dressed, and another which accompanied the first when it was transmitted to persons holding any official position, giving them cognizance of proceedings adopted under the act.

These questions were addressed as follows:—

1. They were addressed to one hundred and sixty-two persons, including all the judges having jurisdiction.

2. All the clerks and prothonotaries of the courts before which proceedings are had.

3. All the Boards of Trade throughout Quebec and Ontario.

4. All the official assignees whose names could be ascertained.

5. And to a large number of solicitors, merchants and accountants.

And answers have been received from a considerable proportion of those institutions, and persons throughout the Provinces of Ontario and Quebec.

And your committee believe that the general purport of the answers thus obtained, fairly indicates the views of the community upon the nature, operation, and effect of the law

It will be observed, that, in scanning the questions already referred to, your committee desired to elicit opinions and information.

Firstly—With regard to the procedure requisite under the Act to vest the state of an Insolvent in the Assignee.

Secondly—With regard to the provisions for the management of the estate while in the possession of the Assignee

Thirdly—With regard to the means of preventing fraud, and fraudulent preferences, and of punishing those guilty of either.

Fourthly—As to the regulations respecting the Insolvent and his discharge; and,

Lastly—As to the general effect of the law, particularly as between the Insolvent and his Creditor.

Adopting this order, as matter of conscience, and proceeding to discuss the first subject of inquiry, namely the procedure requisite under the Act for vesting the estate of an Insolvent in an Assignee, Your committee would observe, that under the Act, this may be either voluntary or compulsory.

Under the Act as originally passed, an Insolvent desirous of making a voluntary assignment, was ordinarily required to await the selection of an Assignee by his creditors, before making an assignment: and this necessitated a notice, calling a meeting of his creditors, which could not be given in less than two weeks, and might extend over a longer period.

An amended Act in 1865 permitted him to make a voluntary assignment without notice to his creditors, to any one of a class of men selected by the Boards of Trade for the purposes of the Act, and styled Official Assignees. But the amendment did not prohibit the calling of a meeting, and the selection of an assignee by the creditors in the manner provided for by the first Act. These modes of appointing an assignee to a person voluntarily placing himself within the purview of the Act has been fully discussed in the replies, and various opinions have been expressed upon them. The question whether the debtor should assign to an assignee at his own domicile, or to one resident at the domicile of the majority of his creditors has also among others excited much attention; validity of the latter class of assignees has been disputed before the Courts with conflicting results. And the propriety of allowing the debtor to select his assignee even though he be restricted in his choice to the persons selected by the Board of Trade is combatted. And while the opinion generally prevails that the creditors should have the exclusive power of choosing the assignee, there is an equally prevalent disinclination to permit the debtor to retain possession of his estate pending the time requisite for the notices preliminary to exercising that power at a meeting properly called.

The attention of your committee has therefore been first attracted by the result of their enquiries to the extent to which in a voluntary assignment the creditors should influence the choice of an assignee; whether or no the Act leaves to the debtor after his acknowledged failure too extended a control over his property in the event of his calling his creditors together to appoint an assignee, and how far the choice of such assignee is restricted by considerations as to his place of residence.

If the debtor calls a meeting of his creditors, as he would under the Act of 1864, the delay required for the notices he must give, does not appear to be considered more than sufficient to enable a full attendance of creditors to be procured, and the information as to his affairs which he is required to give before or at the meeting so-called seems to be sufficient. But if he adopts this mode of proceeding he has the undisputed possession of his estate, and his books, for a time amply sufficient to enable him, if he pleases, to dispose of assets, make entries, or receive and expend debts due to him, in such a manner as to injure his creditors.

On the other hand, if he follows the procedure permitted by the Act of 1865, he himself exercises the right of selecting his assignee; and however limited the number of persons from whom his selection may be made —it is stated that in certain cases the competition has given rise to collusive arrangements and favouritism: —both alike detrimental to that thorough investigation of the affairs of the estate in which the creditors should have the energetic co-operation of the assignee.

These considerations and the suggestions contained in the replies laid before the committee, appear to point to some arrangements by which the debtor should make an immediate assignment to some official person, who should at once call a meeting of the creditors, and during the interval of time required for notices, should perform similar duties to those imposed by the present act upon the guardian in compulsory liquidation. By this mode it is suggested that the estate would be at once secured; the information required to enable the creditors to act intelligently in the choice of assignee would be prepared; their freedom of selection would be preserved; and while the notices were being published, the preparations for realizing the estate would be progressing.

With regard to the residence or quality of the assignee to be ultimately chosen by the creditors, the prevalent idea of the Act seems to be, to give the entire control of the conduct and arrangement of the estate to the creditors as being a matter in which they alone are interested. They are authorised to make such regulations for winding it up as they think proper—they can pronounce upon nearly every question as to its administration that can arise; and the success or failure of the means they adopt only result in the increase or diminution of their dividends as the case may be. It may be of the highest importence, to creditors to have an active and competent man as assignee, though he may not reside in the same place as the debtor, and the identity of domicile of the debtor and the assignee will be an insufficient substitute for qualities essential to the advantageous administration of an estate. Your committee, therefore, are of opinion that a liberal interpretation of the Act, under which no restrictions is imposed on the choice of an assignee by the creditors, is beneficial, and in accordance with the general tendency of the Act. But that the selection of assignee should not in any respect affect the *forum* having jurisdiction over insolvent and over his acts and contracts.

The same remarks will in many respects apply to the proceedings, by means of which an insolvent is compulsively divested of his estate. The choice by the Sheriff of a guardian, like the choice of an interim assignee by the creditors, should be restricted to persons resident in the locality, for the sake of convenience in the immediate protection of the estate; while the ultimate selection of an assignee should be left free, that the creditors may obtain the person they consider best calculated to procure for them the largest returns from it.

With regard to the procedure for compulsory liquidation: in the great majority of answers the provisions of the Act seem to be considered convenient and sufficient. The most important addition proposed is suggested by several of the Boards of Trade, to the effect that a levy under execution should be made a ground for compulsory liquidation; and that money so levied within sixty days before the insolvency should be recoverable by the assignee either from the Sheriff or from the seizing creditor to whom he has paid it, as the case may be. The first branch of this suggestion appears to be already met by the provisions of the Act. The second would seem to be open to many grave objections, and could only be sustained on a principle inconsistent with that upon which mainly rests the law as to preferences enunciated by the Act.

Upon the second class of enquiries—namely, those having reference to the mode of winding up the estate after it has reached the assignee—the suggestions received have been numerous. In this stage of proceedings in insolvency, the interest of the debtor in his estate has virtually ceased to exist. The duties of the assignee may be summed up, as requiring him to act for the best interests of the creditors in realizing the estate for their benefit; and the theory of the law seems to have been that as the parties chiefly interested they should have the chief direction of his actions. This view has been adopted in most of the replies, and the suggestions have been made chiefly with the intention of facilitating the exercise by the creditors of their control over the assignee; of increasing his powers acting under such control; of abridging delays and of diminishing expenses. These objects are sought to be attained by various means, the principal of which may be thus summed up:—

By authorizing from the appointment among the creditors of a superior or supervising Committee, to whom the creditors may delegate all or any portion of their authority in respect to the winding up of the estate.

By authorizing the assignee to offer a reward for the discovery of concealed assets.

By authorizing the guardian and assignee to obtain communication of all letters addressed to the insolvent.

By abridging the period required for advertizing the sale of real estate; the intervals between the insolvency and the power of declaring dividends, holding legal meetings of creditors and the like.

The first and second of these classes of suggestions seem to interest the creditors alone, and probably they may safely have power to give to a Sub-Committee of themselves the power of administration, which they themselves may exercise; and to decide to what extent they may beneficially employ the funds of the estate, in procuring information as to concealed assets. It would only be necessary, in the interest of the great body of creditors, to provide against the abuse of these powers by a section of the parties interested to the injury of the majority.

The desire that power shall be given to examine the wife of the insolvent seems to be entertained by the Boards of Trade and by some others of the parties answering.

Act of 1861, c. 118.—The Bankrupt Law of England permits the examination of the wife for the discovery of effects illegally concealed, kept or disposed of, and the jurisprudence is said to confine her examination strictly to these points. The new United States statutes authorizes the summoning of the wife to attend for examination "as a witness," but it gives no power to compel her submission for examination, and provides no penalty for disobedience except the refusal of her husband's discharge unless he proves that he could not procure her attendance. The Scotch statute authorizes the examination of the wife of a bankrupt relative to his estate. And both in England and in Scotland the right of examining to some extent the wife of a bankrupt, preceded the change in the law of evidence which permitted her to be examined as a witness in ordinary civil cases to which her husband is a party.

Your Committee, therefore, report upon this point that their investigation discloses a prevalent opinion in accordance with the rule adopted in other commercial countries, namely, that the wife of the insolvent should be, to some extent, subject to examination as to his estate.

With regard to the delays provided for by the act, which it is suggested should be abridged, it may be remarked that the greater portion of these delays appear to be justified solely on the ground of the possible or probable existence of creditors in other countries having the right of assisting at the decision of important questions, or of sharing in the proceeds of the estate. As the act now stands they are not uniform, for practically in voluntary assignments the interval between the first notice of the insolvency, and the time for legal meetings or dividends is lengthened or diminished according as the assignee is appointed, with or without notice to creditors; and this interval is again greatly increased when the appointment is made in compulsory liquidation. If the interval were made to count from the date of the first advertisement of any kind published in either case under the act, and were reduced to six weeks instead of two months, the effect would be an abridgement of delay in most cases of fully one month, and a closer approach towards uniformity in the two modes of acquiring control over the debtor's estate

And a like desirable object might be obtained as regards the sale of real estate, and fixing the maximum length of the advertisements required, and leaving to the creditors, or to their supervising committee, the right of still further diminishing it.

The absence of power to receive and open letters addressed to the insolvent is also pointed out in several of the answers as being a defect in the act. No such provision exists, nor, in fact, is it to be found precisely in that form in the American or British bankrupt acts. It is true that in the English and Scotch acts the judge is authorised to make an order to that effect extending over a limited period; but it does not appear to what extent judges in England have exercised this power. The only case cited in the treatises applied to the letters addressed to a debtor who had absconded, which would probably be admitted to be a fit occasion for the exercise of such a power. Under the United States bankrupt law no authority of the kind is conferred or can be obtained.

Your committee, therefore, report upon this point that it is suggested in several of the answers that the power of opening and receiving letters add essed to the insolvent should be conferred upon the assignee, and would be an advantageous addition to the existing law; and that in England and Scotland the judge is authorized to grant this right to the assignee.

Among the duties of the assignee is comprised that of collecting the debts, and in the event of being unable to collect, of selling those remaining unpaid. There are certain restrictions upon the sale of debts by the assignee, of the general effect of which no complaint is made. But there is one particular case in which the restriction upon the sale of debts by the assinee, as well as upon the sale of real estate, is suggested to have operated disadvantageously to the creditor. This appears to have occurred where the creditors thought it for their interest to sell *en bloc* the entire estate of an insolvent, including his debts and real estate, either for a gross sum or at a rate per pound upon his liabilities It would seem from the information before the committee that this mode of closing an estate might occasionally be advantageously resorted to, and that if the power of doing so be carefully guarded, it would be expedient to grant it.

The third point to which the attention of your committee has been directed, namely, the prevention and punishment of fraud and of fraudulent preferences, has been discussed at considerable length in the answers received by your committee. It appears to be considered that there are not sufficient provisions in the act for some of these purposes; and many suggestions have been made with a view to supplement them.

The Act as it now stands, defines and describes what constitutes fraudulent conveyances, and fraudulent preferences. Recent judicial decisions upon the clauses appropriate to these subjects, appear to indicate a necessity for a criticism of their language, but with such amendments as may suffice to give them the offset they evidently contemplate, there would be no necessity for any addition to them. The real difficulty appears to be in compelling the Insolvent to surrender his entire estate: and it is proposed to insure this, by providing for various forms of examination, and of declaration under oath; by punishing concealment as a criminal offence; and by making it a disqualification for a discharge.

(To be continued.)

GOLD AT UNIACKE.—A Correspondent of the *Mining Gazette* at Uniacke, N.S., writes:—"I find by the returns that the Westlake Company have during the last quarter performed 501 days work, raised 258 tons of quartz, crushed 243 tons, and obtained 652 ozs 10 dwts. 6 grs. of gold, which will give 1 oz. 6 dwts. and 1 gr. for each day's work during the quarter. From the Hall property they are now taking the quartz raised for the last two months to the crusher, and it promises a better return than any yet taken out. They have erected a gin house on their old shaft, and have opened a new shaft about 180 feet west. The lode here is about four feet six inches thick, with good looking ore, and shows some good specimens. The Uniacke Company have just crushed their quartz raised last month—87 tons gave 155 ozs. 10 dwts. — gr. Of this, 40 tons was from the north lode, and gave just 3 ozs. to the ton at a depth of 125 feet. This mine has steadily improved from the commencement. The Montreal Company have commenced operations again in their north lode. The Westlake Company are building a crusher, and Hall & Co. are likely to build one during the summer."