

10.—(1) The claim may be contested by the execution debtor, or by a creditor interested in contesting the same.

(2) If the debtor contest the claim, he is for that purpose to file with the Clerk an affidavit stating that he has a good defence to the claim, or to a specified part of the claim on the merits, but the Judge may dispense with the affidavit on terms or otherwise.

(3) The debtor is to file the affidavit and serve upon the claimant a copy thereof within ten days after the personal service, or service under sub-section (2) of section 8, upon him of the affidavit of claim and the notice, or within the time which the Judge by an order dispensing with personal service directed, or within any further time which the Judge may allow; the affidavit is to have endorsed thereon a statement of some place in, or within three miles of, the shire town of the County in which the proceedings are being taken, at which service may be made upon the debtor, or the address of some attorney in the Province who may be served in the debtor's behalf, and in default thereof, service of any notice, paper or document requiring service may be made upon the debtor by mailing the same, prepaid and registered, enclosed in an envelope addressed to the debtor at such shire town.

(4) If the contest is by a creditor, he is for that purpose to file with the Clerk an affidavit to the effect that he has reason to believe that the debt claimed is not really and in good faith due from the debtor to the claimant, but the Judge may dispense with the affidavit on terms or otherwise.

(5) Such affidavit by a creditor may be so filed, and a certificate thereof delivered to the Sheriff at any time before distribution is made.

(6) The creditor shall in all cases have notice of a contest of his claim by either the debtor or another creditor, the sufficiency of which notice shall be decided by the Judge.

11.—(1) In case of a claim being contested by a creditor after a certificate has been placed in the Sheriff's hands, the Sheriff, unless the Judge otherwise orders, shall proceed and levy as if such contestation had not been made, and the Sheriff shall, until the determination of the contestation, retain in the Bank the amount which would be apportionable to the claim if valid, and he shall, as soon after the expiry of the said month as practicable, distribute the residue of the money made amongst those entitled.

(2) The claimant whose claim is contested may apply to a Judge for an order allowing his claim and determining the amount; and in case he does not make such application within eight days of his receiving notice of the contestation (or within such further time, if any, as the Judge upon the delay being reasonably accounted for may allow), he shall be taken to have abandoned his claim; if the contestant is a creditor and there is reason to believe that the contestation is not being carried on in good faith, any other creditor may apply for an order permitting him to intervene in the contest.

12.—(1) The Judge may determine any questions in dispute in a summary manner, or may direct an action or issue, in any Court or County, for the trial thereof, and may make such order as to the cost of the proceedings as may be just.

(2) Where there is a dispute as to the material facts, and the sum in controversy appears to be over \$400, exclusive of costs, the Judge shall direct that the trial be in the Supreme Court, and may name the County in which the trial is to take place, subject to any order which the Supreme Court, or a Judge thereof, may see fit to make in that behalf. In case an issue is directed it shall be tried in all respects as if it had been an action in the Court in which it was ordered to be tried.

13. The Judge may at any time, either before or at the trial, make such order for the examination of the parties, or others before him, at such time and place as he may appoint, as he may think necessary in the interests of justice; disobedience to such order shall make the party guilty of such disobedience liable for contempt of Court.

14. A creditor who has recovered a judgment in any Court other than in the Supreme Court, or the County Court, may serve upon the Sheriff a memorandum of the amount of his judgment and of the costs to which he is entitled, certified under the hands of the Clerk of the Court, in case there is such Clerk, and if not, under the hand of the presiding Justice, and the memorandum so served shall have the same effect for the purposes of this Act as if the creditor had delivered to the Sheriff a writ of execution directed to the said Sheriff from a County Court.

15. Where a creditor has taken in one County the prescribed proceedings in respect of his claim and desires to establish his claim for the purposes of this Act in another County also, he may do so by obtaining from the said County Court Clerk another certificate (Form E) and delivering the same to the Sheriff of such other County, and the delivery of the certificate to the Sheriff shall have the same effect for the purposes of this Act in the County in which the same takes place, from the day of the delivery, as if a new notice and affidavit of claim had been served for the County and other proceedings had in respect thereof under the previous provisions of this Act.

16. A creditor, entitled to a certificate from the County Court Clerk, may sue out a writ of execution into any County in the same manner as on an ordinary judgment.

17. In case a claim is contested in one County, the decision thereon shall, as between the parties to it, determine the amount of the claim for the purposes of this Act in all other Counties in which the claim is filed, and the certificate of the Clerk of the County Court of the County in which the contest has taken place of the result thereof, shall be *prima facie* proof of the decision. A certificate shall, upon payment of a fee of fifty cents, be granted to any party to the proceedings who applies therefor.

18.—(1) The Clerk of the County Court shall keep a book in which, before granting a certificate or issuing an execution for a claim, he shall enter the following particulars with reference to every claim in respect of which he gives a certificate under this Act:

- (a) The name of every claimant and of every debtor;
- (b) The date of entry of judgment;
- (c) The amount of debt, exclusive of costs;

(d) The amount of costs;

(e) If the proceedings have been set aside, this fact, and shortly the reasons therefor.

(2) The entry shall (subject to the provisions of this Act) be an award of judgment for the debt and costs, and shall have the same effect as an entry of judgment for non-appearance to a specially endorsed writ. The Clerk shall index the entries in the book alphabetically under the name of every debtor.

(3) In case the original papers happen to be lost or destroyed, a copy of the entry in the book shall be evidence of all matters therein set forth.

(4) The filing of a claim and obtaining a certificate under this section shall not prevent the creditor from proceeding to judgment in the ordinary manner.

19.—(1) With respect to claims, the Judge, before or after a certificate is issued by the Clerk under this Act, or delivered to the Sheriff, may, on the application of the debtor, and notice to a claimant, give to the debtor further time to pay the claim, where the Judge is of the opinion that this can be done without injustice to the creditor, or may give to the debtor further time on terms which in the opinion of the Judge may be just. There may be successive orders for this purpose, but no claim shall be delayed by such orders for more than three months in all.

(2) This section is not to apply to creditors who have obtained judgment in the ordinary way; and the orders for time are not to prejudice executions obtained by such creditors on such judgments.

20.—(1) In case the debtor, without any sale by the Sheriff, pays the full amount owing in respect of the executions and claims in the Sheriff's hands at the time of such payment, and no other claim has been filed with the County Court Clerk, or in case all executions and claims in the Sheriff's hands are withdrawn, and any claims served are paid or withdrawn, no notice shall be entered as required by section 4 of this Act, and no further proceedings shall be taken under this Act against the debtor by virtue of the executions having been in the Sheriff's hands.

(2) Save as aforesaid, after a certificate has been filed with the Sheriff, the withdrawal or expiry of the writ, upon which the proceedings are founded, or any stay upon the writ, or the satisfaction of the plaintiff's claim thereon, or the setting aside or return of the writ, shall not affect the proceedings to be taken under this Act, and except so far as the action taken in regard to the writ may affect the amount to be levied, the Sheriff shall proceed, and levy upon the goods or lands of the debtor, or both, as he would have proceeded had the writ or writs remained in his hands in full force to be executed, and may also take the like proceedings as he would have been entitled to take the writ been a writ of *venditioni exponas*.

(3) In case a debtor voluntarily, and without any sale by the Sheriff, pays to the Sheriff part of the amount owing in respect of an execution or claim in the Sheriff's hands, and there is at the time no other execution or claim in the Sheriff's hands, the Sheriff shall apply the same on the execution or claim so in his hands, and section 4 of this Act shall not apply to the moneys so received by the Sheriff.

21. The Clerk shall ascertain and state in his said certificate the amount of the costs to which the claimant is entitled as against the debtor. Such costs shall be the following:

(1) For serving the affidavit of claim to be allowed upon the scale of the Supreme Court in the case of claims over \$400, and on the County Court scale in the case of claims exceeding \$200 and not exceeding \$400, and one-third less than the County Court scale in the case of claims exceeding \$80 and not exceeding \$200, and one-half of the County Court scale in the case of claims of \$80 and under.

(2) The fees paid to the County Court Clerk under this Act are also to be allowed, and shall be the same as he is allowed for like proceedings in the County Court.

(3) Where there is no contest the sum of \$5 for fees of an Attorney, (if employed) unless the amount of the claim is \$80, or under, in which case the sum of \$2 only is to be allowed.

(4) In case of a contest such additional costs (if any), as the Judge may allow to be taxed according to the scale of the Supreme Court or County Courts, according as the amount in dispute is within the jurisdiction of one or other of these Courts; provided, however, that if the amount is \$80 or under, only one half of the ordinary County Court costs shall be allowed.

(5) The cost of obtaining an order for substituted service, or other similar order, and of such service, or the costs of and incidental to the service out of the Province, in either case to be taxed by the Clerk of the Court, and stated in his certificate aforesaid; if the claim is \$80 or under, only such a sum to be allowed for costs as will amount to one-half of what would be taxable if the amount was above \$80 and less than \$400.

22. Where there is in any Court a fund belonging to an execution debtor, or to which he is entitled, the same, or a sufficient part thereof to meet the claims in the Sheriff's hands, may, on the application of the Sheriff or any party interested, be paid over to the Sheriff, and the same shall be deemed to be money levied under execution within the meaning of this Act.

23.—(1) If the Sheriff does not find property of a debtor leviable under executions and claims in his hands sufficient to pay the same in full, and the Sheriff finds goods and chattels in the hands of a Constable, or other officer of an inferior Court, other than the County Court, under a writ of execution against the debtor, the Sheriff shall demand and obtain the goods and chattels from such Constable or other officer, who shall forthwith deliver the same to the Sheriff, with a copy of every writ of execution in his hands against the debtor, and a memorandum showing the amount to be levied thereunder, including the fees of such Constable or other officer so far as proceedings have been taken by him, and showing the date upon which each process was received by him.