment of the Assignee shall be made by the Executive Power from a list of three persons presented by the Chamber of Commerce of the respective Province. If this list is not presented, or if the person designated fail to accept, the Executive Power shall appoint a person at its discretion. The corresponding Judge shall be notified of the appointment of the Referee and Assignee before they may assume their official duties. Each Referee and Assignee appointed by the Executive Power must take oath before the chief justice of the Court of Commerce of his judicial district faithfully to discharge the duties of his office. Each such Assignee shall give a personal bond, guaranteed by two responsible parties. After being registered all bonds and oaths shall be filed with the Secretary of the corresponding Court.

The board of creditors may require the Assignee to give additional security, or convert his personal bond into a cash bond in an amount not less than fifteen nor more than thirty per cent of the assets.

All officers appointed under this Article shall serve for four years, at the expiration of which they may be reappointed. All such officers shall, during the period of their appointment, reside in the commune where the corresponding Court sits.

Assignees appointed in accordance with this Article shall not act in any case where an Assignee *ad hoc* has been appointed, after the latter has complied with the requirements prescribed in the last paragraph of Article 25.

Upon recommendation of the Referee or of the Assignee, the Judge may appoint assistants for them, subject to the provisions of Article 90.

The Judge shall designate as assistants such candidates as may be so recommended. These assistants shall act under the direction of the Referee or the Assignee, and, after taking oath before the Judge, those of the Referee shall assume the duties ascribed to him, and those of the Assignee the duties of Assignee, in such matters only as the Referee and Assignee, respectively, may indicate.

ARTICLE 57. If it is necessary for a Referee or an Assignee to take action outside of the Commune where the debtor has his principal place of business, the Judge, after first advising

the Referee and Assignee, may commission the *Alcalde*, if within his jurisdiction. If any such action should have to be taken outside of the Court's jurisdiction, the Judge will commission the corresponding Court to call the Referee or Assignee pertaining to its jurisdiction, or to designate one in the cases authorized by this Law, or in order that it may commission an *Alcalde* in case the action is to be taken outside of the commune in which the latter Court sits.

ARTICLE 58. Whenever any of the duties of a Referee or Assignee must be exercised outside of the judicial district, he, through the corresponding Judge, shall commission the Referee or Assignee of the jurisdiction where such duties are to be performed, to perform such duties. If there is no such officer appointed or if he comes within one of the cases defined in Article 61, the Judge shall designate one in the manner provided in this Law.

ARTICLE 59. No Referee or Assignee shall take part in any action in which he has any interest of a pecuniary character, or when such person is related to the debtor or to his wife, either by blood or by marriage, up to and including the fourth degree. Whenever, in such cases, a Referee or Assignee does not refuse to act, the Judge shall, upon request of any creditor or the board, order his removal, and shall designate a person to take charge of the case in accordance with this Law.

ARTICLE 60. A Referee or Assignee shall be replaced in the following cases:

(a) Upon resigning;

(b) In case of final conviction for an offense or crime against property; and

(c) In case of final conviction for fraud in the performance of his duties.

Whenever a Referee or Assignee is removed under paragraphs (b) and (c) of this Article, by virtue of a judgment, the Executive Power shall be notified thereof so that it may proceed to fill his place. If, after judgment has been pronounced, any Referee or Assignee exercises the authority with which he is invested by this Law, any creditor, or the *Fiscal*, may apply to the Judge for his immediate removal, and the Judge will comply therewith by virtue of said final judgment, and the case will be reported to the Executive Power so that a permanent Referee or Assignee may be appointed.

If, in any of the cases mentioned in the foregoing parapraph,

a Referee or Assignee takes part, or continues to take part, in any proceeding, he shall be sentenced to *prisión correccional,* or to pay a fine of from six dollars ($6.00) to one thousand dollars ($1,000), or both such fine and imprisonment.

For the purposes of this Law, the Referee and the Assignee shall be deemed officers of the Court, subject to the provisions of the "Ley de Organización Judicial de 1908", as amended, excepting only Article 3 thereof.

ARTICLE 61. When the office of a Referee or Assignee becomes vacant, whether permanently or temporarily, on account of his death, inability, inhibition, disqualification, or other impediment, or when appointment has not been made by the Executive Power, the Judge shall make a designation under same conditions as govern an appointment.

REFEREES.

ARTICLE 62. The Referee shall proceed without delay with the affixing of the seals, when they are required, and with performing investigations as may be necessary in order to bring out the truth and to prove charges made againts the debtor, or facts which justify a repressive action against him and against other accused persons. For this purpose the Referee may:

(a) Have the right of entry;

(b) Examine and take possession of books and papers of the debtor and of all other accused persons;

(c) Examine the books of any other merchant under the express authority of the Judge, if such examination may be necessary;

(d) Take possession of the books, papers, merchandise, and other effects belonging to the debtor and which may be found in the control of another person or in any place other than his place of business;

(e) Take possession of any merchandise, valuables, or effects, which may have been taken away or secreted;

(f) Examine witnesses, take their oaths and question them;

(g) Question the debtor and all other accused persons;

(h) Whenever the affixing of the seals is not ordered, or

whenever it has been dispensed with, request the Judge to order them affixed in one or in various or in all the places and on all the effects mentioned in Article 66;

(i) In the cases referred to in the foregoing paragraph, the Referee may order stenographic notes to be taken of the evidence, which notes shall be valid when approved by him.

ARTICLE 63. The Referee's report shall be attached to papers in the case, and shall contain:

(a) A report of the action taken;

(b) A review of the acts upon which bankruptcy is based or a statement that no fact was developed upon which to base the same;

(c) A review of the acts which are punishable;

(d) A summary notice of the proofs secured;

(e) An examination of the questions of Law.

The said report shall close with the Referee's opinion on the case.

ARTICLE 64. The Referee is charged with the duty of watching and accelerating the proceedings and operations and the conduct of the Assignee.

He is also charged with the duty of exercising all other duties which this Law imposes upon him and of making an examination of all the claims and answers which are presented during the proceedings and which are within the jurisdiction of the Court and of reporting to the Court his opinion on each case.

ASSIGNEES.

ARTICLE 65. The Assignee shall perform the following duties:

(a) He shall proceed to collect all short-time commercial paper on hand and with respect to which precautionary steps must be taken. A list of such instruments shall be delivered to the Referee;

(b) He shall proceed to collect all other bills and shall give receipts for sums collected;

(c) He shall receive all mail matter including parcel post, and telegrams addressed to the debtor, and shall open them in the latter's presence if he is there;

(d) During the period of notice of the first convocation of the board, he may, except in cases of simple or of fraudulent bankruptcy, suggest to the Judge that an allowance in an amount not greater than one hundred dollars ($100) per month be allowed from the assets for the support of the debtor and his family, for which receipt must be given if agreed upon;

(e) If the books are up to date, he shall balance and close them in the presence of the debtor, or if he is not there, in the presence of the debtor' duly appointed representative;

(f) In bankruptcy cases he shall take an inventory in accordance with the debtor's books and documents, and any other valuable information;

(g) With the Referee's consent or in his presence, he may apply to the debtor, his clerks, employees, or any other person, for information regarding the taking of inventory, as well as the causes and circumstances leading to such bankruptcy or insolvency;

(h) He may keep in his custody, all effects, goods, property, and documents and securities belonging to the debtor, and may take any precaution considered conducive to their preservation;

(i) He may receive all effects, goods, property, and securities, belonging to or to be delivered to the debtor, give a receipt therefor, and make a full report thereof to the Referee;

(j) He shall establish whether the inventory and the schedule are correct in cases of insolvency and simple suspension of payments, rendering a detailed report to the Judge with his opinion in regard to the debtor's assets and liabilities, taking special care to prevent the inflation of values and the inclusion of uncollectable accounts in the assets as well as the undue inclusion of fictitious accounts in the liabilities;

(k) He shall render to the board detailed reports of his work;

(l) He shall do everything necessary to protect the rights of the debtor in the matter of his outstanding accounts, and if such debtor has not requested the mortgage on the property of his debtor to be registered, the Assignee will see that it is done free of charge. The Assignee shall have registration made in the name of the Estate and shall attach to the list a copy of the order of insolvency or bankruptcy;

(m) In the name of all the creditors, he shall cause the inscription to be made, free of charge, of such of the debtor's

property as the Assignee knows to exist. Inscription will be made by authority of a simple instrument reciting the order whereby the proceedings are commerced;

(n) By authority from the Judge, he may sell such objects as are in danger of spoiling or becoming damaged, or the preservation of which would be expensive. Such sale will be held at public auction after twenty-four hours' notice has been given thereof, announced by bell, handbills, or in the newspapers. Perishable goods will be sold in the same manner under the sole authority of the Referee;

(o) He shall deliver to the Judge a statement containing the names and addresses of the creditors, copied from the books of the bankrupt with the aid of the latter, or otherwise, and he shall exercise his remaining functions and comply with all other duties which this Law prescribes for him;

(p) Aided by the Referee, he shall take charge and possession of the debtor's property, and on petition of the creditor or creditors who request the affixing of stamps, shall adopt such preservatory measures as may be necessary in case of the debtor's demise and until the heirs have appointed a common representative or until some other measure be determined by judicial decree;

(q) To redeem all valid mortgages and conditional contracts, and all valid pledges of personal property, and to satisfy any judgments which may be an incumbrance on any property sold by him; or to sell such property, subject to such mortgage, contracts, pledges, judgments, or liens;

(r) To settle all matters and accounts between such debtor and his debtors, subject to the approval of the Referee;

(s) The Assignee shall have power to sue and recover all the estate, assets, debts, and claims, belonging to or due to such debtor. If, at the time of the commencement of proceedings, an action is pending in the name of the debtor, for the recovery of a debt or other thing which might or ought to pass to the Assignee, he shall be allowed and admitted to prosecute the action, in like manner and with like effect as if it had been originally commenced by him. If any action or proceedings in which the debtor is defendant is pending at the time of the commencement of proceedings, the Assignee may defend the same in the same manner and with like effect as it might have been defended by the debtor.

He has power to fix the selling price of the property of the debtor.

CHAPTER V.
AFFIXING OF SEALS.

ARTICLE 66. Seals shall be affixed by the *Alcalde* in the presence of his Secretary, or by a Notary Public in the presence of two witnesses, in the warehouses, offices, or counting-rooms of the debtor and co-partners in the case of a joint stock company, or on any other piece of furniture that the Referee may indicate. An officer entrusted with the affixing of seals shall at all times promptly notify the corresponding Judge as soon as the seals have been thus affixed.

ARTICLE 67. The debtor as well as the Assignee should be invited to witness the affixing of the seals. If the debtor does not attend personally or by proxy, at the time set by the Referee, the latter shall appoint another person to represent him, and shall proceed at once to affix the seals.

ARTICLE 68. At the instance of the Assignee the Referee may:

(a) Order seals to be affixed when necessary, although no order has been given thereof;

(b) Order seals to be affixed in certain places and to certain objects;

(c) Dispense with the affixing of seals to, or authorize their removal from:

(1) Clothing, wearing apparel, furniture and other effects needed by the debtor and his family, the delivery of which shall be ordered by the Referee by virtue of the statement sent to him for the purpose by the Assignee;

(2) All perishable goods;

(d) Require, that seals be removed from objects necessary for running any business, the interruption of which would be harmful to the creditors and to the public.

Such objects as are specified in paragraphs (c) and (d) shall be inventoried and appraised immediately by the Assignee in the presence of the debtor or his agent.

ARTICLE 69. Only the Referee, or when necessary, the expert appointed by him, shall examine the books and documents of the debtor while the affixing of seals is being proceeded with.

ARTICLE 70. The books and papers of the debtor shall be examined in his presence, or in that of his agent, or in the presence of the representative appointed by the officer in charge. The books and documents of any other person shall be examined in the presence of such person, or his agent or representative appointed in accordance with the foregoing paragraph. The debtor and other suspects may be called upon to be present at such examination in order to give explanation and clear up any difficulties.

After the books of the debtor have been balanced, the Referee may, without observing any formalities, retain them for the time necessary to study the commercial transactions of the concern.

ARTICLE 71. If books and documents cannot be examined continuously, the Referee shall wrap them up and affix his seal each time he discontinues his work. The Referee may also have such books and papers deposited in a safe place after being wrapped up and sealed. In both cases the debtor or his agent, or the person appointed to represent him, shall be present.

ARTICLE 72. The Judge may dispense with the affixing of seals in the following cases:

(a) Whenever the enterprise or business in which the debtor is engaged is for the furnishing of light or water, or for the furnishing of transportation or of articles of prime necessity; provided that in these or similar cases such interruption would be harmful to the public though not to the creditors;

(b) When such interruption of the business or enterprise is harmful to the creditors.

In these cases the Assignee shall act as representative for the creditors. Prior to the organization of the board, the Judge shall fix the duration and limits of such representation, and shall specify the amounts that the Assignee may retain in his possession for the payment of necessary expenses. Should it be necessary to perform transactions involving obligations, the Judge may authorize them, provided such obligations do not exceed one fourth of the debtor's assets.

The Assignee shall submit to the Judge for his consideration a list of necessary running expenses for the time the busi-

ness is continued, in accordance with the provisions of Article 85.

ARTICLE 73. Perishable goods shall be delivered under receipt to the Assignee by order of the Referee, to be placed on sale.

ARTICLE 74. The following articles shall be exempted from being sealed and shall be delivered under receipt to the Assignee by order of the Referee:

(a) All short-time commercial paper on hand that is subject to acceptance and in connection with which certain precautionary measures should be taken;

(b) Cash on hand as well as the receipts from sales mentioned in the foregoing Article, to be deposited in the Municipal or National Treasury.

ARTICLE 75. If the debtor has any property or establishments in any Commune other than that where the Court sits, the Court shall designate an *Alcalde* or a Notary in such Commune to affix the seals, provided such Commune is within the same judicial district. If the property or establishment referred to in this Article is beyond the jurisdiction of such Court, the latter will empower the proper Judge to designate the officer whose duty it will be to affix such seals. In cases of this kind the debtor should be given an opportunity to appoint a person to represent him; but where there is no representative the officer entrusted with the affixing of seals will appoint one for him.

ARTICLE 76. Before the writ mentioned in Article 40 has been issued, the *Alcalde* may affix the seals at the request of one or more creditors and even of his own motion; but this shall be done only in case the debtor has disappeared, or his assets have been totally or partially concealed.

ARTICLE 77. When the Referee believes that the inventory and statement of the debtor can be checked immediately, or when, in cases of bankruptcy, the inventory of the assets can be begun at once, the checking of the inventory shall be proceeded with immediately.

ARTICLE 78. The Assignee or the Referee, whenever they deem it advisable, may order the establishment placed under the custody of the Police or any one else designated for the purpose.

ARTICLE 79. A full report shall be made covering the affixing of seals. Such report shall be signed by the persons present.

BREAKING OF THE SEALS, INVENTORY AND OTHER PROVISIONS.

ARTICLE 80. Within three days after being summoned, the Assignee shall require the seals to be broken by the official who affixed them, or by any Notary or *Alcalde*. The Referee, the debtor, or his agent, or his duly appointed representative, shall be invited to witness the breaking of the seals.

ARTICLE 81. As soon as the seals are removed, the Assignee shall proceed to verify the inventory in case of insolvency, and to take an inventory in case of bankruptcy, in the presence of the Referee or the witnesses chosen by him. A copy of criticisms and suggestions regarding the inventory taken by the debtor, in the first-mentioned case, or a copy of the inventory taken by the Assignee, shall be deposited with the Secretary of the Court of Commerce immediately after the work is finished. In accordance with paragraph (a) of Article 72, such effects as have not been placed under seal, or have been inventoried and appraised, shall be verified.

Whenever a merchant dies prior to the declaration of bankruptcy, and no inventory has been taken before notice thereof has been issued, or when the debtor dies before the inventory has been commenced, it will be proceeded with at once after the heirs have been notified.

The Assignee shall continue to collect outstanding debts.

After the inventory has been taken and the schedule has been verified, the Assignee shall take charge of the merchandise, funds, titles, books, documents, furniture and other effects of the debtor (except wearing apparel, beds and bedding, kitchen utensils and dining-room furniture and affixtures, actually in use by the family), and a note thereof shall be made at the foot of inventory.

The Assignee may seek the assistance of one or more experts in carrying out the work mentioned in this Law.

ARTICLE 82. After checking the inventory, the Assignee shall, in insolvency cases, proceed to verify the schedule.

ARTICLE 83. He may settle all questions involving common interest, even those concerning real-property rights and shares. If an unknown amount is involved, or if such amount exceeds sixty dollars ($60) the transaction will become compulsory only after it has been authorized by the Court of Commerce,

if such transaction concerns personal-property rights, and by the Court of First Instance when it involves real-property rights. The debtor will be summoned to be present when such authority is granted and may present the objection that he hay deem convenient. Any objection on the part of the debtor will be sufficient to interrupt the transaction when real property is at issue.

ARTICLE 84. The same mode of procedure as is outlined in the foregoing Article shall be observed in the case of transactions involving compromises.

ARTICLE 85. All expenses shall be paid out of the business, and any surplus shall be covered into the Municipal or National Treasury.

All necessary expenses should be calculated in advance and submitted to the Judge for his approval. It should include a list of the employees and salaries or remuneration fixed or agreed upon by the Assignee.

ARTICLE 86. When, notwithstanding the request of the Assignee, a debt owing to a bankrupt or insolvent is not collected, the Assignee shall proceed to collect the credit or obligation through the proper Court. For this purpose the debtor of the insolvent or bankrupt shall be summoned to appear before the corresponding Court within a period of not less than three nor more than eight days after being summoned.

The decision rendered by the Court shall be executed provisionally and shall not be subject to attack in case of default. A judgment against a defendant shall include costs and fees.

In view of this sentence, the *Conservador de Hipotecas* shall, at the Assignee's request, proceed to make the inscription, free of charge, of the defendant's property.

The attachment of real or personal property of the defendant shall not be effected before three days after the notice of the order of payment, and not after thirty days following such notification.

ARTICLE 87. Bankruptcy cases existing prior to the publication of Executive Order No. 699 shall continue to be governed by the provisions of Article 87 of said Executive Order, subject to Article 26 of Executive Order No. 718, and to Article 88 hereof.

ARTICLE 88. The Referee shall at all times be summoned

by the Judge to whom he shall render a report of his activities, as soon as he has finished same. Should the debtor come within one or more of the instances specified in paragraphs 1, 2 and 3, of Article 585 of the Code of Commerce, in paragraphs 1 and 2 of Article 586, or in one or more of the cases specified in paragraphs 1 and 2 of Article 591 of the same Code, or within one or more of the cases mentioned in Article 37 of Executive Order No. 699, or in one or more of those set forth in Executive Order No. 718, or in this Law, not referred to in the aforementioned Articles of the Code of Commerce, concerning acts committed after the publication of said Orders, the Judge shall proceed in accordance with the provisions of law, cancelling all such measures as may have already been taken.

CHAPTER VI.

TARIFF, FEES AND COSTS.

ARTICLE 89. In the insolvency or bankruptcy proceedings established in this Law, except as otherwise provided, none but the following fees and costs shall be collected:

(1) Secretaries:

For the Secretary in brankruptcy or insovency cases:	
For each writ or decision.	$ 0.50
For assisting at creditors' meetings, not more than one fee being allowed in any one proceeding irrespective of the number of meetings held.	5.00
For sending the Court record to another Court in cases of appeal or cassation. . . .	0.50
For effecting the publication of the writs required by law to be published.	0.50
Filing fee (Article 7).	25.00

For each copy furnished at the request of a creditor in accordance with this Law, fifty cents ($0.50), (an additional charge of five cents ($0.05) for each 100 words, the total fee hereunder in no case to exceed five dollars ($5.00).

(2) For constables, police agents, etc., for each service of notice. 1.00

The Secretary's fees for making and sending copies, and those of the Constable for serving notice, shall be collected only upon

the request of a creditor.

(3) For auctioneers, for sales made each day:
If the sales do not exceed $500. . . . . 10.00
If the sales are in excess of $500.00 on a single day the auctioneers shall collect 2% on the excess.

(4) For the official who proceeds with the affixing of the seals; for the act of sealing. . 5.00

(5) For the act which evidences the breaking of the seals. . . . . $ 5.00

(6) For the collectors as a commission for the collection of the assets, up to 10%.

These costs shall be invariable.

ARTICLE 90. All the other fees and costs, except the operation costs, shall be regulated by the following rules:

If a composition has not been made between the creditors and the debtor under which the debtor is to continue at the head of his business, the fees and costs shall be collected in accordance with the following table:

If the assets in accordance with the inventory are not in excess of $5,000.00.	20%
For any sum in excess of $5,000.00 up to $10,000.00.	12%
For any sum in excess of $10,000.00 up to $20,000.00.	5%
For any sum in excess of $20,000.00 up to $50,000.00.	4%
For any sum in excess of $50,000.00 up to $100,000.00.	2%
For any sum in excess of $100,000.00 up to $200,000.00.	1 ½%
For any sum in excess of $200,000.00 up to $500,000.00.	1%
For any sum in excess of $500,000.00 up to $1,000,000.00.	¾%
For any sum in excess of $1,000,000.00.	½%

If a composition is effected under which the debtor continues at the head of his business, the fees shall be one-half of those provided above.

The same scale shall govern in respect to the net proceeds from the assets in case of liquidation. This percentage shall be distributed in the following manner:

For the Referee, his assistants and employees, and all other costs incidental to his work. 50%

For the Assignee, his assistants, experts, and all the other costs incidental to his work, outside of the costs of operation. 50%

Whenever the Assignee summoned by the Judge is replaced by another *ad hoc* appointed by the Board of Creditors, the former shall be entitled to two-thirds of the established fee.

In cases of simple suspension of payments, the fees of the Referee and of the Assignee shall be determined by the Board of Creditors, or by the Judge in case the former fails to meet, except where the debtor has been subjected to bankruptcy proceedings. Fees in simple suspension of payment proceedings shall in no case exceed the fees in corresponding cases of insolvency of bankruptcy, and shall be in accordance with the amount of work done.

When the Assignee appears as plaintiff or defendant in any action relative to the proceedings established under or connected with this Law, he may go personally before the Court and secure legal advice at the hearing by the Referee, or he may employ counsel to represent him, provided no expense is thereby incurred in the way of fees chargeable to the estate.

ARTICLE 91. The following forms shall be used in proceedings under this Law:

FORM NO. I.

To the Court of Commerce of ———————————

The undersigned ———————————

(Name and Surname)

married), merchant, domiciled in ———————————

single)

and residing at ———————————

(if a partnership, indicate partners and name of the company, its domicile and the name and surname of each of the copartners)

having his principal place of business in ———————————

possessing property sufficient to meet all claims in full (if the proceeding is one of simple suspension of payment), and finding himself unable to pay one or more of them, or foreseeing such inability, petitions the Court to be declared in the state of simple suspension of payments, in accordance with the provisions of Chapter I of the Insolvency Law.

(If the case is one of insolvency, note the following:)

Finding himself in a state of insolvency under the provisions

of Chapter II of the Insolvency Law, petitions this Court to discharge him from his debts and liabilities, he being unable to pay them in full and requests the acceptance of the transfer of all his property and effects for the benefit of his creditors or that he be allowed to effect a composition for the payment of his liabilities, and that he be declared insolvent.

Attached to this petition is an exact inventory, a schedule and brief of the state of the assets and liabilities, a statement verifying losses and the proposed terms of composition (if any).

Done at———————— this———————— day of ———————— 19———.

Note: If the petitioner is unable to write, the following should be inserted:

Before me (Judge, Secretary, *Alcalde* or Notary, etc.), of ————————, appeared Mr. ———— ———, and declared that this petition is a voluntary act of his and being unable to sign his name, he asked me to do it for him. By virtue of the foregoing, I hereto attach my hand and seal this ———— day of ————, 19 ———.

————————

————————

FORM NO. II.

I, ————————, do solemnly swear that the schedule and inventory now delivered by me contains a full, correct, and true discovery of all my debts and liabilities, of all goods, effects, estate, and property of whatever kind or class to me in any way belonging. The inventory also contains a full, true and correct statement of all debts owing or due to me, or to any person or persons in trust for me and of all securities and contracts whereby any money may hereafter become due or payable to me or by or through which any benefit or advantage whatever may accrue to me or to my use, or to any other person or persons in trust for me. The schedule contains a clear outline of the facts giving rise, or which might give rise, to a cause of action against me, and the inventory contains an outline of the facts giving rise, or which might give rise, to any cause of action in my favor. I have no lands, money, stock, or estate, reversion, or expectancy, or property of any kind, except that set forth in said inventory. I have in no instance created or acknowledged a debt for a greater sum than I honestly and truly owe. I have not, directly or indirectly, concealed, fraudulently sold, or otherwise fraudulently disposed of, any part of my real or personal property,

estate, effects, or rights of action, and I have not in any way compounded with any of my creditors in order to secure such creditors, or to receive or to accept any profit or advantage therefrom, or to defraud or deceive in any manner any creditor to whom I am indebted. I also swear that my commercial books have been properly kept, and in the manner prescribed by law.

FORM NO. III.

Memorandum to the Director of the Civil Registry of ————.

On this ———— day of ————, 19 ——, a petition in insolvency has been presented by ———— and by writ of even date a prohibition was issued against said ———— to continue at the head of his business, to pay his debts, or transfer, or in any manner to encumber any of his property or dispose of it in any form or to accept payment for any debt in his favor or to accept the delivery of any property belonging to him.

Done at ————, on the day above indicated.

FORM NO. IV.

Writ of Simple Suspension of Payments.

In the name of the Republic.

I, Judge of the Court of Commerce of the Judicial District of ————, aided by my Secretary.

In view of the petition of simple suspension of payments presented by ————

(Name and surname of the debtor, firm name or denomination of the Company)

In accordance with Article 6 of the Insolvency Law.

I hereby summon said debtor's creditors appearing in the schedule, Messrs. ————, and all who claim to be his creditors, to form a Creditors' Board, which should be constituted on the ——— day of ————, 19 ———, at ———— o'clock in the ————, at the place where the Court is sitting, No. ——— ———— Street, this City.

Any creditor whose name does not appear in the foregoing schedule, should present his claim within the period specified in Article 92 of the Insolvency Law, which period shall expire on the ——— day of ————, 19 ———.

Injunction. As long as the proceedings are pending, the

debtor mentioned in this writ is forbidden to make any use whatsoever of his property, other than in the regular transaction of his business or industry, or to make any payments outside of the necessary and legitimate expenses of such business.

The Referee, the Assignee and the debtor are invited to attend the meeting of the board.

The present writ should be published ———— in the ———— during the period allowed for the convocation:

Done in our Office, this the ——— day of ————, 19 ———.

JUDGE.

SECRETARY.

FORM NO. V.

Writ for Second Convocation.

In the name of the Republic.

I, the Judge of the Court of Commerce of the Judicial District of ————, aided by my Secretary.

Inasmuch as the meeting of the Board of Creditors, in the proceedings commerced by request of the debtor ———— (Name and surname of the debtor, firm name or denomination of the Company), has not been held.

In accordance with Article 13 of the Insolvency Law.

The creditors, Messrs. ———— are, for the second time, invited to form a Board, which should be constituted on the ——— day of ————, 19 ———, at ———— o'clock in the ————, at the place where the Court is sitting, **No.** ——— ———— Street, this City.

This writ shall be published ———— in the ————.

Done in my Office, this the ——— day of ————, 19 ———.

JUDGE.

SECRETARY.

FORM NO. VI.

Writ of Insolvency.

In the name of the Republic.

I, the President of the Court of Commerce of the Judicial District of ————————, aided by my Secretary.

IN VIEW of the petition presented by ———————— (Name and surname of ————————————————————

the debtor, firm name or denomination of the Company), in which his inability to meet all his obligations in full is shown;

In accordance with Article 22 of the Insolvency Law,

IT IS RESOLVED:

(a) To declare ———————— unable to meet his debts and obligations in full.

(b) To convene the Referee and the Assignee.

(c) To designate ———————— to proceed with the affixing of seals, provided the checking of the inventory cannot be commenced at once.

(d) To summon the creditors appearing in the schedule, Messrs. ————————————, and all who believe themselves to be creditors, to a meeting which should be held on the ——— day of ————————, 19 ———, at ———— o'clock in the ————————, at the place where the Court is sitting, No. ——— ———————— Street, this City.

Any creditor whose name does not appear in the foregoing schedule should present his claim within the period specified in Article 92 of the Insolvency Law, which period shall expire on the ———— day of ————————, 19 ———.

Injunction: The debtor is strictly forbidden to continue, either personally or through an agent, in the management of his business, to pay bebts, whether due or not, to transfer or otherwise encumber any of his property, to make use of same in any way whatsoever, to accept the payment of any debt in his favor, or to accept or deliver any property belonging to him.

This writ shall be published ———————— in the ———— during the period allowed for the convocation; the Referee and

the Assignee shall be notified at once, and the debtor shall be invited to attend the meeting.

Costs shall be reserved.

Done in my Office, this ——— day of ————, 19 ———.

JUDGE.

SECRETARY.

FORM NO. VII.

Writ of Bankruptcy.

In the name of the Republic.

I, Judge of the Court of Commerce of the Judicial District of ————————, aided by my Secretary.

In view of the petition presented by ————————, in which he requests that ———————— be declared in a state of bankruptcy.

In accordance with Article 40 of the Insolvency Law.

IT IS RESOLVED:

(a) That the debtor ———————— give whatever reasons he may have to prove that he should not be declared in a state of bankruptcy.

(b) That said debtor ———————— be imprisoned (if proper) by the *Magistrado Procurador Fiscal.*

(c) That the Referee and the Assignee be convened.

(d) That the stamps be affixed by ———————— should the immediate formation of the inventory be impracticable.

Injunction: (Proceed in this case as in Form No. VI).

This writ shall be published, etc.

Done in my Office, etc.

JUDGE.

SECRETARY.

FORM NO. VIII.

Writ of Involuntary Bankruptcy.

In the name of the Republic.

I, Judge of the Court of Commerce of the Judicial District of ————————, aided by my Secretary.

In view of the documentary evidence secured by the Referee in the ———————— proceedings.

WHEREAS, it has been shown by said evidence that the debtor ———————— is in a state of (state case) bankruptcy as described in ————————————,
(State Article applicable thereto)

IT IS ORDERED:

(a) That the bankruptcy proceedings against———— be declared commenced.

(b) That said debtor be imprisoned (if proper) by the *Magistrado Procurador Fiscal.*

(c) That the ——— of ————, 19 ———, at ———— o'clock in the ————————, be set for the hearing, it being the duty of the Constable ———— to summon the debtor and the witnesses to attend. (The remaining rules established in Article 43 should be followed).

(d) That the Referee and the Assignee be informed of the present writ.

(If the first proceedings were of simple suspension of payments, the writ shall be executed in accordance with Form No. VII, and shall be published as prescribed by this Law. After the Referee's report has been received the provisions of Article 43 shall be complied with.)

CHAPTER VII.

PROOFS OF CLAIMS.

ARTICLE 92. The presentation of proofs of claims, accompanied by vouchers showing amounts claimed, shall be begun from the date on which the writ, (Art. 6, Art. 22 or Art. 40) is published. These documents shall be delivered directly to the Assignee who will give receipt therefor to the interested parties. If a creditor not included in the schedule appears, the Assignee shall take note thereof and shall notify the Referee. The time within which any claim may be proven shall expire two days prior to the date fixed for the summoning of the Board.

(a) During the time set for the deposit of said proofs of claim, the Assignee shall examine and verify those presented. The debtor and the Referee shall be invited to be present at such examination, which shall be contradictory as between the Assignee and the creditor whose proof of claim is examined. Any creditor whose proof of claim is not objected to by the Assignee, may be present at the examination or may make an examination

of the verified proofs of claim of the other creditors in the presence of the Assignee.

(b) Credits accepted by the Assignee and objected to by any creditor, shall be temporarily accepted in the amount indicated by the Assignee, and shall be taken into account until final judgment is pronounced. None but creditors whose proofs of claim have been verified or accepted, even though temporarily, can form part of the Board, debate, vote and make objections.

(c) All debts due and payable from the debtor at the time of the adjudication of insolvency or bankruptcy, and all debts then existing but not payable until a future time, a discount being made if no interest is payable by the terms of the contract, may be proved against the estate of the debtor.

(d) If the debtor is bound as indorser, surety, bail, or guarantor, upon any bill, bond, note, or other specialty or contract, or for any debt of any person, and his liability shall not have become absolute until after the adjudication of insolvency, the creditor may prove the same after such liability shall have become fixed, and before the final dividend shall have been declared.

(e) In all cases of contingent debts and contingent liabilities, contracted by the debtor, and not herein otherwise provided for, the creditor may make claim therefor and have his claim allowed, with the right to share in the dividends, if the contingency chall happen before the order of the final dividend; or he may, at any time, apply to the Court to have the present value of the debt or liability ascertained and liquidated, which shall be done in such manner as the Court shall order, and it shall be allowed for the amount so ascertained.

(f) Any person liable as bail, surety, or guarantor, or otherwise, for the debtor, who shall have paid the debt, or any part thereof, in discharge of the whole, shall be entitled to prove such debt, or to stand in the place of the creditor, if he shall have proved the same, although such payments shall have been made after the proceedings were commenced; and any person so liable for the debtor, and who has not paid the whole of said debt, but is still liable for the same, or any part thereof, may, if the creditor shall fail or omit to prove such debt, prove the same in the name of the creditor.

(g) Where the debtor is liable to pay rent, or other debt falling due at fixed and stated periods, the creditor may prove for a proportionate part thereof up to the time of the insolvency, or bankruptcy, as if the same became due from day to day, and

not at such fixed and stated periods.

(h) In all cases of mutual debts and mutual credits between the parties, the account between them shall be stated, and one debt set off against the other, and the balance only shall be allowed and paid. But no set-off or counterclaim shall be allowed of a claim in its nature not provable against the state; Provided, that no set-off or counterclaim shall be allowed in favor of any debtor to the insolvent or bankrupt of a claim purcharsed by or transferred to such debtor within sixty days immediately preceeding the filing, or after the of the petition by or against the debtor.

(i) When a creditor has a mortgage, or pledge of real or personal property of the debtor, or a lien thereon, for securing the payment of a debt owing to him from the debtor, or an attachment or execution on property of the debtor duly recorded and not dissolved under this Law, he shall be admitted as a creditor for the balance of the debt only, after deducting the value of such property, such value to be ascertained by agreement between him and the Assignee, or the Creditor may release or convey his claim to the Assignee and be admitted to prove his entire debt. If the value of the property exceeds the sum for which it is so held as security, the Assignee may release to the creditor the debtor's right of redemption thereon on receiving such excess; or he may sell the property, subject to the claim of the creditor thereon, and in either case the Assignee and creditor, respectively, shall execute all deeds and writings necessary or proper to consummate the transaction. If the property is not sold or released, and delivered up, or its value fixed, the creditor shall not be allowed to prove any part of his debt, but the Assignee shall deliver to the creditor all such property upon which the creditor holds a mortgage, pledge, or lien, or upon which he has an attachement or execution.

(j) No creditor, proving his debt or claim, shall be allowed to maintain any suit therefor against the debtor, but shall be deemed to have waived all right of action and suit against him, and all proceedings already commenced, or any unsatisfied judgment already obtained thereon, shall be deemed to be discharged and surrendered thereby; and after the debtor's discharge, upon proper application and proof to the court having jurisdiction, all such proceedings shall be dismissed, and such unsatisfied judgments satisfied of record; Provided, that no valid lien existing in good faith thereunder shall be thereby affected. A creditor proving his debt or claim shall not be held to have waived his right of action or suit against the debtor when a discharge

has been refused or the proceedings have been terminated without a discharge. No creditor whose debt is provable under this Law shall be allowed, after the commencement of proceedings in insolvency, to prosecute to final judgment any action therefor against the debtor until the question of the debtor's discharge shall have been determined, and any such suit or proceeding shall, upon the application of the debtor or of any creditor, or the Assignee, be stayed to await the determination of the court on the question of discharge; Provided, that if the amount due the creditor is in dispute, the suit, by leave of the court in insolvency, may proceed to judgment for the purpose of ascertaining the amount due, which amount, when adjudged, may be allowed in the insolvency proceedings, but execution shall be stayed as aforesaid.

(k) Any person who shall have accepted any preference, having reasonable cause to believe that the same was made or given by the debtor contrary to any provision of this Law, shall not be allowed to prove the debt or claim on account of which the preference was made or given, nor shall he receive any dividend thereon, until he shall have surrendered to the Assignee all property, money, benefit, or advantage received by him under such preference.

(l) The Referee may, upon the application of the Assignee, or of any creditor, or without any application, before or after adjudication in insolvency, or bankruptcy, examine upon oath the debtor in relation to his property and his estate and may examine any other person tendering or making proof of claims, and may subpoena witnesses to give evidence relating to such matters.

(m) When a credit has been accepted, the Assignee shall sign the voucher and shall state the amount at which the debtor's liabilities, have been permanently or temporarily accepted, together with the date of acceptance.

(n) Credits against an insolvent, or bankrupt, shall be proven by a written statement, sworn to and signed by the creditor, setting forth the claim, the cause thereof, whether same is guaranteed, whether any payments have been made and when, the full amount of such claim and, finally, that the amount claimed constitutes a legitimate debt as between the insolvent or bankrupt and the claimant. No credit that does not fill this requirement shall be admitted. Any person making a false affirmation under oath, of any of the facts specified herein, shall be guilty of perjury as defined in Article 1 of Executive Order No. 203, and shall, upon conviction, be punished in accord with paragraph

(d) of Article 3 of said Executive Order; Provided, that the minimum fine shall be an amount not less than double the amount of the fraudulent claim up to the maximum fine provided therein; and provided further, that where a fine of Five Hundred Dollars or more is imposed an additional penalty of correctional imprisonment shall likewise be imposed.

(o) Whenever a claim is supported by a written instrument, the latter, unless it has been lost or destroyed, shall be attached to the proof of such claim.

(p) Claims that have been proven may be reconsidered

for just cause, and either equitably proven anew or rejected in whole or in part by the Assignee, before the liabilities are finally liquidated, but never thereafter. Whenever a claim has been reconsidered and rejected in whole or in part, and a dividend corresponding thereto has been paid, the Assignee may collect from the creditor the amount of the dividend received corresponding to the claim when the latter has been wholy rejected, or the corresponding portion of such dividend when claim has been partially rejected. .

(q) No legally prescribed claim shall for any purpose be proven or allowed against the debtor's estate.

(r) Any person having an interest in the property of a bankrupt or an insolvent may file exception or offer objection to the legality or good faith of any claim, by setting forth specifically in writing his interest in the estate and his reasons for objecting to the claim. Such exception or objection shall be verified by the affidavit of the party objecting, or his duly authorized agent or attorney, and the affidavit shall set out that such exceptions are not made for the purpose of delay and are made in good faith in the best interest of said estate.

(s) Whenever any dividend has been duly declared, the distribution thereof shall not be stayed or affected by unknown debts being subsequently presented, but any creditor presenting such debts shall be entitled to a dividend equal to those already received by the other creditors before any further dividend is made to the latter, if the failure to prove such claim shall not have resulted from his own neglect, if, in the opinion of the Assignee, his right thereto is proven.

(t) When a known creditor whose name appears on the books of the debtor is absent, and such creditor has not requested

the verification of his proof of claim, the portion corresponding to such proof of claim shall be reserved if his right thereto is proven. If, after the expiration of one year, the owner of such title has not made claim thereto, the portion reserved shall be divided among the rest of the creditors.

ARTICLE 93. A bankrupt merchant who comes within the scope of any or all of paragraphs (h), (i), (k), (l), (m), (n), (o), (p) and (q), of Article 37 shall be considered a simple bankrupt; and he who comes within the scope of any or all of paragraphs (a), (b), (c), (d), (e), (f) and (g) of the same Article shall be considered a fraudulent bankrupt.

All cases of simple bankruptcy shall be prosecuted by the *Fiscal* before the *Tribunal Correccional*, and shall be punished in accordance with the provisions of the Penal Code.

All cases of fraudulent bankruptcy shall be prosecuted before the Criminal Court, and punished in accordance with the provisions of the Penal Code.

When in any of the cases mentioned in paragraph (e) of Article 37 the omission, addition or alteration in the inventory or schedule is due to unjustifiable neglect, carelessness or oversight, the penalty shall be correctional imprisonment.

Whenever the Judge receives from a creditor a claim not contained in the schedule, or when such credit has been altered, the Judge shall submit the case to the Referee that he may make the corresponding investigation.

Any Secretary who fails to fulfill immediately any of the duties set forth in this Law shall be punished with a fine of from twenty--five dollars ($25) to one hundred dollars ($100).

A fine of from twenty-five dollars ($25) to two hundred dollars ($200) shall be imposed upon any person who, being summoned by the Referee to testify, (a) fails to appear or refuses so to testify; (b) refuses to take oath; (c) fails to appear or refuses to testify before the Judge when summoned by him for that purpose; (d) refuses to take oath before such Judge; (e) disobeys the order of the Referee or the Judge when they are authorized to issue same: who is guilty of irreverence or disrespect in the presence of the Referee or the Judge, when in session in accordance with this Law, or who in any way interrupts their functions.

Should the guilty person be insolvent, he shall be imprisoned for a term the length of which shall be fixed by the Judge.

The penalties prescribed in the foregoing paragraphs shall

be imposed by the Correctional Court in view of the minutes drafted for the purpose by the Referee or the Judge, as the case may be, and at the instance of the *Fiscal.*

ARTICLE 94. With the approval of the *Fiscal,* the Referee shall order the arrest of any person charged with an offense punishable under this Law. A debtor as well as other persons held in custody by order of the Referee may be released on bail. The bail required for the debtor's release shall not be less than twice the amount in which his liabilities exceed his assets, as calculated by the Judge, in accordance with the preliminary report furnished the latter by the Referee, the right being reserved to modify such bail when the exact difference between the assets and liabilities is known after the Referee has finished his investigations.

The bail required of the other accused persons shall not be less than the maximum of the fine set for the offense, plus the amount which, in the opinion of Judge, is represented by costs and damages.

ARTICLE 95. The Board of Creditors may in any case decide that the debtor shall continue, or be restored to, the management of his business, subject to the intervention of a Controller appointed by said Board, until the debtor has complied with all the terms of the composition. The Board shall fix a monthly allowance to be drawn by the debtor for his domestic and personal expenses, and may also require the Controller to furnish a bond for the faithful performance of his duties.

The duties of the Controller shall be limited to receiving all the cash income and depositing same in the bank designated for the purpose by the Board, leaving in the debtor's safe, to which he shall have a secondary key, only such cash as may be necessary to cover the minor expenses of the business. Whenever convenient, payments shall be made by checks signed by the Controller in his official capacity, and by the debtor as well. The domestic and personal expenditures and expenses of the debtor shall in no case exceed the amount appropriated by the Board. It shall be the duty of the Controller to prevent expenditures not contemplated by the composition, but he shall not interfere with the organization and management of the debtor's business, the latter being entirely at liberty to proceed therein as he may deem most convenient.

Should the Controller present a just complaint against the debtor for breach of confidence, the Referee shall order the latter's books to be exhibited, and in accordance therewith shall

adopt such measures as he may deem proper. A debtor who nullifies the purposes of such intervention by making use of any part of his funds or merchandise without the knowledge of the Controller shall, for that act alone, be declared a fraudulent bankrupt.

In case of the absence, resignation, death or other impediment of the Controller, the Judge shall appoint another in his stead.

The Controller's remuneration shall be charged against the debtor, and shall be fixed by the composition.

ARTICLE 96. At any time after the expiration of three months from the adjudication of insolvency, but not later than one year from such adjudication, unless the property of the insolvent has not been converted into money, the debtor may apply to the Court for a discharge from his debts, and the court shall thereupon order notice to be given to all creditors who have proved their debts to appear on a day set for that purpose and show cause why a discharge should not be granted to the debtor. Said notice shall be given by registered mail and by publication at least once a week, for four weeks, in a newspaper published in the province or city, or, if there be none, in a newspaper which, in the opinion of the Judge, will best give notice to the creditors of the said insolvent; Provided, that if no debts have been proven, such notice shall not be required.

(a) No discharge shall be granted, or if granted shall be valid, (1) if the debtor shall have sworn falsely in his affidavit annexed to his petition, schedule, or inventory, or upon any examination in the course of the proceedings in insolvency, in relation to any material fact concerning his estate or his debts or to any other material fact; or (2) if he has concealed any part of his estate or effects, or any books or writing relating thereto; or (3) if he has been guilty of fraud or willful neglect in the care or custody of his property or in the delivery to the Assignee of the property belonging to him at the time of the presentation of his petition and inventory, excepting such property as he is permitted to retain under the provisions of this Law; or (4) if, within sixty days before the commencement of such proceedings, he has procured his real estate, goods, moneys, or chattels to be attached or seized on execution; or (5) if he has destroyed, mutilated, altered, of falsified any of his books, documents, papers, writings, or securities, or has made, or been privy to the making of, any false or fraudulent entry in any book of account or other document with intent to defraud his creditors; or (6) if he has given any fraudulent preference, contrary to the

provisions of this Law, or has made any fraudulent payment, gift, transfer, conveyance, or assignment of any part of his property, or has admitted a false or fictitious debt against his estate; or (7) if, having knowledge that any person has proven such false or fictitious debt, he has not disclosed the same to his Assignee within one month after such knowledge; or (8) if he, or any other person on his account, or in his behalf, has influenced the action of any creditor, at any stage of the proceedings, by any pecuniary consideration or obligation; or (9) if he has, in contemplation of becoming insolvent, made any pledge, payment, transfer, assignment, or conveyance of any part or his property, directly or indirectly, absolutely or conditionally, for the purpose of preferring any creditor or person having a claim against him, or who is, or may be, under liability for him, or for the purpose of preventing the property from coming into the hands of the Assignee, or of being distributed under this Law in satisfaction of his debts; or (10) if he has been convicted of any misdemeanor under this Law, or has been guilty or fraud contrary to the true intent of this Law; or (11) in case of insolvency, has received the benefit of this or any other Law of insolvency or bankruptcy within six years next preceding his application for discharge; or (12) if insolvency proceedings in which he could have applied for a discharge are pending by or against him in the Court of First Instance of any other province or city in the Dominican Republic. Before any discharge is granted, the debtor shall take and subscribe an oath to the effect that he has not done, suffered, or been privy to any act, matter, or thing specified in this Law as grounds for with holding such discharge or as invalidating such discharge, if granted.

(b) Any creditor opposing the discharge of a debtor shall file his objections thereto, specifying the grounds of his opposition, and after the debtor has filed and served his answer thereto, which pleadings shall be verified, the court shall try the issue or issues raised.

(c) If it shall appear to the court that the debtor has in all things conformed to his duty under this Law, and that he is entitled under the provisions thereof to receive a discharge, the court shall grant him a discharge from all his debts, except as hereinafter provided, and shall give him a certificate thereof, under the seal of the Court, in substance as follows: "In the Court of First Instance of the ————————, Dominican Republic. Whereas, ————————, has been duly adjudged an insolvent under the Insolvency Law of the Dominican Republic, and appears to have conformed to all the requirements of law in that behalf, it is therefore ordered by the court that said————

be forever discharged from all debts and claims, which by said Insolvency Law are made provable against his estate, and which existed on the ———— day ————, on which the petition of adjudication was filed by (or against) him, excepting such debts, if any, as are by said Insolvency Law excepted from the operation of a discharge in insolvency. Given under my hand, and the seal of the Court, this ———— day of ————, anno Domini ————. Attest: ————, clerk. (Seal) ————, judge."

(d) No debt created by the fraud or embezzlement of the debtor, or by his defalcation as a public officer or while acting in a fiduciary capacity, shall be discharged under this Law, but the debt may be proved, and the dividend thereon shall be a payment on account of said debt. No discharge granted under this Law shall release, discharge, or affect any person liable for the same debt, for or with the debtor, either as partner, joint contractor, indorser, surety, or otherwise.

No discharge granted in accordance with this Law shall release or affect any of the credits mentioned in paragraphs (a), (b), (c) and (d) of Article 11.

(e) A discharge, duly granted under this Law, shall, with the exceptions aforesaid, release the debtor from all claims, debts, liabilities, and demands set forth in his schedule, or which were or might have been proved against his estate in insolvency, and may be pleaded by a simple averment that on the day of its date such discharge was granted to him, setting forth the same in full, and the same shall be a complete bar to all suits brought on any such debts, claims, liabilities, or demands, and the certificate shall be *prima facie* evidence in favor of such fact and of the regularity of such discharge; Provided, however, that any creditor whose debt was proved or provable against the estate in insolvency who shall see fit to contest the validity of such discharge on the ground that it was fraudulently obtained and who has discovered the facts constituting the fraud subsequent to the discharge, may, at any time within one year after the date thereof, apply to the Court which granted it to set it aside and annul the same.

(f) Unless otherwise expressly agreed upon, a debtor who is declared a bankrupt shall not be discharged or released until full settlement has been made of all claims proven in the procedure, and of amounts covering expenses, costs and fees already paid or pending payment, as are chargeable to the estate; Provided, however, that no agreement with the bankrupt shall affect credits which, in accordance with this Law, are excepted from

the effects of discharge in insolvency proceedings.

ARTICLE 97. All actions, the nature of which do not come within the jurisdiction of the Court of Commerce, will be tried in the ordinary manner established by the common law.

ARTICLE 98. Any objection to the decision of the Board, as provided by Article 14, shall be made in a petition to be sent to the Judge within the period fixed therefor.

Upon receipt of said petition by the Judge, he shall forward same immediately to the Referee in order that the matter may be taken up without delay. When the Judge receives the report and opinion of the Referee, he shall fix the date, time and place of trial, and shall summon the parties to appear in their defense within a period of not more than eight days. The debtor shall be a defendant, as shall likewise the Board represented by any creditor of such debtor as may be chosen and summoned by the Judge whenever objection is made in accordance with paragraph (a) of Article 16. The debtor and guilty creditors shall be defendants in cases provided for in paragraphs (b) and (c) of the same Article.

Should the case be merely one of suspension of payment or bankruptcy and objection be made as determined in paragraph (b) of Article 16, or in paragraph (f) of Article 37, the Judge shall proceed in accordance with the provisions of Articles 43 to 47, inclusive.

Should the agreement be annulled, the Judge shall issue the writ referred to in Article 40, not including such measure as may have been taken, and the procedure provided for in Chapter III shall continue, with the exception of the trial provided for in Article 43.

CHAPTER IX.

GENERAL PROVISIONS.

ARTICLE 99. Any person who disobeys the prohibition contained in any order or writ issued in accordance with this Law, after having received notification thereof, shall be guilty of contempt and upon conviction shall be punished by imprisonment of from one month to six months.

ARTICLE 100. All the provisions of the Code of Commerce now in force which are not revoked or modified by this Law, either expressly or impliedly, and which are not inconsistent with its provisions or purposes, shall continue as forming

part of this Law, insofar as proper, it being understood that the words "depositario procurador" should be substituted for "síndico", and the word "referee" for "juez comisario", in proper case. When the word "quiebra" appears in an Article of the Code of Commerce, which has not been expressly or implicitly revoked or amended, it shall be presumed to mean and include cases of insolvency, and the word "quebrado" to mean and include the word "debtor", as defined by this Law, unless objection is made thereto by this Law, or unless contrary to its provisions; Provided, however, that whenever the word "quiebra" is employed in the Code of Commerce, as it appears in Article 543 thereof, it shall be substituted by the word "liquidación". The rights and powers with which the *Juez-Comisario* has been endowed, and which have not been expressly conferred upon the Judge of the Court of Commerce, shall be exercised by the Referee.

ARTICLE 101. If, prior to the creditors' meeting, expropriation of the mortgaged real property has not been commenced, only the Assignee shall be permitted to arrange for the sale within the time and in the manner specified in Article 572 of the Code of Commerce.

ARTICLE 102. In cases of insolvency, as well as in those of simple suspension of payments, the inventory, schedule and other documents accompanying the petition shall be deposited in duplicate with the Secretary, and a copy of same shall be delivered at once to the Referee and another to the Assignee. In cases of insolvency it shall not be necessary to send a copy of these documents to the creditors, though the latter may examine them in the hands of the Assignee and obtain copies thereof, certified by him, upon payment of the proper fee, after the schedule and inventory have been compared.

ARTICLE 103. In case of insolvency or of a declaration of bankruptcy, expenses shall be charged to the estate.

ARTICLE 104. The Board of Creditors shall in every case determine the value of credits in favor of the debtor, taking into account the debtor's outstanding credits, the ability of his debtors to meet their obligations, and other conditions that may influence the probability or improbability of full payment. Should not the debtor be satisfied with the decision of the Board in this regard, he may object thereto before the Judge within the three days following that on which he was notified of such decision, or on which decision was rendered if he attended the meeting. In view of the report from the Assignee and the Referee, the Judge

shall render his decision after which the debtor shall have no recourse.

ARTICLE 105. All correspondence from the Referee and the Assignee must bear their seal in order to enjoy postal and telegraphic privileges.

ARTICLE 106. Merchants who do not keep books, or who keep them irregularly, shall not enjoy the benefits afforded by Chapters I and II of this Law.

ARTICLE 107. When, in cases of simple suspension of payments or of insolvency, the resolution of the Board is annulled for the reason specified in paragraph (a) of Article 16, the Judge shall issue a new convocatory in the prescibed form in order to come to a proper agreement.

ARTICLE 108. After the judgment mentioned in Article 46 has been pronounced and before the pronouncement of the final judgment mentioned in Article 48, the Judge shall, on his own motion, or on petition of the Assignee, call the creditors by means of a notice to be published in a newspaper of general circulation, in order to decide whether a liquidation should be resorted to and the manner in which same is to be effected. Should the Board of Creditors decide on such liquidation, same shall be deemed commenced on the date of such decision. After being validated, the decision of the Board shall not be suspended unless the Board so disposes at a later meeting. If the Board of Creditors cannot be formed, the Judge, or petition of the Assignee, may assume the duty with which said Board is entrusted by this Article.

ARTICLE 109. When, during insolvency proceedings, it is discovered that, as reported by the Referee, the debtor has become involved in a case of bankruptcy that imports fraud, the Judge shall immediately issue a writ containing an arrest warrant against the debtor, and a statement that the latter is in a state of bankruptcy. The writ mentioned in Article 22 shall continue in force, except insofar as regards the statement referred to in paragraph (a). The proceedings shall continue in accordance with Chapter III.

ARTICLE 110. The statement of fees appearing in this Law shall be complied with by the debtor without any additional formalities or extensions, when an order therefor is issued by the Referee at the foot of such statement.

ARTICLE 111. A partnership, during the continuation of the partnership business, or after its dissolution and before the

final settlement thereof, may be adjudged insolvent on the petition of the partners, or any one of them, or may be adjudged a bankrupt on the petition of one or more creditors of the partnership, in either of which cases the Judge shall issue an order in the manner provided by this Law, upon which all the property of the partnership, and also all the separate property of each of the partners, if they are liable, shall be taken, excepting such parts thereof as may be exempt by law; and all creditors of the partnership, and the separate creditors of each partner, shall be allowed to prove their respective claims; and the assignee shall keep separate accounts of the property of the partnership, and of the separate estate of each member thereof. The expenses of the proceedings shall be paid from the partnership property and the individual property of the partners. The net proceeds of the partnership property shall be appropiated to the payment of the partnership debts and the net proceeds of the individual estate of each partner to the payment of his individual debts. Should any surplus remain of the property of any partner after paying his individual debts, such surplus shall be added to the partnership assets and be aplied to the payment of the partnership debts. Should any surplus of the partnership property remain after paying the partnership debts, such surplus shall be added to the assets of the individual partners in the proportion of their respective interests in the partnership. Certificate of discharge shall be granted or refused to each partner as the same would or ought to be if the proceedings had been by or against him alone under this Law; and in all other respects the proceedings as to the partners shall be conducted in like manner as if they had been commenced and prosecuted by or against one person alone.

ARTICLE 112. Upon petition of the representative of any stock company or *sociedad anónima*, duly authorized by the vote of the board of directors at a special meeting called for that purpose, or by the assent in writing of a majority of the directors, said company or *sociedad* may be declared in simple suspension of payments or insolvency, in accordance with the provisions ascribed respectively to each case in Chapters I and II; and said stock company or *sociedad anónima* may be declared a bankrupt upon petition of any creditor having provable credits in accordance with the provisions of Chapter III. All the provisions of this Law which apply to the debtor, or set forth his duties, examination, and liabilities, or prescribe penalties, or relate to fraudulent conveyances, payments, and assignments, apply to each and every officer or any corporation or *sociedad anónima* in relation to the same matters concerning the corpora-

tion. Whenever any corporation is declared insolvent, or in a state of bankruptcy, its property and assets shall be distributed to the creditors; but no discharge shall be granted to any corporation.

ARTICLE 113. When, due to illness, vacation leave, inhibition or other impediment, the Judge is unable to attend the creditors' meeting on the day, and at the hour and place set forth in the writ, the *Juez de Instrucción* of the same Judicial District, shall act in his stead and shall preside over the meeting; but should it be impossible to hold the meeting due to the absence of both Judges on account of unforeseen circumstances, the Judge of First Instance shall fix a new date for such meeting within the following fifteen days.

ARTICLE 114. In cases of simple suspension of payments, the Board may agree that the Assignee continue the collection of the debtor's outstanding assets, in accordance with the provisions of Article 86, while the proceedings are pending, which proceedings shall be deemed ended upon compliance with the terms of the composition.

ARTICLE 115. The Referee shall render the report required by Article 43 within thirty days after he has been called, unless the Judge grants him an extension for due cause.

ARTICLE 116. Articles 7, 9, 10, 11, 13 and 20 shall be considered as included in Chapter II, insofar as pertinent, and their provisions are declared applicable to insolvency proceedings.

ARTICLE 117. The Secretary of Justice and Public Instruction, to carry out the purposes of this Law, shall issue rules and regulations which shall have the force and effect of law when approved by the Executive Power.

ARTICLE 118. In cases of simple suspension of payment the Court may, upon the debtor's motion, presented at the time when the composition is declared rejected, issue an order declaring the debtor in a state of insolvency if, in the opinion of the Court, the debtor does not come within any of the cases of bankruptcy as defined in this Law. Proceedings shall in that case be continued in accordance with Chapter II, no new sworn declaration being required.

ARTICLE 119. This Law shall not be retroactive except as therein specifically provided.

ARTICLE 120. All laws or parts of laws in conflict herewith are hereby repealed.

S. S. ROBISON,
Rear-Admiral, United State Navy,
Military Governor of Santo Domingo.

Santo Domingo, D. R.,
June 13, 1922.

GOBIERNO MILITAR DE SANTO DOMINGO.

Orden Ejecutiva No. 760.

Que nombra Gobernador Militar Interino.

G. O. No. 3334.

En virtud de los poderes de que se halla investido el Gobierno Militar de Santo Domingo, se promulga la siguiente Orden Ejecutiva:

Mientras dure la ausencia del país del Contra Almirante S. S. Robison, Armada de los Estados Unidos, Gobernador Militar de Santo Domingo, desempeñará el cargo de Gobernador Militar, el Brigadier General Harry Lee, Cuerpo de Infantería de Marina de los Estados Unidos.

S. S. ROBISON,
Contra-Almirante, Armada de los
Estados Unidos,
Gobernador Militar de Santo Domingo.

Santo Domingo, R. D.,
Junio 14 de 1922.