

solvency in this article specified; the said petition shall allege the facts upon which the application is grounded, and pray for process against the debtor and an adjudication of insolvency, and shall be verified by the affidavit of the petitioner; the court shall thereupon issue summons for the debtor and require him to show cause in not less than five nor more than ten days why such adjudication shall not be made; upon any issue of fact which may arise out of said petition and answer, either party shall be entitled to a trial by jury, but the parties to said cause may waive the jury trial and be heard by the court on the issue of fact, and the trial shall take place at the term during which the petition was filed and as speedily as may be; and if the petition be filed in any circuit court for any county during the term and whilst the jury shall be in attendance thereon, the court shall not discharge the petit jury until the parties to said petition shall file their waiver of a jury trial, as hereinbefore provided; and if the petition be filed in any such court after the jury has been discharged for the term, the court or any judge thereof, shall, upon the demand of a jury trial by either party as aforesaid, order the sheriff to summon a special jury, which shall be convened in not less than five nor more than ten days from the date of such order, to hear and determine the question of fact between the parties; provided that the said petition shall be filed more than thirty days prior to the beginning of a new term of said court, and pending the determination of the application for such adjudication and pending any question of the validity of any preference by mortgage, judgment or otherwise, and of any gift, sale, assignment, conveyance or transfer or removal of all or any part of the property of the debtor with intent to hinder, delay or defraud his creditors, or to give an unlawful preference to any creditor, endorser or surety, the court or any judge thereof shall, on the application of the petitioner, issue an order in the nature of an injunction to restrain the debtor and the mortgagee, judgment creditor, donee, vendee, assignee, grantee or other person having the custody or claiming the title to any property or estate of the debtor, from selling, disposing of, or in any way interfering with said property or estate, until the question of adjudication shall have been determined, and may issue such other orders upon such terms and conditions as the court may deem necessary for the preservation and safe keeping of the property in controversy; and the court shall possess the power to allow any amendments necessary to present the rights of the matter. If the allegations of the petitioner shall not be sustained the respondent shall recover a judgment for costs against the petitioner; and if the allegations be sustained and are sufficient to warrant the same, an adjudication shall be made by the court that the debtor is insolvent, and therefore, and by virtue of the adjudication his right and power to dispose of any part of his estate and property shall cease; and when the court shall have appointed a preliminary trustee, all such estate and property shall, as soon as the bond of such trustee shall have been approved, be divested out of the insolvent and be vested in the trustee; and thereafter the same proceedings shall be had as hereinbefore prescribed in relation to persons who shall apply for the benefit of the provisions of this article; and the said debtor shall thereupon immediately execute the schedule and lists of debts, verified by his affidavit, as provided by section