

COLLECTION LAWS.

PROVINCE OF ONTARIO

- 1. ARREST.**—In action in the Superior and County Courts the plaintiff can obtain a Judge's order, authorizing issue of writ of *capias ad respondendum* against the defendant upon affidavits if the plaintiff, or other person, showing to the satisfaction of the Judge, that the plaintiff has a cause of action against the defendant to the amount of \$100.00 or upwards, or has sustained damage to that amount, and also showing such facts as satisfy the Judge that there is good and probable cause for believing that the defendant, unless forthwith apprehended, is about to quit Ontario with intent to defraud the plaintiff, or his creditors generally. If the action has originally commenced with issue of writ of *capias ad resp.* a writ of *capias ad satis*, may issue without further affidavits, otherwise the latter writ will not issue, except upon a Judge's order granted on affidavit containing similar allegations, or on it being shown that defendant has parted with his property, or made some fraudulent or secret conveyance thereof, in order to prevent its being taken in execution. If upon the examination of a judgement debtor as to his property and means of satisfying his debts, he refused to disclose his property, or transactions, or does not make satisfactory answers, or refuses to attend such examination, or a fraudulent disposal of his property is proved to have been made, the Court or Judge may commit him to gaol for a period not exceeding one year, or direct the issue of a writ of *capias ad satis* against such debtor. No arrest can be made for non-payment of costs.
- 2. ADMINISTRATION OF ESTATES.**—Any person, claiming to be a creditor of a deceased debtor may apply to the Court of Chancery on motion for an order for the administration of the real and personal estate of such deceased debtor, in which case the court assumes the taking of accounts and administers the assets for the payment of the debts of deceased debtor generally. On a deficiency of assets creditors rank *PARI PASSU*, without distinction of nature of claim; this, however, does not prejudice any lien existing during the lifetime of the debtor on any of his real or personal estate, such as a writ of *Fieri Facias* against lands in Sheriff's hands at time of decease, or Mortgage or other lien executed by debtor in his lifetime.
- 3. ASSIGNMENT OF BOOK DEBTS &c.**—Every debt and chose in action, arising out of contract, other than bills and notes, is assignable at law, by any form of writing; subject to the conditions in respect to the right of transfer, contained in original contract, and the assignee may sue in his own name thereon. Original right of set off and other defences existing prior to transference preserved; notice of transfer should be given by assignee to debtor.
- 4. ATTACHMENT OF PROPERTY OF ABSCONDING DEBTOR.**—(1.) Issues from Division Court on claims for debt, judgment or damages, arising upon contract, from \$4 to \$100, in case debtor, with intent to defraud, absconds from Ontario leaving personal property liable to seizure under execution, or attempts to remove such property from one county to another or keeps himself concealed in any county to avoid service of process. (2.) Issues from Superior and County Courts when claim exceeds \$100.00 on affidavit by plaintiff, his servant, or agent, showing that debtor is indebted to the plaintiff in \$100.00 or upwards, stating cause of action, and that deponent believes that the debtor has departed from Ontario with intent to defraud plaintiff, or to avoid arrest, and at time of departure had real and personal property; and in addition (corroborated in this last statement by affidavit of two other credible persons) showing the departure of defendant.