

be), for creditors and others, to send into such trustee, assignee, executor or administrator, their claims against the person for the benefit of the creditors of whom such deed or assignment is made, or the estate of the testator or intestate (as the case may be), the trustee, assignee, executor or administrator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the proceeds of the trust estate, or the assets of the testator or intestate (as the case may be), or any part thereof, amongst the parties entitled thereto, having regard only to the claims of which the trustee, assignee, executor or administrator had notice at the time of the distribution thereof or a part thereof (as the case may be) but nothing in this Act contained shall prejudice the right of any creditor or claimant to follow the proceeds of the trust estate or assets (as the case may be), or any part thereof, into the hands of the person or persons who may have received the same respectively."

This protection, however, will not extend to save the assignee from liability for a claim of which he has notice, or is aware, although it may not be formally proved. He should call upon the creditor to prove it. (See *Carling Brewing & Malting Co. v. Black*, 6 O.R., 411.)

A creditor who sends in his claim after the payment of the first dividend, but before the estate is wholly distributed, is entitled to be paid out of the balance, so far as it goes, as much per cent. on his claim as has been paid to other creditors before any further distribution is made to the creditors whose claims have been received in due course; and a creditor who has delayed putting in his claim until the whole estate is distributed, although he has no recourse against the assignee if he has given the proper notices may yet call upon each of the creditors who have been paid to contribute a pro rata amount sufficient to make up the share to which the said creditor is entitled. See *Chamberlin v. Clark*, 9 A.R., 273.

Section 13 provides a penalty for both assignor and assignee in case of omission to give the proper notice, or record the assignment in proper time, and is as follows:—

"Sec. 13, (S.S.1). If the said notice is not published in the regular number of the Ontario Gazette, and of such newspaper as aforesaid, which shall respectively be issued