

353. Such conveyance, assignment, or transfer shall be prepared by the purchaser at his own expense, and shall be left with the officer by whom the writ of sale has been executed for approval four days before he is called upon to execute the same.

354. Every conveyance, assignment, and transfer heretofore or hereafter executed by such officer as aforesaid shall be *prima facie* evidence of the existence of a valid judgment and writ to support a levy by such officer, and of the fact of all necessary notices having been given and published, and of a levy having been duly made, and of a sale having taken place according to law.

355. The officer executing any writ of sale shall, before paying over any moneys seized or realized under a writ of sale, discharge any claims which by law are entitled to be paid out of such moneys in priority to the claim of the party issuing the writ.

WRIT OF POSSESSION

356. A writ of possession shall authorize the officer to whom it is directed to deliver to any party named in the writ possession of any land or of any chattels specified in the writ, and for that purpose to eject any other person from such lands, or to seize and take possession of any such chattels.

WRIT OF ATTACHMENT.

357. A writ of attachment shall empower the officer to whom the writ is directed to arrest any person named in the writ, and shall command such officer to bring such person before the Court at such time and place as shall be mentioned in the writ, and to keep him in the meantime in such safe custody as may be by law allowed.

358. When any person has been brought back before the Court or a Judge upon a writ of attachment, the Court or a Judge may commit such person to prison for such term as to the Court or a Judge may appear necessary, and as may be by law allowed, unless such person shall sooner comply with the judgment of the Court for non-performance or non-observance of which he has been committed.

ISSUE OF WRITS.

359. A writ of sale or of possession may be issued whenever the judgment in pursuance of which it is issued has been filed, subject nevertheless as follows:—

- (1.) If the judgment is for payment or performance within a period therein mentioned, no writ of execution shall be issued until after the expiration of such period.
- (2.) The Judge at the time of giving judgment, or the Court or a Judge afterwards, may stay execution for such time as may seem just.

360. When by any judgment any party is ordered to pay a sum of money, the party to whom such sum of money is ordered to be paid may issue a writ of sale.

361. When any money has been paid on account of a judgment, or the party entitled to judgment wishes to waive any portion thereof, or to waive payment of his costs, or any portion thereof, or when judgment has been given for a larger amount than is actually due, *e.g.*, for the penalty on a bond, damages for a particular breach thereof only having been recovered, such party, on applying for the writ of sale, shall deliver to the proper officer a memorandum shewing the amount he desires to waive, or the sum actually due on the judgment, as the case may be, and the actual amount such party or person claims to recover by virtue of the writ of sale.

362. Such memorandum shall be in the form No. in the Schedule, and shall be annexed to the writ of sale before it is delivered for execution.

363. Any party to whom less is actually due than the amount of the judgment, failing to deliver such memorandum, shall be liable to have the execution set aside.

364. When by any judgment of the Court or a Judge any party is ordered to deliver possession of land or chattels, the party to whom such land or chattels is or are ordered to be delivered may issue a writ of possession.

365. If possession of any chattels ordered to be delivered be not recovered under a writ of possession, the party to whom such chattels are ordered to be delivered may, by leave of the Court or a Judge, issue out a writ of attachment, and if such application be refused, or if the said chattels be not delivered under any such writ of attachment, such party may issue a writ of sale to recover the assessed value of such chattels, or may at his option at once issue a writ of sale to recover the assessed value of such chattels without issuing a writ of possession. But no writ of attachment shall be granted if a writ of sale has been issued to recover the assessed value of the chattels detained, and no writ of sale shall be issued to recover the assessed value of the chattels detained by any party subsequently to the imprisonment of such party under a writ of attachment, except on terms that the party so imprisoned be discharged from custody before the issue of such writ of sale.

366. When by any judgment of the Court a party is ordered to do, or abstain from doing, any act, not being the payment of a sum of money recovered in an action for debt or damages by any judgment of the Court, and fails to obey such judgment, the party entitled to the benefit of the judgment may, by leave of the Court or a Judge, issue a writ of attachment. Notice of the application for leave to issue such writ shall be served on the party against whom it is intended to issue the writ.

367. When by the judgment of the Court a party is ordered to pay a sum of money and to deliver land or chattels, any other party entitled to the benefit of such judgment may issue one writ, to be called a writ of sale and possession, to recover such sum of money and delivery of such land or chattels.

CHARGING DEBTS, TRUST FUNDS, AND SHARES.

368. Any party to an action may, at any time after the commencement of an action and before judgment, by leave of the Court or a Judge, on proof that the opposite party is making away with his property or is about to quit the colony with intent to defeat his creditors, and after judgment without such leave, issue a notice in the Form No. in the Schedule hereto, addressed to,—

- (1.) Any person indebted to any opposite party