

be about the time the judge ordinarily would give. The clause says: "execution may afterwards issue at the request of the plaintiff." That means (I should suppose) at once on signing judgment. I see by a long letter, in many respects very ably written, making comments on the new act, published in the *Leader* newspaper on the 24th day of March, that the writer does not see his way clear at all as to this second clause. He cannot tell what time the clerk is to sign judgment—what return day of the summons means. I think it is plain the return day of a summons is the court day.

The error in the clause would seem to be in leaving it in the power of the clerk to enter a judgment "at any time within a month after the return day" (that is the court day). This is ambiguous or uncertain. He might enter judgment at any time within the month.

Section 5 of this act is one really worthy of all praise. It enacts if "A." have a just debt against "B.," and "C." owes "B." a debt, that debt (even if "A." has not yet got a judgment) may be garnished or taken hold of legally to pay "A." It might be well to apply this principle to the Superior Courts. It affords the creditor a great additional remedy, heretofore not in his power, unless under the attachment laws, when a debtor had left the country. So a debt under like circumstances, by this new act, may be garnished where the creditor has an unpaid judgment against his debtor. The Division Court law was always defective, on account of the want of such powers. It may be that there is a little ambiguity in some of the after clauses of this act, enacted to carry out the garnishing powers; but I think they will be easily worked and understood by the judges.

It will be seen that the creditor has two steps to take, or rather he may take two steps legally, to secure the money in the hands of the garnishee. He may, on affidavit filed, get a judge's attaching order, which may be served in any county in Ontario. That fixes the debt in his favor in the garnishee's hands. He then has to summon the garnishee and his debtor in the Division where the garnishee lives. That is the suit, in order to give the garnishee as little trouble as possible, must be brought home to his door, and the debtor called there too.

It is not to be wondered at that there is

some doubt about the construction of these clauses, for this garnishing even in the Superior Courts, is a process very complicated and confused, and hard to work.

In the action against the primary debtor under the 5th section of the act, the suit against the garnishee goes on too, *pari passu*. Upon giving judgment against the debtor on particulars served, if the garnishee owes him, he must pay that debt, in discharge of the primary debtor's debt.

By section 6, sub-section 4, it is very usefully enacted that no attaching order need be taken out at all, if the creditor choose to take the course of only serving a summons on the garnishee. If the creditor does this, then the summons has the effect of a garnishing order.

Then this sub-section, it will be seen, allows the judge to make the summons returnable at any time at his Chambers; a very useful power. It would seem that this part of the law only applies where the primary creditor has a judgment against his debtor, for it says it shall not be absolutely necessary to summon the debtor, which is a practice similar to that in the Superior Courts.

The writer in the "*Leader*" objects very much to the 18th section of this act. I really think it a very useful section. There may be some impropriety in allowing a delegated person, not a bailiff, to execute process (especially executions), but if the person is authorized to do it by the clerk at the election of the plaintiff, who is the interested party, no one can object. This person must strictly comply with the law.

This act seems to have a good deal of confidence in the intelligence of clerks, and if all clerks were like the writer in the "*Leader*," they might very properly be trusted with large discretionary powers. In fact our Province has many very intelligent clerks.

This section 18 of the act, allows the clerk to send process and executions to any bailiff within his county (and as I understand it) to any bailiff in any other county for execution, and said bailiff is bound to enforce or serve the execution of process and return it. His securities are liable for his misconduct. The bailiff may of course, or if not he, the plaintiff or some one, run some risk in the transmission of money from great distances to the head county. In this, and in the matter of fees, this section may be found ambiguous again.