

held to be fraudulent and are null and void. Any contract made by a party in ignorance of such insolvency 30 days before the assignment or writ for a consideration but to the detriment of creditors is voidable. Fraudulent preferential sales or transfers of property are null, and transfers made within the 30 days are presumed to be fraudulent. Payments made to a creditor knowing the debtor's insolvency, within the 30 days, may be recovered back by the assignee. Transfers of debts within that time to insolvents' debtors, who know his insolvency, in order to procure a set off, are null for that purpose so far as the estate is concerned. Purchasing goods or obtaining advances by a person knowing his inability to pay for or repay the same, is fraud, punishable by imprisonment for 2 yrs., unless payment be sooner made. Every partner cognizant of such proceeding is liable. The plaintiff must, however, allege and prove the fraud, in his action for the recovery of such debt.

#### *Composition and Discharge.*

A deed of composition and discharge, signed by a majority of \$100 claimants and three-fourths in value, binds the other creditors. If the discharge be conditional upon payment of the composition, and that is not paid, the assignee resumes possession of the estate; but creditors previously to such composition, will only rank for the amount of composition unpaid, concurrently with new creditors; for the balance, after the claims of the latter are paid in full. The reconveyance of estate or effects by the assignee to insolvent under terms of such deed has the effect of a sale by the assignee. If a payment under the composition falls due while it is being contested, it is postponed until 10 days after final judgment therein. Notice of opposition must be filed within 3 days after such deed is lodged with the assignee. The consent to a discharge by the above proportion of creditors frees insolvent from all claims stated in his list, or proved before the assignee, whether exigible at the time of insolvency or not, also all claims on negotiable paper mentioned in the list, although the holder is unknown to the insolvent. But a discharge without composition does not affect secondary liabilities, as those of partners, guarantors, endorsers, &c. And it does not release the insolvent from liability for debt, for which he may be imprisoned under this act, or for damages for any criminal act, or for maintenance of relatives (unless the creditor shall have filed a claim or shall expressly consent) or for any trust account, without such consent; but claimants on such accounts may claim and receive dividends. The holders of any such claims as above or privileged claims shall not be counted in reckoning the proportion of creditors necessary for a discharge. The discharge is deposited with the Court and one month's notice of application for its confirmation is given. It may be contested on the ground of fraud, of false swearing, evasion or prevarication at examination of the insolvent, of neglect to comply with the act or orders of the judge, or failure to keep proper books since 1864, in Ontario and Quebec, or after the passing of this act in the other Provinces. No act is fraud, although so declared by this act, if committed before the act of 1864, in Ontario and Quebec, or before the passing of this act in the other Provinces, unless it was punishable as such under previous laws. If the insolvent do not file the consent or deed, &c., of discharge within one month, a \$200 creditor may give him notice to do so and proceed to have it annulled for any of the above reasons. If it be shown that the insolvent has been guilty of misconduct in his business, extravagance in expenses, recklessness in indorsing or becoming surety, continuing trade after he believed himself insolvent, purchasing goods without reasonable expectation of paying for them, or negligence in keeping his accounts, his discharge may be suspended for 5 yrs. or made second class, or both. If within 1 year he do not secure the consent of the required creditors, the insolvent may apply to the judge for discharge, who grants, refuses or suspends it for reasons as above. A creditor or the assignee may contest the application, and the judge himself may examine the insolvent, assignee and others, if there be no contesting creditor. The requisite number of creditors may demand of the judge that he suspend the certificate or rank it second class. Any discharge procured by fraud or preferential payment to obtain creditor's consent is void.

#### *Examination of Insolvent and others.*

So soon as one month has expired after the appointment of assignee, a meeting is held to examine the insolvent under oath, by each creditor present in turn, his evidence being taken down, and signed and deposited in the office of the court. He may further be examined, at any time, before the judge, upon an order or subpoena, or on application for discharge or contestation of it. He must attend all meetings of creditors, when summoned, and give evidence. Insolvent's wife or husband may also be examined touching the estate and effects and disposal of them.

#### *Procedure.*

Procedure deeds, validly executed in one Province, shall have the same effect and make the same proof in all others. Notices, under this Act, must be inserted for 2 weeks in the *Official Gazette*, and in one other paper published at or nearest to the place of business of the insolvent, and, in Quebec, in one such English and one such French paper. At meetings of creditors the majority of numbers, and value of those above \$100, decide; where the two majorities differ the judge decides. When a majority of value cannot otherwise be obtained, creditors for less than \$100 may vote. Claims may be attested before judges, comrs. of the courts, or J. P. or assignee in Canada, and by the usual persons abroad, affidavits, before judges or comrs. 1 clear day's notice of proceedings must be given within 15 miles of place of proceeding, and 1 clear day for each further 15 miles. Persons not obeying a summons, order, or subpoena of a judge or assignee, may be punished for contempt of court; if a proper tender of money for his expenses have been made to him. The ordinary rules of procedure apply to amendments, &c. A foreign discharge shall not bar an action in Canada. The judge has power, special cause being shown, to order a postmaster to deliver letters addressed to the insolvent to the assignee, to be opened and read by him in presence of the prothonotary or clerk of court, and to be retained if connected with business of the estate, or re-sealed and returned if not. If the judge have a claim against the insolvent the judge of an adjacent county or district must act in the case. If the assignee have such a claim as principal or agent he cannot decide upon the validity of such claim or its collocation in any dividend sheet, but the judge must do so. Traders having marriage contracts in Quebec