

in which that has been done indirectly, which, if it had been done directly, would have been a preference within the statute. In this case, also, the majority of the Court held "irresistible" the argument that, "if it is once demonstrated that the word preference means *à termini* a voluntary preference, the class of deeds, acts, etc., which are to be avoided as having the effect of a preference must also be restricted to such as are spontaneous acts or deeds of the debtor." It was considered that, if it had been the intention of the Legislature to make such an alteration of the law as to avoid all transactions which might result in giving precedence to active and diligent creditors, who should, by pressing their claims, obtain priority over others, such a change would have been enunciated in clear and explicit language. Patterson, J., adhering to the opinion he had expressed in *Brayley v. Ellis*, see sec. 33, held that "preference" was merely the equivalent of "priority," and did not involve the notion of spontaneity.

35. Other Colonial Insolvency Acts—The doctrine of pressure is applicable under the Queensland Insolvency Act, sec. 8, avoiding all alienations made within six months before insolvency by a debtor in contemplation of insolvency, "and having the effect of preferring any then existing creditor to another." By "preferring" it is held that a "fraudulent preferring" is meant. (a) Under the Jamaica statute, however, (11 Vict., c. 28, sec. 67,) which invalidates transfers made within six months of insolvency, and contains no provision whatever respecting preferences, there is presumably no room for the application of the doctrine of pressure. (b)

Sec. 71 of the Victoria Insolvency statute of 1871 is a copy of sec. 92 of the English Bankruptcy Act of 1869, and, as regards the applicability of the doctrine of pressure, has been construed in the same manner. (c)

36. United States Bankrupt Law of 1867—Sec. 35 of this Act, (the whole of which was repealed in 1874), invalidated conveyances made with intent to give a preference to any creditor, and transactions calculated to

(a) *Bank of Australasia v. Harris* (1861) 15 Moore P.C.C. 97.

(b) See *Nunes v. Carter* (1866) L.R. 1 P.C. 348.

(c) *In re Schlieff* (1880) 6 Vict. L.R. (1 P. & M.) 51; *Michael v. Oldfield* (1887) 13 Vict. L.R. 793; *Mackay v. Jellie* (1890) 17 Vict. L.R. 91; *Davey v. Walker* (1892) 18 Vict. L.R. 175.