

invalid, then all its provisions respecting filing the assignment and advertising in the *Ontario Gazette* and otherwise are no longer applicable. The creditors have no power to replace one assignee by another, and until some creditor has assented to the assignment it may be revoked by the debtor.

Section 12 only removes "an assignment for the general benefit of creditors under this Act" from the operation of the Act respecting Mortgages and Sales of Personal Property. Consequently, it will be necessary to strictly comply with the provisions of the latter Act as to the description of the property, the affidavits of execution and *bona fides*, and filing within five days in the proper office as a bill of sale: *Whiting et al. v. Hovey et al.*, 13 A.R. 7.

As respects fraudulent transfers of property made by the assignor, the assignee is in the same position as the assignor, and there is now nothing to prevent any creditor from proceeding to attack such a transfer, either by action or under Con. Rule 1007, if the transfer be of land. But the rights of the attacking creditor are more meagre than those given by the Act in question. He will now have to rely on 13 Eliz., c. 5, as amended by R.S.O., c. 96. For the cases under this statute, see *Holmsted & Langton*, p. 788; *Building and Loan Association v. Palmer*, 12 O.R. 1.

The result sought to be attained by s. 5 may still be reached by apt words in the assignment itself. To give the partnership property to the partnership creditors and the individual property to the individual creditors *pro rata* is not unfair. Where the assignment empowered the assignee to sell the property assigned "by auction or private contract, as a whole or in portions, for cash or on credit, and generally on such terms and in such manner as he shall deem best or suitable, having regard to these presents," and the trusts were declared to be (1) for the payment of expenses; (2) to retain a reasonable compensation, based upon the time and trouble bestowed on and about the trusts; (3) after a just and equitable distribution of the expenses as between partnership and separate estate, "to pay and divide the residue of the partnership estate and the surplus of the separate estates unto and among all and every the creditors of the said partnership according to the amount of their respective claims ratably and proportionately, and the respective separate