

but if, before such order is granted, the assignee shall signify to the Judge his readiness to institute the proceedings 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 proceedings, if instituted within such time, shall appertain to the estate."

This is a qualification of the first sub-section of section 7 which, as we saw in the preceding chapter, provided that the assignee should have the sole and exclusive right of suing for the rescission of agreements, deeds and instruments or other transactions, made or entered into in fraud of creditors or in violation of the Act. If a creditor had begun proceedings before the assignment to set aside a fraudulent transaction, they would not abate by reason of the assignment, but the assignee should be joined as a party plaintiff, or else an order should be obtained allowing the creditor to sue for his own benefit. See *Gage V. Douglas*, 14 P.R., 126.

It should be remembered that no person can be joined as a plaintiff in an action without his consent, and the assignee's consent in writing should therefore be obtained.

Section 8 provides, that "If the person to whom any gift conveyance, assignment, transfer, delivery or payment as in section 2 of this Act is mentioned, has been made shall have sold or disposed of the property which was the subject of such gift, conveyance, assignment, transfer, delivery or payment, or any part thereof, the moneys or other proceeds realized therefor, may be seized or recovered in any action under the last preceding section as fully and effectually as the property if still remaining in the possession or control of such person could have been seized or recovered."

See *Harvey V. McNaughton*, 10 A.R., 616, and *Ross V. Dunn*, 16 A.R., 552. Also see *Masuret V. Stewart*, 22 O.R., 290, in which money arising from a feigned sale which was fraudulent and void against creditors was at the time of the