

Act not to prevent any Seaman from entering the Royal Navy.

XI. Provided always, and be it enacted, That nothing in this Act, or in any agreement, contained, shall prevent any Seaman or person belonging to any Ship or Vessel whatever, from entering or being received into the Naval Service of Her Majesty; nor shall any such entry be deemed a desertion from the Ship or Vessel; nor shall such Seaman or other person thereby incur any penalty or forfeiture whatever, either of wages, clothes, or effects, or other matter or thing; and no Master or Owner shall insert or introduce, or permit to be inserted or introduced, into any Articles or Agreement, any clause, engagement, or stipulation, whereby any Seaman or other person shall or may incur any forfeiture, or be exposed to loss in case he shall enter into Her Majesty's Naval Service, and if inserted, the clause, engagement, or stipulation, shall be void.

On entering into the Royal Navy, Seaman, not being a deserter, to be entitled to his clothes and wages from Vessel left.

XII. And be it enacted, That when any Seaman shall quit any such Ship or Vessel as aforesaid, in order to enter into Her Majesty's Naval Service, and shall thereupon be actually received into such Service, not having previously committed any act amounting to and treated by the Master as desertion, he shall be entitled immediately upon such entry, to have all his clothes and effects on board such Ship or Vessel delivered to him, and to receive from the Master the balance of the proportionate amount of his wages, up to the period of such entry, after deducting therefrom all charges such Seaman may then be liable to, under the provisions of this Act, to be paid either in money or by a bill on the Owner; all which clothes, effects, money, or bill, such Master is hereby required to deliver and pay to him accordingly; but in case the Master shall have no means of ascertaining the balance, he shall make out and deliver to such Seaman a certificate of the period of his service, and the rate of wages he is entitled to, producing at the same time to the Commanding or other Officer of Her Majesty's Vessel, the agreement with the Seamen; and every such Master, upon the delivery of such clothes and effects, and the settlement of such wages, in manner herein mentioned, shall receive from the Officer in command of the Vessel into which the Seaman shall have entered, a certificate of such entry, endorsed on the agreement, and signed by the said Officer, which such Officer is hereby required to give.

Limitation.

XIII. And be it enacted, That this Act shall continue and be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and fifty.

CAP. LXXXVIII.

An Act further to amend the Law relating to Bankruptcy.

Passed 14th April 1845.

Preamble.

6 **W**HEREAS it is expedient further to amend the Law relating to Bankruptcy;

Execution on Judgments in favor of Bankrupt Plaintiffs may issue, the Attorney endorsing the fact of being issued for the Assignee.

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That in cases where parties Plaintiff have or may become Bankrupt in any action, whether before or after Judgment, in all actions where the sum recovered may form part of the Estate of such Bankrupt, Execution may issue upon such Judgment against the person or property of the Defendant in such Judgment, or both, as the case may be, in the name of the original Plaintiff, in the same manner as if such Plaintiff had not become Bankrupt; provided that the Attorney issuing such Execution shall endorse thereon that such Execution is issued for the Assignee of such Bankrupt, when such is the case; provided that nothing herein contained shall operate to prevent the proceeding to Judgment and Execution in the name of the original Plaintiff for the benefit of any party beneficially interested in such proceeding, when such party shall have been so interested before granting of the Fiat.

II.

II. And be it enacted, That in all cases of the sale of the interest of the Creditors in the outstanding debts of any Bankrupt or Bankrupts, it shall and may be lawful for the Commissioners to whom the Fiat is directed, to order such sale to be made in such and so many lots of the debts, and the interest of the Creditors therein, as he may in his discretion deem expedient, and on completion of such sale to grant a Certificate thereof to each purchaser or purchasers of such debt or debts, in all other respects subject to the provisions of the Laws now in force relating to Bankruptcy: Provided always, that the Commissioner shall have power to direct the Assignee in Bankruptcy to retain any particular debt or debts for the benefit of the Bankrupt's Estate, when the interest of the Creditors of the said Estate shall be promoted thereby.

Sale of outstanding debts to be made at the discretion of the Commissioner.

III. And be it enacted, That the purchaser of any debt or debts shall be deemed and taken to be the Assignee of the Estate and Effects of the Bankrupt or Bankrupts of whose outstanding debt or debts he shall become the purchaser, for the purposes of any suit or action brought for the recovery of such debt or debts.

Purchaser of the debts to be deemed the Assignee of the Estate of the Bankrupt for the purpose of recovery.

IV. And be it enacted, That in all suits or actions brought or to be brought by any purchaser for the recovery of such debt or debts, proof of the Fiat in Bankruptcy, and the production of the Certificate of the Commissioner in Bankruptcy, shall be deemed and taken in all respects to be good and sufficient evidence of his or their title to sue as such Assignee.

Certificate of the Commissioner to be deemed evidence of title to sue.

V. And be it enacted, That in all actions brought or to be brought by any person for the recovery of any personal property purchased from the Assignee of any Bankrupt's Estate, proof of the Fiat in Bankruptcy, of the Warrant appointing the Assignee in Bankruptcy, and of the Execution of the assignment of the Assignee, of the personal property for the recovery whereof such action is brought, shall be deemed evidence of the title of the Plaintiff in such action, to recover the title and interest such Bankrupt had in the said personal property, at the time the title of the Bankrupt became divested out of him by operation of Law.

Proof of title of Plaintiff to sue for recovery of personal property purchased from the Assignee defined.

VI. And be it enacted, That the Fiat may be proved by the production thereof, or an examined copy thereof, or a copy certified by the Commissioner, on the ordinary proof of the hand writing of such Commissioner, and proof of the Warrant appointing the Assignee may be made in the same manner: Provided always, that nothing herein contained shall be construed to dispense with the proof of the Fiat by the production of the Royal Gazette, as now provided by Law.

Proof of Fiat of Bankruptcy and Warrant appointing the Assignee, defined.

VII. And be it enacted, That in cases where the interest of the Creditors in the outstanding debts shall be of small value, or in cases where no claims are proved, the Commissioner may, if he deem it advisable, after the lapse of twelve months from the date of the Fiat, order a sale of the said debts, having previously given due notice thereof in some Newspaper published in the County in which he resides, or if there be no such Newspaper, then in the Royal Gazette.

Commissioner may order the sale of the outstanding debts in certain cases.

VIII. And be it enacted, That the Assignee, with the consent of the major part in value of the Creditors may compound with any debtor to the Bankrupt's Estate, and take any reasonable part of the debt in discharge of the whole, or may give time or take security for the payment of such debt, or may submit any dispute between such Assignees and any person concerning any matter relating to such Bankrupt's Estate to the determination of Arbitrators to be chosen by the Assignee and the party with whom they shall have such dispute, and the award of such arbitrators shall be binding on all the Creditors, and the Assignee is hereby indemnified for what he shall do according to the directions aforesaid; provided that in cases where delay shall be deemed injurious to the

Assignee may with consent compound or submit to arbitration debts due to the Bankrupt's Estate.

interests

interests of the Creditors, the Assignee shall have power, with the consent of the Commissioner, testified in writing under his hand, to do any of the matters aforesaid without the assent of the Creditors.

Bankrupt's Books may be sold or assigned to the Bankrupt in certain cases.

IX. And be it enacted, That when one person shall purchase all the outstanding debts, the Assignee shall have power, by the order of the Commissioner, to sell or otherwise dispose of the Books of Account of the Bankrupt to such person, or in case no claim shall be proved against any Bankrupt within one year after the issuing of the Fiat, the Assignee shall, with the assent of the Commissioner testified in writing, have power to assign the said Books of any Bankrupt or Bankrupts to such Bankrupt or Bankrupts, together with the right to recover any sum or sums of money, debt or demand due thereon, and for which purpose the said Bankrupt or Bankrupts shall be restored to his first and former estate in the same.

Defendants may set off debts in actions brought by an Assignee of estate or debts.

X. And be it enacted, That in all actions brought or to be brought by the Assignee of any Bankrupt, or of the debt or debts of any Bankrupt, the Defendant or Defendants in such action may set off any debt, payment or demand which he or they could have set off in any action brought for the recovery thereof by such Bankrupt before the granting the Fiat in Bankruptcy, subject to the same rules and regulations in all respects as to pleading or giving notice thereof, or evidence as in other cases of mutual debts between Plaintiff and Defendant.

Register of Court of Chancery may assign Bonds given for securing costs in proceedings in Bankruptcy.

XI. And be it enacted, That the Register of the Court of Chancery shall have power, and he is hereby authorized to assign to such person as may be entitled thereto, any Bond heretofore given for securing the costs of proceeding in Bankruptcy, by endorsing and attesting it under his hand and seal, in presence of a credible witness, and the Assignee after such assignment shall have power to sue therefor and bring an action in his own name, and shall recover such sum as may be certified by the Commissioner to be due him for costs taxed by such Commissioner or expenses incurred in the prosecution of the Fiat in payment of Printers' bills, Assignee's fees, Commissioner's fees, Solicitor's fees, or any of the said charges and expenses not exceeding the whole penalty of the said Bond: Provided, always, that the Certificate of the Commissioner certifying the amount of such costs or expenses shall be deemed evidence of such costs or expenses and the correctness thereof.

Time for confirming or applying for confirmation of Certificates of conformity limited.

XII. And be it enacted, That every Certificate of conformity, whether absolute or conditional, ordered under the Acts relating to Bankruptcy, shall be confirmed, or the confirmation of the same shall be applied for agreeably to the provisions of the said Acts within six months from the time of such order; provided that in all cases where orders may already have been made for such Certificate, and the time aforesaid may have expired, three months further time shall be allowed in such cases from and after the passing of this Act; and if the said Certificate shall not be confirmed or the same applied for as aforesaid within such time, the said Certificate shall be deemed and taken to be finally refused within the meaning of the twenty fourth section of the Act made and passed in the fifth year of Her present Majesty's Reign, intituled *An Act relating to Bankruptcy in this Province*.

5 V. c. 43.

Construction of this Act.

XIII. And be it enacted, That this Act shall be subject to the same rules of construction in all respects as are prescribed by the Act relating to Bankruptcy in this Province, which rules shall also apply to all the Laws now in force relating to Bankruptcy.