capias. The writ of *capias* was issued upon affidavit alleging that a writ of attachment under the provisions of the Insolvent Act of 1875 had been issued against defendant's estate; that he had been guilty of fraud within the meaning of the Act; that prior to the attachment, and within the three months preceding it, defendant had disposed of a portion of his stock-in-trade to one Deseve, the purchase price of which stock remained unpaid. The Judge in the Court below considered that the facts did not amount to secreting, and granted the defendant's petition for liberation.

DORION, C. J., said, it had been decided over and over again by the Court as now constituted, that the remedy by *capias* subsisted concurrently with the Insolvent Act. He was not, therefore, prepared to hear the question raised in this case. The Chief Justice commented on the facts as established by the evidence, (which appear in the judgment below) and held that it was a clear case of fraudulent preference, amounting to secreting. His Honor could not understand the attempt to make a distinction between secreting and fraudulent preference. The French version used the words *cacher ou soustraire*. This was the same as *recéler*, which was *détourner, distraire, divertir*, the effects which should be available to the creditors generally, and there could be no doubt that the acts of the respondent were equivalent to a *recel*.

RAMSAY, J. I concur so fully in what has fallen from the learned Chief Justice, in delivering the judgment of the Court, that I should have thought it unnecessary to add any remark of my own were it not that I consider it important that there should be no doubt as to the individual opinions of the Judges in this important matter. The question is simply as to the meaning of article 798 of the Code of Procedure. No question was raised at the Bar as to any conflict between the Insolvent Act and the article, and if it had been, the decision could not have given rise to any difficulty. As the Chief Justice has said, over and over again we have decided that proceedings in insolvency did not deprive the creditor of the right to take out a *capias*. Again, there is no question as to the proceedings being fraudulent. We are all agreed there was fraud. The effect of the transactions complained of appears to have been to reduce the available assets of the estate from 75 cents in the dollar to about 12 cents. The argument, which has been pointedly stated by one of the learned Judges who dissents, is that there may be a fraudulent disposal, which does not amount to secreting, and that an instance of this is a fraudulent preference. I believe there is some authority for this view, but I confess I am unable to understand it. I can conceive a payment being so trifling that it could not be considered fraudulent, but if a preference or any other disposal amounts to a fraud, it appears to me to be secreting within the meaning of the Act. Secreting does not mean hiding alone, but, as the article says, any "making away" with property which shall put it unlawfully out of the creditor's reach. Thus one may secrete or make away with property by putting legal impediments in the way of the creditor, by which he is prevented from getting possession of it in order to be paid. I expressed this opinion in the case of *Molson & Carter*, and I understand the Privy Council concurred in it. Indeed, it is difficult to understand that the legislature could have intended it should be otherwise. I am at a loss to conceive why courts should use so much ingenuity to put a strained interpretation on the law to defeat its manifest object. If it be said that it is figurative to call it *secreting*, to pass a fraudulent deed to shield property from seizure, I admit it, but I am not aware that in the interpretation of statutes it is necessary always to adopt the first meaning of the term used.

The judgment is as follows:

"La Cour, etc....

"Considérant que le premier mai, 1877, l'intimé, qui était alors insolvable, et incapable de payer ses dettes, a vendu à A. L. Desève, son confrère et son commis, le fonds de commerce qu'il avait dans un magasin que le dit Desève tenait pour lui à Sherbrooke;

"Et considérant que cette vente, qui comprenait toutes les créances dues à ce magasin, a été faite d'un seul lot, hors du cours ordinaire des affaires de l'intimé, à l'insu de ses créanciers à raison de vingt pour cent de déduction sur l'estimation des dites marchandises et créances évaluées à $1,560;

"Et considérant que l'intimé a reconnu par sa déposition que le dit A. L. Desève ne possé-