

A C T O F C O N G R E S S .

brought by *habeas corpus*, by rule or warrant, to commit such persons to the same prison, there to remain until he shall conform as aforesaid, unless it shall be made to appear that he had fully answered all lawful questions put to him by the commissioners; or in case such person was committed for not signing his examination, unless it shall appear that the party had good reason for refusing to sign the same, or that the commissioners had exceeded their authority in making such commitment; and in case the gaoler to whom such person shall be committed, shall wilfully or negligently suffer such person to escape, or to go without the doors or walls of the prison, such gaoler shall, for such offence, being convicted thereof, forfeit a sum not exceeding three thousand dollars for the use of the creditors.

Sec. 41. *And be it further enacted*, That the gaoler shall, upon the request of any creditor, having proved his debt, and shewing a certificate thereof, under the hands of the commissioners, which the commissioners shall give without fee or reward, produce the person so committed; and in case such gaoler shall refuse to shew such person to such creditor, requesting the same, such person shall be considered as having escaped, and the gaoler or sheriff so refusing, shall be liable as for a wilful escape.

Prisoner to be produced, &c.

Sec. 42. *And be it further enacted*, That where it shall appear to the said commissioners that there hath been mutual credit given by the bankrupt, and any other person, or mutual debts between them at any time before such person became bankrupt, the assignee or assignees of the estate shall state the account between them, and one debt may be set off against the other, and what shall appear to be due on either side on the balance of such account after such set off, and no more, shall be claimed or paid on either side respectively.

Offsets to be allowed.

Sec. 43. *And be it further enacted*, That it shall and may be lawful to and for the assignee or assignees of any bankrupt's estate and effects, under the direction of the commissioners, and by and with the consent of the major part in value of such of the said bankrupt's creditors, as shall have duly proved their debts under the commission, and shall be present at any meeting of the said creditors, to be held in pursuance of due and public notice for that purpose given, to submit any difference or dispute for, on account of, or by reason or means of, any matter, cause or thing whatsoever, relating to such bankrupt, or to his or her estate or effects, to the final end and determination of arbitrators to be chosen by the said commissioners, and the major part in value of such creditors as shall be present at such meeting as aforesaid, and the party or parties with whom they shall have such difference or dispute, and to perform the award of such arbitrators, or otherwise to compound and agree the matter in difference and dispute as aforesaid, in such manner as the said assignee or assignees under the direction and with the consent aforesaid, shall think fit and can agree; and the same shall be binding on the several creditors of the said bankrupt, and the said assignee or assignees are hereby indemnified for what they shall fairly do according to the directions aforesaid.

Assignees may, with consent, agree to a reference, &c.

Sec. 44. *And be it further enacted*, That the assignees shall be, and hereby are vested with full power to dispose of all the bankrupt's estate real and personal at public auction or vendue, without being subject to any tax, duty, imposition, or restriction, any law to the contrary notwithstanding.

Bankrupt's estate may be disposed of, &c.

Sec. 45. *And be it further enacted*, That if after any commission of bankruptcy, sued forth, the bankrupt happen to die before the commissioners shall have distributed the effects, or any part thereof, the commissioners shall, nevertheless, proceed to execute the commission, as fully as they might have done if the party were living.

What is to be done if the bankrupt die, &c.

Sec. 46. *And be it further enacted*, That where any commission of bankruptcy shall be delivered to the commissioners, therein named, to be executed, it shall and may be lawful for them before they take the oath or affirmation of qualification, to demand and take from the creditor or creditors prosecuting such commission, a bond with one good security, if required, in the penalty of one thousand dollars, conditioned for the payment of the costs, charges, and expences, which shall arise and accrue upon the prosecution of the said commission: Provided always, that the expences, so as aforesaid to be secured and paid by the petitioning creditor or creditors, shall be repaid to him or them by the commissioners or assignees, out of the first monies arising from the bankrupt's estate or effects, if so much be received therefrom.

Commissioners may demand security, &c.

Sec. 47. *And be it further enacted*, That the district judges, in each district respectively, shall fix a rate of allowance to be made to the commissioners of bankruptcy, as compensation of services to be rendered under the commission, and it shall be lawful for any creditor, by petition to the district judge,

District judge to fix the compensation, &c.