

intended to act in fraud of the law; that circumstance must necessarily be conclusive in a case where other circumstances are found sufficient to rebut the inference of fraudulent intention. For it must be borne in mind that the true question in all these cases is whether the intention with which the payment was made was to defeat the operation of the bankrupt law."

12. Pressure before voluntary delivery of security is completed, effect of—In *Bayley v. Ballard*, (a), where a trader in contemplation of bankruptcy, and without solicitation, put three cheques into the hands of his clerk to be delivered to a creditor, but before they were delivered, the creditor called upon the trader and demanded payment of his debt, it was held that, the intention to give a voluntary preference not being consummated, the payment was valid. But Parke, B., in *Cook v. Rogers*, (b) said he could hardly consider this ruling to be law.

13. Transfers of interests which cannot be reached by legal process, such as a share of the debtor in the possible profits of a contract for work to be performed, are not a fraudulent preference, whether made under pressure or not. (a)

14. Pressure of a company by a director, effect of—The fact that a director of an insolvent company pressed for his debt will not prevent a payment made to him from being invalid as an undue preference. The only way in which a director can exercise pressure is by ceasing to be a director and then demanding his money. (a)

15. Creditor's knowledge of debtor's insolvency, effect of—The knowledge of a creditor that a debtor is embarrassed is clearly not a conclusive reason for refusing to give effect to the doctrine of pressure. "If a man is failing in his circumstances that is a very good reason for pressing him." (a) But the courts have gone still

(a) *Bills v. Smith* (1866) 6 B. & S. 314, Cockburn, C.J. To the same effect see remarks of Spragge, C.J.O., and Burton, J.A., in *Brayley v. Ellis* (1884) 9 App. Rep. 565.

(a) 1 Camp. 416.

(b) (1831) 7 Bing. 438 (p. 446).

(a) *Blakeley v. Gould* (1897) 24 Ont. App. 153; aff'd 27 S.C.R. 682 (trial court had found that the assignment was valid because made under pressure).

(a) *Gaslight Imp. Co. v. Ferrell* (1870) L.R. 10 Eq. 168.

(a) *Yeates v. Grove* (1791) 1 Vesey 280 (per Ld. Thurlow). See also *Segsworth v. Meriden, & Co.* (1883) 3 Ont. Rep. 413.