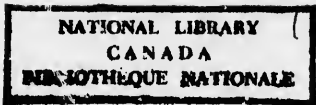


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A. H. Marsh



SYNOPSIS OF THE LAW RELATING TO FRAUDULENT CONVEYANCES  
MADE TO DEFEAT OR PREFER CREDITORS IN THE  
PROVINCE OF ONTARIO.

Prepared for the Students of the Law School at Osgoode Hall  
by the Lecturer on Equity.

Lecturer: A. H. MARSH, O.C.

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WHAT PROPERTY IS AFFECTED BY THE STATUTE.

13 Elizabeth, Cap. 5, passed for the protection of creditors, and for the purpose of avoiding fraudulent transfers of property made by a debtor for the purpose of delaying, hindering or defrauding his creditors, affected all transfers of all property, whether real or personal, *which was exigible in execution*, so as to be capable of being made available for creditors. Therefore, as legal and equitable process became from time to time more far-reaching, the operation of the Statute became correspondingly more and more extended. See *Davidson v. McGuire*, 7 App. R. at pp. 101-2; *Warnock v. Klöpfer*, 15 App. R. 325, *et seq.*, and *May's Fraudulent Conveyances* (2nd ed.) 23.

It follows from this that if the property transferred be of such a character that it is not exigible in execution at the time of the transfer, such transfer will not be obnoxious to the Statute of Elizabeth; and the same result follows with reference to our Provincial Statute touching Fraudulent Assignments and Preferences. Therefore an assignment (by way of security) of the *profits expected to be made* out of a contract to do work does not fall either under the Statute of Elizabeth or under our Provincial Statute *in pari materia*, for there is no legal process by which the subject matter of the assignment could *at the date of the assignment* be reached by creditors; the assignor might never do the work; there might be no profits; if, at the date of the assignment in question, the assignor had made an assignment in trust

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