estate of the assignor, completely discharged from and unaffected by any judgments, executions, or other processes of law not completely executed by payment to or in favor of any particular creditor who would, but for the operation of the section, be entitled to the fruits of his judgment or execution or other process of law for enforcing judgment.

Butler v. *Wearing*, L.R. 17, Q.B.D. 183, and *ex parte Pillers In re Curtoys*, L.R. 17, Q.B.D., 653, are authorities under the English Bankruptcy Act of 1869 and 1883, in support of the view that the attachment to prevail against the assignee in bankruptcy must be completed by payment. All recent legislation has been in the direction of a *pro rata* distribution amongst his creditors of the debtor's whole estate as opposed to the right of single creditors to absorb such estate, either in whole or in part, by force of judgments or executions held by them or against the debtor. The Creditors' Relief Act aims, though somewhat feebly, in that direction, and the Act under consideration was obviously intended to accomplish that result. It is true that only the term "execution" is used in sec. 9 as a method by which a judgment may be enforced, and of which an assignment is to take precedence, but the intention of the Legislature is clear, and I ought to apply the principle of the statute, though the section be inartistically drawn and is wanting in apt words.

It could never have been the intention of the Legislature to give an assignment for benefit of creditors precedence over an execution not completely executed by payment, and at the same time to permit a garnishing summons or attachment to prevail, where the primary creditor, before he could get any fruit of his attachment under such summons, would not only have to get a judgment against the primary debtor but also, if resisted by the garnishee, prove the liability of the garnishee to the primary debtor, and get judgment against the garnishee and enforce the same by execution. The same reasoning, I think, would apply if the garnishing summons or attachment was under a judgment already recovered against the primary debtor.

The question arising in this action is a new one, turning, as I have suggested, on the construction to be put on section 9 of the Ontario Statute, respecting assignments for benefit of creditors. It gives me much satisfaction to know that my judgment may be reviewed by the Court of Appeal, and if I have erred in my view of the meaning of the section, the primary creditors can obtain relief. I am, however, strongly impressed that the word "execution" in section 9 must mean all process upon a judgment by which a creditor may obtain out of a debtors assets of every kind, satisfaction of his judgment.

The garnishee must be discharged and this action dismissed as against him with costs, leaving him to pay to the assignee for benefit of creditors any amount due by him to the primary debtors.

Early Notes of Canadian Cases.

SUPREME COURT OF CANADA.

NOVA SCOTIA.] [June 13.

LAWRENCE *v.* ANDERSON.

Debtor and creditor—Assignment in trust—Release to debtor by—Authority to sign—Ratification—Estoppel.

L. brought an action against A. on an account stated, to which the defence set up was release by deed. On the trial it was shown that A. had executed a deed of assignment in trust for the benefit of his creditors, and under authority by telegram had signed the same in the name of L. After the execution of the deed by A. the creditor L. continued, with knowledge of the deed, to send him goods, and about a month after he wrote A. as follows: "I have done as you desired by telegraphing you to sign deed for me, and I feel confident that you will see that I am protected and not lose one cent by you. After you get matters adjusted I would like you to send me a cheque for $800." Four years after A. wrote to L. a letter, in which he said: "In one year more I will try again for myself, and hope to pay you in full." The account sued upon was stated some eighteen months after this last letter.

Held, reversing the judgment of the Court below, TASCHEREAU and PATTERSON, JJ., dissenting, that L. was not estopped from denying that he executed the deed of assignment; and as it was evident that he did not expect to participate in the benefit of the deed, but looked to the debtor A. for payment, he could recover on the account stated.