

Assignments and Preferences Act

CHAPTER 25 OF THE REVISED STATUTES, 1989

as amended by

1995-96, c. 13, s. 77



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CHAPTER 25 OF THE REVISED STATUTES, 1989
amended 1995-96, c. 13, s. 77

**An Act Respecting Assignments of
and Preferences by Insolvent Persons**

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Short title

1 This Act may be cited as the *Assignments and Preferences Act*. R.S., c. 25, s. 1.

Interpretation

2 In this Act,

(a) "insolvent person" means any person who is in insolvent circumstances, or is unable to pay his debts in full, or knows himself to be about to become insolvent;

(b) “judge” means a judge of the Supreme Court or a judge of the county court for the county in which an assignment under this Act is registered;

(c) “property” means goods, chattels or effects, bills, notes, or securities, shares, dividends, premiums or bonus in any bank, company or corporation, and every other description of property, real and personal;

(d) “transfer” includes gift, conveyance, assignment, delivery over or payment of property. R.S., c. 25, s. 2.

CONFESSION OF JUDGMENT, ASSIGNMENT, ETC.,
IN FRAUD OF CREDITORS

Void confession of judgment

3 If any insolvent person, voluntarily or by collusion with a creditor or creditors, gives a confession of judgment, *cognovit actionem* or warrant of attorney to confess judgment with intent in giving the same to

(a) defeat or delay his creditors wholly or in part; or

(b) thereby give one or more of his creditors a preference over his other creditors, or over any one or more of such creditors,

every such confession, *cognovit actionem* or warrant of attorney to confess judgment shall be deemed and taken to be null and void as against the creditors of the person giving the same, and shall be invalid and ineffectual to support any judgment or writ of execution. R.S., c. 25, s. 3.

Void property transfer

4 (1) Every transfer of property made by an insolvent person

(a) with intent to defeat, hinder, delay or prejudice his creditors, or any one or more of them; or

(b) to or for a creditor with intent to give such creditor an unjust preference over other creditors of such insolvent person, or over any one or more of such creditors,

shall as against the creditor or creditors injured, delayed, prejudiced or postponed, be utterly void.

(2) If any transfer to or for a creditor has the effect of giving such creditor a preference over the other creditors of such insolvent person, or over any one or more of them, the transfer shall

(a) in and with respect to any action or proceeding which is brought, had or taken to impeach or set aside such transfer within sixty days after the giving of the same; or

(b) if such insolvent person makes an assignment for the benefit of his creditors within sixty days from the giving of such transfer,

be presumed to have been made with intent to give such creditor an unjust preference as aforesaid, and to be an unjust preference, whether such transfer was made voluntarily or under pressure.

(3) Where the word "creditor" in this Section indicates the creditor to whom a preference is given over the other creditors of the insolvent person such word shall be deemed to include any surety, and the indorser of any promissory note or bill of exchange, who would upon payment by him of the debt, promissory note or bill of exchange, in respect to which such suretyship was entered into or such indorsement given, become a creditor of the person giving the preference within the meaning of this Section. R.S., c. 25, s. 4.

ASSIGNMENTS FOR GENERAL BENEFIT
OF CREDITORS AND BONA FIDE
TRANSACTIONS PRESERVED

Section 4 does not apply

5 Nothing in Section 4 shall apply to

(a) any assignment made to an official assignee for the county in which the debtor resides or carries on business for the purpose of paying rateably and proportionately, and without preference or priority, all the creditors of the debtor their just debts;

(b) any *bona fide* sale or payment made in the ordinary course of trade or calling to innocent purchasers or parties;

(c) any payment of money to a creditor; or

(d) to any *bona fide* gift, conveyance, assignment, transfer or delivery over of any property which is made in consideration of any present actual *bona fide* payment in money, or by way of security for any present actual *bona fide* advance of money, or which is made in consideration of any present actual *bona fide* sale or delivery of property; provided that the money paid, or the property sold or delivered, bears a fair and reasonable relative value to the consideration therefor. R.S., c. 25, s. 5.

Void assignment

6 Every assignment for the general benefit of creditors not made to the official assignee shall be void. R.S., c. 25, s. 6.

Invalid sale

7 In case of a valid sale of goods, securities or property, and payment or transfer of the consideration or part thereof, by the purchaser to a creditor of the vendor under circumstances which would render void such a payment or transfer, by the debtor personally and directly, the payment or transfer even though valid as respects the purchaser, shall be void as respects the creditor to whom the same is made. R.S., c. 25, s. 7.

Return of void payment

8 If a payment has been made which is void under this Act, and any valuable security was given up in consideration of such payment, the creditor shall be entitled to have the security restored, or its value made good to him before, or as a condition of, the return of the payment. R.S., c. 25, s. 8.

Exemption

9 Nothing in the preceding provisions shall affect

(a) any payment of money to a creditor, where such creditor, by reason or on account of such payment, has lost or been deprived of, or has in good faith given up, any valid security which he held for the payment of the debt so paid, unless the value of the security is restored to the creditor; or

(b) any substitution in good faith of one security for another for the same debt as far as the debtor's estate is not thereby lessened in value to the other creditors. R.S., c. 25, s. 9.

WHAT SHALL CONSTITUTE
SUFFICIENT ASSIGNMENT

Valid assignment

10 Every assignment made under this Act for the general benefit of creditors shall be valid and sufficient if it is made to an official assignee and is in the words following, that is to say - "all my personal property which may be seized and sold under execution, and all my real property, credits and effects" - or if it is in words to like effect, and an assignment so expressed shall vest in the assignee all the real and personal property, rights, credits and effects, whether vested or contingent, belonging at the time of the assignment to the assignor, except such as are by law exempt from seizure or sale under execution; subject, however, as regards land to the *Registry Act*. R.S., c. 25, s. 10.

Mistake or defect

11 No advantage shall be taken or gained by any creditor of any mistake, defect or imperfection in any assignment under this Act for the general benefit of creditors if the same can be amended or corrected, and if there is any mistake, defect or imperfection therein, the same shall be amended by a judge on any application of the assignee, or of any creditor of the assignor, on such notice being given to other parties concerned as the judge thinks reasonable, and the amendment, when made, shall have relation back to the date of such assignment. R.S., c. 25, s. 11.

PUBLICATION AND REGISTRATION
OF ASSIGNMENT

Publication of assignment

12 A notice of any assignment made for the general benefit of creditors under this Act shall, as soon as conveniently may be after the execution thereof, be published at least twice in the Royal Gazette, and not less than twice in one newspaper at least having a general circulation in the county in which the property assigned is situated. R.S., c. 25, s. 12.

Registration of notice of claim

13 A notice of claim in relation to an assignment for the general benefit of creditors shall be registered in the Personal Property Registry pursuant to Section 2A of the *Creditors' Relief Act*. 1995-96, c. 13, s. 77.

14 *repealed 1995-96, c. 13, s. 77.*

Order for publication or registration

15 If the assignment is not registered and notice thereof published, an application may be made by anyone interested in the assignment to a judge to compel the publication and registration thereof, and the judge shall make an order in that behalf, with or without costs, or upon payment of costs by such person as in his discretion he directs to pay the same. R.S., c. 25, s. 15.

Omission or irregularity

16 The omission to publish or register as aforesaid, or any irregularity in the publication or registration, shall not invalidate the assignment. R.S., c. 25, s. 16.

DISPOSITION OF ESTATE

Removal of property and deposit of sale proceeds

17 (1) No property or assets of an estate assigned under this Act shall be removed out of the Province without the order of a judge.

(2) The proceeds of the sales of such estate and any part thereof, and all money received on account thereof shall be deposited by the assignee in an incorporated bank within the Province, and shall not be withdrawn or removed therefrom without the order of a judge, except in payment of dividends and charges incidental to the winding up of the estate.

(3) Any assignee or other person acting in his stead or on his behalf, who violates this Section, shall be liable to a penalty of four hundred dollars, and one half of the penalty shall go to the person suing therefor, and the other half shall belong to the estate of the assignor, and in default of payment of the penalty and all costs which are incurred in any action or proceedings for the recovery thereof, such assignee or other person may be imprisoned for any period not exceeding thirty days, and shall be liable to forfeit his office of official assignee. R.S., c. 25, s. 17.

CHANGE OF ASSIGNEE

Substitution or addition of assignee

18 (1) A majority in number and value of the creditors who have proved claims to the amount of one hundred dollars or upwards, may at their discretion substitute for the official assignee a person residing in the county in which the debtor resided or carried on business at the time of the assignment.

(2) An assignee may also be removed and another assignee may be substituted, or an additional assignee may be appointed by a judge. R.S., c. 25, s. 18.

Vesting in new assignee

19 Where a new assignee is appointed the estate shall forthwith vest in him without a conveyance or transfer, and he shall register an affidavit of his appointment in the registry of deeds for the registration district in which the original assignment was filed, and the registration of such affidavit shall have the same effect as the execution and registration of a conveyance from the original assignee. R.S., c. 25, s. 19.

RECOVERY OF ESTATE

Right to sue

20 (1) Except as in this Section is otherwise provided, the assignee shall have the exclusive right of suing for the rescission of agreements, deeds and instruments or other transactions made or entered into in fraud of creditors, or made or entered into in violation of this Act.

(2) If at any time any creditor desires to cause any proceedings to be taken which, in his opinion, would be for the benefit of the estate, and the assignee under the authority of the creditors refuses or neglects to take such proceeding, after being duly required so to do, the creditors shall have the right to obtain an order of a judge authorizing him to take the proceeding in the name of the assignee, but at his own expense and risk, upon such terms and conditions as to indemnity to the assignee, as the judge prescribes; and thereupon any benefit derived from the proceeding shall belong exclusively to the creditor instituting the same for his benefit; provided that if, before such order is granted, the assignee signifies to the judge his readiness to institute such proceeding for the benefit of the creditors, the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, shall appertain to the estate.

(3) After an assignment under this Act has been made the assignee shall have the right to be substituted for any party who has commenced proceedings under this Act for the rescission of agreements, deeds and instruments or other transactions made and entered into in fraud of creditors or in violation of this Act, upon such terms as the court or a judge orders. R.S., c. 25, s. 20.

Recovery of sale proceeds

21 (1) In the case of a transfer of any property which in law is invalid against creditors, if the person to whom the transfer was made has sold or disposed of, realized or collected, the property or any part thereof, the money or other proceeds may be seized or recovered in any action by a person who would be entitled to seize and recover the property if it had remained in the possession or control of the debtor or of the person to whom the transfer was made, and such right to seize and recover shall belong, not only to an assignee for the general benefit of the creditors of the debtor, but in case there is no such assignment, shall exist in favour of all creditors of such debtor.

(2) Where there has been no assignment for the benefit of creditors, and the proceeds are of a character to be seizable under execution, they may be seized under the execution of any creditor, and shall be distributable amongst the creditors under the *Creditors' Relief Act* or otherwise.

(3) Where there has been no assignment for the benefit of creditors, and whether the proceeds realized as aforesaid are or are not of a character to be seized under execution, an action may be brought therefor by a creditor, whether an execution creditor or not, on behalf of himself and all other creditors, or such other proceedings may be taken as may be necessary to render the proceeds available for the general benefit of the creditors.

(4) This Section shall not apply as against innocent purchasers of the property. R.S., c. 25, s. 21.

WAGES AND SALARIES

Priority of payment

22 Whenever an assignment is made of any real or personal property for the general benefit of creditors under this Act, the assignee shall pay in priority to the claims of the ordinary or general creditors of the person making the same, the wages or salaries of all persons in the employment of such person at the time of making the assignment or within one month before the making thereof, not exceeding three months wages or salary and such persons shall be entitled to rank as ordinary or general creditors for the residue, if any, of their claims. R.S., c. 25, s. 22.

MEETINGS OF CREDITORS

Creditors' meeting called by assignee

23 It shall be the duty of the assignee immediately upon the execution of the assignment to inform himself, by reference to the assignor and his records of account, of the names and residences of the assignor's creditors, and within five days from the date of assignment to convene a meeting of the creditors for the giving of directions with reference to the disposal of the estate, by mailing prepaid and registered to every creditor known to him a circular calling a meeting of creditors to be held at a convenient place to be named in the notice, not later than twelve days after the mailing of such notice, and by advertisement in the Royal Gazette; and all other meetings to be held shall be called in like manner. R.S., c. 25, s. 23.

Direction as to disposal of estate

24 If a sufficient number of creditors do not attend such meeting, or fail to give directions with reference to the disposal of the estate, the disposal of the same shall be in the discretion of the assignee. R.S., c. 25, s. 24.

Creditors' request for meeting

25 (1) If a request in writing, signed by a majority of the creditors having claims duly proved of one hundred dollars and upwards, computed in the manner hereinafter directed, is made upon the assignee, he shall within two days after receiving such request call a meeting of the creditors at a time not later than twelve days after the receipt by him of such request.

(2) If the assignee fails to call such meeting when so requested, he shall be liable to a penalty of twenty-five dollars for every day after the expiration of the time limited for the calling of the meeting until the meeting is called. R.S., c. 25, s. 25.

VOTING AT MEETINGS

Voting

26 At any meeting of creditors any creditor may vote in person, or by proxy authorized in writing, but no creditor whose vote is disputed shall be entitled to vote until he has filed with the assignee an affidavit in proof of his claim, stating the nature and amount thereof. R.S., c. 25, s. 26.

Voting tally and entitlement to vote

27 (1) Except for the purpose of making a change of assignee all questions discussed at meetings of creditors shall be decided by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows:

(a) for every claim of or over \$100, and not exceeding \$200, one vote;

(b) for every claim of or over \$200, and not exceeding \$500, two votes;

(c) for every claim of or over \$500, and not exceeding \$1,000, three votes;

(d) for every additional \$1,000, or fraction thereof, one vote.

(2) No person shall be entitled to vote on a claim which he has acquired after the assignment unless the entire claim is acquired, but this shall not apply to persons acquiring notes, bills or other securities upon which they are liable.

(3) In case of a tie, the assignee, or if there are two assignees, then the assignee appointed by the creditors, or by the judge, if none has been appointed by the creditors, shall have a casting vote. R.S., c. 25, s. 27.

RANKING AND PROOF OF CLAIMS**If individual and partnership debts**

28 If any assignor executing an assignment under this Act for the general benefit of his creditors owes debts both individually and as a member of a partnership, or as a member of two different partnerships, the claims shall rank first upon the estate by which the debts they represent were contracted, and shall only rank upon the other after all the creditors of that other have been paid in full. R.S., c. 25, s. 28.

Secured claim

29 (1) Every creditor in his proof of claim shall state whether he holds any security for his claim or any part thereof.

(2) If such security is on the estate of the debtor, or on the estate of a third party for whom such debtor is only secondarily liable, he shall put a specified value thereon, and the assignee under the authority of the creditors may either consent to the right of the creditor to rank for the claim after deducting such valuation, or he may require from the creditor an assignment of the security at an advance of ten per cent upon the specified value, to be paid out of the estate as soon as the assignee has realized such security.

(3) In such case the difference between the value at which the security is retained and the amount of the gross claim of the creditor shall be the amount for which he shall rank and vote in respect to the estate. R.S., c. 25, s. 29.

Claim based on negotiable instrument

30 (1) If a creditor holds a claim based upon a negotiable instrument, upon which the insolvent is only secondarily liable and which has not matured at the time of proving the claim, such creditor in his proof of claim shall set a value upon the liability of the person primarily liable thereon, and the difference between such value and the amount of the claim shall, until the instrument matures, be the amount at which the claim shall be calculated for the purpose of voting at meetings and other purposes, except the payment of dividends thereon, or collocation in the dividend sheets.

(2) After the maturity of such instrument, the claim shall be calculated for all purposes at the full amount, less any sum paid on account thereof by the person primarily liable on such negotiable instrument. R.S., c. 25, s. 30.

Failure to value security

31 (1) In case a person claiming to be entitled to rank on the estate assigned holds security for his claim or any part thereof, of such a nature that he is required by this Act to value the same, and he fails to value such security, a judge may, upon summary application by the assignee or by any other person interested in the debtor's estate, of which application ten days notice shall be given to such claimant, order that unless a specified value shall be placed on such security, and notified in writing to the assignee within a time to be limited by the order, such claimant shall, in respect of the claim, or the part thereof for which the security is held, in case the security is held for part only of the claim, be wholly barred of any right to share in the proceeds of such estate.

(2) If a specified value is not placed on such security and notified in writing to the assignee according to the exigency of the order, or within such further time as the judge may by subsequent order allow, the claim, or the part, as the case may be, shall be wholly barred as against such estate, but without prejudice to the liability of the debtor therefor. R.S., c. 25, s. 31.

Set-off

32 The law of set-off shall apply to all claims made against the estate, and also to all actions instituted by the assignee, for the recovery of debts due to the assignor, in the same manner and to the same extent as if the assignor were plaintiff or defendant, as the case may be, except in so far as any claim is affected by this Act or any other enactment respecting frauds or unjust preferences. R.S., c. 25, s. 32.

Proof of claim

33 (1) Every person claiming to be entitled to rank on the estate assigned shall furnish to the assignee particulars of his claim, proved by affidavit, and such vouchers as the nature of the case admits of.

(2) If any person claiming to be entitled to rank on the estate assigned does not within a reasonable time after receiving notice of the assignment, and of the name and address of the assignee, furnish to the assignee particulars and proofs of his claim as provided by this Act, the assignee may issue a final notice by registered letter mailed to such person requiring him within a time stated in the notice to furnish such particulars and proofs of his claim on penalty of being debarred from participation in the proceeds of the estate, and if the particulars and proofs of the claim are not furnished within the time stated in such notice, the same

shall be wholly barred and the assignee shall be at liberty to distribute the proceeds of the estate as if no such claim existed, but without prejudice to the liability of the debtor therefor.

(3) The time stated in such notice shall in the case of creditors resident within the Province be not less than thirty days and of those resident without the Province not less than sixty days. R.S., c. 25, s. 33.

Claim not accrued due

34 A person whose claim has not accrued due shall nevertheless be entitled to prove under the assignment and vote at meetings of creditors, but in ascertaining the amount of any such claim a deduction for interest shall be made for the time which has to run until the claim becomes due. R.S., c. 25, s. 34.

CONTESTATION OF CLAIMS

Contestation of claim

35 (1) At any time after the assignee receives from any person claiming to be entitled to rank on the estate proof of his claim, notice of contestation of the claim may, at the request of any creditor, be served by the assignee upon the claimant, and thirty days after the receipt of the notice, or such further time as a judge on application allows,

(a) an action shall be brought by the claimant against the assignee to establish the claim; and

(b) a copy of the originating notice in the action served on the assignee,

and in default of such action being brought and the originating notice served within the time aforesaid, the claim to rank on the estate shall be forever barred.

(2) The notice by the assignee shall contain the name and place of business of one of the solicitors of the Supreme Court, upon whom service of the originating notice may be made, and service upon such solicitor shall be deemed sufficient service of the originating notice.

(3) In any case where the assignee is unable to obtain personal service of the notice upon the claimant, the service of the same or of notice in lieu of service may be effected upon such other person or in such other manner as a judge on the application of the assignee directs. R.S., c. 25, s. 35.

DIVIDENDS

Accounts of assignee

36 Upon the expiration of one month from the first meeting of creditors, or as soon as may be after the expiration of such period, but not more than three months thereafter, and afterwards from time to time at intervals of not more than three months, the assignee shall prepare and keep constantly accessible to the creditors, accounts and statements of his doings as assignee, and of the position of the estate. R.S., c. 25, s. 36.

Payment of dividend

37 As large a dividend as can with safety be paid shall be paid by every assignee under this Act within twelve months from the date of any assignment made thereunder, and earlier if required by vote of the creditors, and thereafter a further dividend shall be paid every six months, and more frequently if required by the creditors, until the estate is wound up and disposed of. R.S., c. 25, s. 37.

Notice and payment to creditor

38 So soon as a dividend sheet is prepared, notice thereof shall be given by letter mailed, postage prepaid, to each creditor, enclosing an abstract of receipts and disbursements, showing what interest has been received by the assignee for money in his hands, together with a copy of the dividend sheet, noting thereon the claims objected to, and stating whether any reservation has or has not been made therefor; and after the expiry of eight days from the date of mailing the notice, abstract and dividend sheet as aforesaid, dividends on all claims not objected to within that period shall be paid. R.S., c. 25, s. 38.

FINAL SETTLEMENT

Final distribution

39 (1) At the expiration of eighteen months from the date of the assignment, and earlier if required by the creditors, the assignee shall prepare a final dividend sheet and abstract of receipts and disbursements, and take proceedings to finally wind up and dispose of the estate.

(2) If the assignee does not take such proceedings for final distribution before the expiration of said period of eighteen months, any creditor of the estate may, by originating notice, apply to a judge for an order fixing a time within which such final winding up and distribution shall be made, and an assignee on the return of such originating notice shall be required to show cause why such final winding up and distribution was not made within the period of eighteen months, and if good cause is not shown, the assignee shall be personally liable for the costs of such summons and the proceedings consequent thereon. R.S., c. 25, s. 39.

OFFICIAL ASSIGNEES

Official assignee

40 (1) The Governor in Council may in each county appoint one or more persons to be official assignees, who shall perform the duties and exercise the powers imposed by this Act.

(2) Every person so appointed shall before entering upon any duties or exercising any powers as an official assignee, file in the office of the Attorney General a bond to His Majesty in such sum and with such sureties as is directed and approved by the Governor in Council, conditioned for the faithful performance of his duties as such official assignee. R.S., c. 25, s. 40.

Remuneration

41 (1) The assignee shall receive such remuneration as is voted by the creditors at any meeting, subject to the review of a judge, if complained of by the assignee or any creditor.

(2) If no remuneration is voted to the assignee by the creditors, the amount thereof shall be fixed by a judge, not exceeding five per cent on the gross proceeds of the estate. R.S., c. 25, s. 41.

Examination of assignor

42 (1) Where there has been an assignment for the benefit of creditors, the assignee or assignees, upon resolution passed by a majority vote of the creditors present, or represented at a meeting of the creditors of the assignor regularly called, may without an order examine the assignor or any person who is or has been an agent, clerk, servant, officer or employee of any kind of the assignor, upon oath before a local judge of the Trial Division of the Supreme Court or before a judge or before an official referee, or may by the order of the court or of the judge examine the assignor on oath before any other person to be specially named in the order, touching the estate and effects of the assignor, and as to the property and means he had when the earliest of the debts or liabilities of the assignor existing at the date of the assignment was incurred, and as to the property and means he still has of discharging his debts and liabilities and as to the disposal he has made of any property since contracting the debt or incurring the liability, and as to any and what debts are owing to him.

(2) The rules and procedure from time to time in force in the Supreme Court for the examination of judgment debtors shall, as far as may be, apply to an examination under this Act of an assignor in all respects as if the assignor were a judgment debtor.

(3) In case such assignor does not attend as required by the said appointment or appointment and order, as the case may be, and does not allege a sufficient excuse for not attending, or if attending refuses to disclose his property or his transactions respecting the same, or does not make satisfactory answers respecting the same, or if it appears from such examination that such assignor, has concealed or made away with his property in order to defeat or defraud his creditors, or any of them, the court or a judge may order the assignor to be committed to the common jail of the county in which he resides for any term not exceeding twelve months. R.S., c. 25, s. 42.

Service of appointment and conduct of examination

43 (1) Any person liable to be examined under Section 42 may be served with an appointment signed by the judge or officer, or a copy thereof, and where the examination is to take place under an order also with a copy of the order; such service to be made at least forty-eight hours before the time appointed for the examination; and the person to be examined is to be paid the same fees as a witness is paid in cases in the Supreme Court.

(2) The examination shall be conducted in the same manner as in the case of an oral examination of an opposite party. R.S., c. 25, s. 43.

Compelling attendance and production

44 Any person liable to be examined under Section 42 may be compelled to attend and testify and to produce books and documents in the same manner and subject to the same rules of examination and the same consequences of neglecting to attend or refusing to disclose the matters in respect to which he may be examined as in the case of a witness in an action in the Supreme Court. R.S., c. 25, s. 44.

Attendance and production of documents

45 (1) In case any person has, or is believed or suspected to have, in his possession or power any book, document, or paper of any kind, relating in whole or in part to the debtor, his dealings or property, such person may upon resolution passed by a majority vote of the creditors present or represented at a regularly called meeting of the creditors of the assignor, exclusive of such person (if he is a creditor) be required by the assignee to produce such statement or statements for the information of such assignee.

(2) In case the person fails to produce the book, document or other paper within four days of his being served with a copy of the resolution, and a request of the assignee in that behalf, or in case the assignee is not satisfied that full production has been made, the assignee may without an order examine the person before any of the officers mentioned in Section 42, touching any book, document or other paper which he is supposed to have received.

(3) Any such person may be compelled to attend and testify, and to produce upon his examination any book, document or other paper which under this Section he is liable to produce, in the same manner and subject to the same rules of examination, and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he may be examined, as in the case of a witness in an action in the Supreme Court. R.S., c. 25, s. 45.

Precedence of assignment

46 An assignment for the general benefit of creditors under this Act shall take precedence of all attachments and of all executions not completely executed by payment provided, however, that this Section shall not apply to lands. R.S., c. 25, s. 46.

Death or removal of official assignee

47 (1) Where an assignment has been made to an official assignee, under provisions of this Act, all the estates, rights, duties and liabilities of such official assignee shall, upon the death, resignation or removal from office of such official assignee for the time being, devolve upon and become vested and continue in the succeeding official assignee, by virtue of his appointment, and so in succession without any further assignment or transfer.

(2) All actions and other proceedings by or against such official assignee for the time being, as such official assignee, at the time of his death, resignation or removal, shall continue and be proceeded with by, in favor of and against the succeeding official assignee, saving to every court having jurisdiction in this behalf all such right and authority as the court would have or exercise if there has been no change in the holder of the office of official assignee. R.S., c. 25, s. 47.

Inspectors

48 (1) At a meeting of the creditors held under Section 23 or at any other meeting of the creditors, inspectors may be appointed, and the assignee shall be subject at all times to the directions, orders and instructions he may receive from time to time from such inspectors with regard to the modes, terms or conditions on which he may dispose of the whole or any part of the estate.

(2) All books, accounts and correspondence of the assignee in respect to the estate shall be constantly accessible to the inspectors.

(3) The creditors shall determine what compensation, if any, shall be allowed the inspectors, but no such payment or allowance to an inspector in any estate shall exceed the sum of fifty dollars. R.S., c. 25, s. 48.
