tained any such special provision as stated; yet the courts have always held that no creditor is bound whose name and debt is not mentioned in the Schedule.

Quinte.

Preferential Assignments.

To the Editors of the Canada Law Journal.

Toronto, April 16, 1868.

At page 301, Con. Stat. U. C. 22 Vic. cap. 26, sec. 18, we find these words: "In case any person, being at the time (1st) in *insolvent circumstances* (2nd), or unable to pay *his debts in full* (3rd), or, knowing himself to be on the *eve of insolvency*, makes or causes to be made any gift, conveyance, assignment or transfer of any of his goods, &c. (1st), with intent to defeat or delay the creditors of such person (2nd), or with the intent of *giving one or more* of the creditors of such person a preference over his other creditors (3rd), or over any *one or more of such creditors*, every such gift, conveyance, &c., shall be null and void," &c.

I have above (putting in figures, to denote the material points of law contained in the section) given the substance of section 18, relating to preferential assignments, passed in 1859.

An interpleader case, that was decided recently in the Division Court at Richmond Hill, in which case the law contained in the section was construed by John Duggan, Esq., Q. C., deputy judge, in a certain way new to me, has induced me to trouble you with a few remarks on this branch of the law. The decision itself was, considering the facts of the case, not only a surprise to me so far as the law is concerned, but one which could not but have a damaging effect upon the rights of all creditors, and in effect nullifies the act itself.

We all know—at least those who were in full law practice prior to 1858—how very common it was for dishonest debtors, prior to that year, to give chattel mortgages of all their goods to one creditor, generally a relative, and that the country was flooded with one-sided assignments and covert and secret transfers of goods, whereby one creditor or a few creditors were preferred to the creditors in general. This act of 1859 was passed to stop the mischief, and was so framed and worded that one would have thought that rogues in the shape of debtors had a network thrown around their acts which would catch almost any case of attempted fraud. The act was passed to put down all dishonest dealings and improper preferences; in fact (and so lawyers have heretofore understood it), that a man who was in embarrassed, failing, or even *quasi* insolvent circumstances, had no right, in his troubles, to make over all his chattels to one creditor, leaving the rest nothing to lay hold on. Now this decision at Richmond Hill, of the learned Q. C., acting for Judge Boyd, is in the very teeth of this view of the law. In fact, so fully did the public and lawyers take my view of the law, that it is well known that since 1858 not one chattel mortgage or assignment has been filed and made, where five used to be made prior to that period, under similar causes for them.

The facts of this case at Richmond Hill are briefly these: A., a debtor, owed many debts, and B., C., D. and E., at Richmond Hill, had obtained judgments in the Division Court against him there, on which executions had been issued and returned *nulla bona* repeatedly; and he had in consequence of this been ordered to pay small sums, such as one dollar and half-a-dollar a month, on the judgments, as an insolvent. A. owed also other things elsewhere, and judgments too. He owed $1,100 for rent unpaid; and he owed a sister of his, for borrowed money, borrowed for many years back, nearly $1,500. He had given formerly (in 1863, I think) a chattel mortgage to his landlord to pay his rent, part of the $1,100 above referred to. This chattel mortgage had been neglected, and allowed to run out. One of his creditors (B.), seeing this, took out an execution, and was about to levy on his goods, when he made another chattel mortgage, in January, 1868, to his sister, conveying all his goods to her, and setting at defiance his said creditors. B., notwithstanding this transfer, levied on his goods, and hence the interpleader case, which arose on a claim made by his sister to his goods, under the last chattel mortgage.

Now, there is not a shadow of a doubt but that A. intended, by this transfer, to prefer his sister to all other creditors; to cut off all others, to give her all his goods, preferring one creditor to another. There is no doubt but that his sister knew this, nor that he was in embarrassed circumstances, unable to pay his debts in full—in fact, that he was an insolvent. The goods he conveyed were not worth over