

IMPRISONMENT FOR DEBT UNDER THE DIVISION
COURTS ACT.

The statement is often made that imprisonment for debt no longer exists, and has long been abolished, like hanging in cases of larceny, and other barbarous punishments of a ruder age. Yet there nevertheless is a sense in which imprisonment for debt still exists, whilst the theory is that this engine is only applied in cases of fraudulent or contumacious debtors who refuse to make satisfactory explanation of the disposition made by them of their property, or disobey the orders of Court for payment where the Court is satisfied that they are able to pay the debt. Besides the committal clauses of the Division Courts Act there are several chapters in the Revised Statutes of Ontario which deal with this subject.

Chapter sixty-seven of the Revised Statutes is entitled, "An Act respecting Arrest and Imprisonment for Debt," and makes provision in certain cases, and where the amount of the claim is \$100 or upwards, for the imprisonment of debtors and their detention until satisfactory bail is furnished by a bond of not less than two or more than four sufficient sureties, conditioned that the person shall observe and obey all notices orders and rules of the Court concerning the debtor or person ordered to pay, or his appearing to be examined *viva voce* or otherwise, or his returning or being remanded into close custody. In the following chapter, relating to Indigent Debtors, certain relief is given to debtors in close custody for debt, and it is provided that in certain cases the debtor may obtain an order that the creditor pay the debtor a weekly allowance of \$2 for his support, and in default of payment the debtor may demand his discharge. But the debtor is not, however, to be entitled to such allowance or to his discharge if, upon an examination pending the application, he fails to make full answer concerning any property or effects of which he may be possessed, or to which he may be entitled, or under the control of some other person for his use and benefit, or which he may have fraudulently disposed of to injure his creditor. By another section of the same Act provision is made for a motion by the debtor for his unconditional discharge upon his making oath that he is not worth \$20 exclusive of the goods and chattels exempt from execution, and that he has submitted himself to be examined pursuant to order, or that no such order has been served, and upon the hearing of the application (if such examination has taken place) the matter thereof is deemed satisfactory, the debtor shall be discharged from custody, but not, of course, from his liability to pay the debt. The Court exercises a discretion on such applications, but the leaning is in favor of the discharge of the debtor, if he has given a reasonable account of the disposition made by him of his effects; but in cases where the debt was contracted by any manner of fraud or breach of trust, or without reasonable assurance that it could be paid, or the debt is a judgment recovered in an action for breach of promise of marriage, seduction, crim. con., libel, or slander, the Court may order his re-committal for a period not exceeding twelve months, and to be then discharged.