A person claiming unliquidated damages against the assignor for breach of contract is not a creditor within the meaning of the Act, and he cannot, after the making of an assignment for the benefit of creditors, bring an action against the creditors' trustee to ascertain the damages and rank for the amount upon the estate: *Grant* v. *West*, 23 App. R. 533; *Magann* v. *Ferguson*, 29 O. R. 235.

Not only is a preferential conveyance not open to attack by a person who at the time of the conveyance had only a right of action in tort for damages, but a conveyance may also be sustained against such a claimant when the conveyance was made for the purpose of implementing a prior contract, made for valuable consideration, before the claimant's claim arose (*e.g.*, a contract to convey in consideration of receiving support), even though such contract could not have been specifically enforced: *Montgomery* v. *Corbit*, 24 App. R. 311.

Quære, what would be the result in such a case if the conveyance was purely voluntary, and if the grantor had no creditors other than such claimant? See *Montgomery* v. *Corbit*, 24 App. R. at p. 324.

A creditor whose claim arose after the conveyance in question cannot succeed in setting aside that conveyance upon the ground that there are still in existence other creditors whose claims were in existence before the date of the conveyance, unless those prior creditors could themselves have impeached the transaction, which, in the absence of actual intent to delay, hinder or defraud creditors, they could not do if the grantor was solvent immediately after making the conveyance: *Vinden* v. *Fraser*, 28 Gr. 502; and see *Struthers* v. *Glennie*, 14 O. R. 726; and *Collard* v. *Bennett*, 28 Gr. 556; *Darling* v. *Price*, 27 Gr. 331; and *Masuret* v. *Mitchell*, 26 Gr. 435.

Voluntary Settlements.

In the absence of actual intent to defeat, delay or hinder creditors, a voluntary settlement made by a settlor in embarrassed circumstances, but having property not included in the settlement ample for payment of the debts owing by him at the time of making it, may be supported against an attack by creditors under 13 Eliz., although debts due at the date of the settlement may to a considerable amount remain unpaid: *Kent* v. *Riley*, L. R. 14 Eq. 190; and see *Freeman* v. *Pope*, L. R. 5 Chy. 538; *Bank of Montreal* v. *Davis*, 9 O. R. 556; and *Ex p. Mercer*, 17 Q. B. D. 290.

If, however, such a conveyance be made with a view to putting