

tition of words, phrases and clauses, which are rendered necessary only by the want of such rules, and enacted that such provision should apply to all future acts, except so far as it shall be inconsistent with the context; and (Section 5, 8thly.) that the word "person" should include any body corporate or politic, or party, and the heirs, executors, administrators, or other legal representatives of such person to whom the context may apply. Then chapter 2 of the Consolidated Statutes of Upper Canada was passed "to prevent the unnecessary multiplication of words, and to give definite meaning to certain words and expressions which may be provided for by a general law." This act is in force in Upper Canada only. Section 10 enacts, that the word "person" shall include any body corporate or politic, or party, and the heirs, executors, administrators, or other legal representatives of such person to whom the context applies. Section 19 provides, that the provisions contained in the Interpretation Act of Canada, and not contained in this act, shall apply to the Consolidated Statutes of Upper Canada as if incorporated therein. Reading these two interpretation acts together, and referring to section 3 of the Interpretation Act of Canada, as well as to the statute 12 Victoria, chapter 10, I presume that the following words, which begin section 2 of the Upper Canada Interpretation Act, "unless otherwise declared or indicated by the context," apply to all the sections following down to and including section 17. Such is the form and effect of the statute 12 Victoria, and also of the Interpretation Act of Canada. All these acts are so plainly *in pari materia*, that I feel warranted in so far construing the one by the aid of the other. Indeed I cannot suggest a reason why the same form of enactment was not followed for both.

(To be continued)

COMMON LAW CHAMBERS.

(Reported by HENRY O'BRIEN, Esq., Barrister-at-Law.)

IN MATTER OF ROBERT RUSSELL WADDELL, AN INSOLVENT.

Insolvent Act of 1864, sec. 9, sub-secs. 6, 10, and sec. 11, sub-sec. 1—Appeal from county judge—Application for discharge of insolvent—Notices to creditors.

The provisions of sec. 11, of the above act, with reference to notices, do not apply to the case of an insolvent who has procured a consent from his creditors to his discharge, or has procured the execution by the requisite number of his creditors of a deed of composition and discharge, and who is applying to the judge for a confirmation of such discharge.

Sec. 9, sub-secs. 6 and 10, point out all that is to be done on the part of the insolvent, to enable him to bring his application before the judge.

[Chambers July, 4, 18, 1866.]

On 23rd June last the insolvent presented a petition to the county judge for his discharge under the Act. Notice of his intention to publish in the form given by the statute was published in the *Canada Gazette*, the first insertion in that paper being on 21st April and the last on 16th June. Notices of the intention to apply were not sent to the creditors of the insolvent.

Burton, Q. C., appeared for an opposing creditor, and objected that the publication of the notice was not sufficient. It was not published for two months as required by sub-sec.

6 of sec. 9, and notices should have been sent to the creditors as provided by sec. 11, sub-sec. 1, and both these sub-sections must be read together.

Sadler, for the insolvent, *contra*.

Sub-sections 2, 3, and 4, of sec. 1, of Act of 1864, are repealed by Act of 1865, second session. This provides that where an assignment is made to an official assignee, no notices are required to be sent by insolvent to his creditors, by post or otherwise; form A in old Act is done away with, and form A in new Act is only where an assignment is not made to an official assignee. Where the assignment is to an official assignee, the first notice is given by assignee for the purpose of calling on creditors to prove claims. See then section 11 of old Act—To whom is insolvent to give notice of his intention to apply for discharge? The end of sub-section 1, section 11, showed "that notices thereof must be addressed to all creditors within the Province, &c., at the time of the insertion of the first advertisement," that is, the assignee's advertisement.

The following judgment was, after consideration given by the learned judge of the court below,

Logie, Co. J.—As to the first point sub-sec. 6 sec. 9, provides that notice shall be given by advertisement in the *Canada Gazette* for two months, and the first point raised is whether the full period of two months must elapse between the first and last insertions in the *Gazette*, or whether the time of making application to the Judge being more than two months from the day of the first insertion in the *Gazette* publication in all the issues of the paper during the intervening time would be sufficient although the time between the first and last insertions should happen to be less than two months. I was under the impression that the case of *Coe v. Pickering*, 24 U. C., Q. B., 439, settled that point, but on looking at the case, I find it does not; and I have not been able to find any case in which it has been determined. I have, on careful consideration, come to the conclusion that the insertion of the advertisement for two months means an insertion in each issue of the paper published during the two months between the first insertion and the day of presenting the petition; and therefore, as in this case, the day of meeting is more than two months from the date of the first insertion, and the notice has appeared in each issue during the period, the publication in the *Gazette* is sufficient.

With regard to the other point, I am of opinion that notices should have been sent to the creditors of the insolvent as provided by sec. 11. I think that sec. 11, sub-sec. 1, must be read along with sec. 9, sub-sec. 6, in order to ascertain the intention of the Legislature. Sec. 11, sub-sec. 1, contains the general provision of the Insolvent Act for the giving of notices. It provides that notices of meetings of creditors and all other notices required to be given by advertisement without special designation of the nature of such notice shall be given by publication for two weeks, &c. And in any case, the assignee or person giving such notice shall also address notices, &c., to the creditors. The words in the last part of this section, "and in any case," &c., are very comprehensive, and unless controlled or limited by the other part of the section, or by anything in sub-sec. 6, of sec. 9, would