

JUDGMENT DEBT—CHOSE IN ACTION—ASSIGNMENT OF CHOSE IN ACTION—ASSIGNMENT OF PART OF JUDGMENT DEBT—ASSIGNEE—LEAVE TO ISSUE EXECUTION—JUDICATURE ACT, 1873 (36-37, VICT. C. 66) s. 25 (6)—(ONT. JUD. ACT, s. 58 (5)).

*Forster v. Baker* (1910) 2 K.B. 636. In this case also, the effect of an assignment of a part of a chose in action was in question. In the present case a part of a judgment debt was assigned and the assignee applied to the Court for leave under Rule 601 (Ont. Rule 864) to issue execution for the part assigned. Bray, J., refused the application on the ground that there cannot be an absolute assignment within the Judicature Act, s. 25 (6) (Ont. Jud. Act, s. 58 (5)) of a part of a chose in action, and the Court of Appeal (Williams, Moulton, and Farwell, L.J.J.) affirmed his decision on the ground that as the original judgment creditor could only issue a single execution upon his judgment and could not split up the judgment debt and issue separate executions for different parts of it, he could not give an assignee a right which he did not himself possess.

SET OFF—MUTUAL DEBTS—ASSIGNMENT TO DEFENDANT OF DEBT OWED BY PLAINTIFF—SET OFF BY DEFENDANT OF DEBT ASSIGNED—JUDICATURE ACT, 1873 (36-37 VICT. C. 66) s. 25 (6)—(ONT. JUD. ACT, s. 58 (5)).

In *Bennett v. White* (1910) 2 K.B. 643, the Court of Appeal (Cozens-Hardy, M.R., and Farwell and Kennedy, L.J.J.) have reversed the decision of the Divisional Court (1910) 2 K.B. 1 (noted ante, p. 491). The Court of Appeal holding that a defendant may set off *pro tanto* against a debt owing by him to the plaintiff, a debt owing by the plaintiff to a third party whereof the defendant is assignee.