

The words "voluntarily or collusively" should be read in the alternative, and a cognovit collusively given, is void, though pressure was used. (a)

Sec. 18 of the Indigent Debtors' Act made null and void, as against creditors generally any gift, conveyance, etc., with intent to defeat or delay his creditors, or give one or more of them a preference. This section was incorporated unaltered in Ont. Rev. Stat. 1877, c. 118, sec. 2.

In the earlier cases decided under this section the presumption of fraudulent intent was, without any serious controversy, held to be rebutted by proof of pressure. (b)

But in *Brayley v. Ellis* (c) a case decided in 1884, the influence of *ex parte Griffith* and *ex parte Hill* in the preceding year, (see 30 ante), made itself felt, and the Ontario Court of Appeal was equally divided on the point, Spragge, C.J.O., and Burton, J.A., holding that evidence of pressure was admissible as bearing on the intent of the debtor, while Patterson and Morrison, J.J.A., took the other view, misunderstanding, as the later cases conclusively show, the real significance of the utterances of the English Court of Appeal. (d) The arguments of Spragge, C.J.O., at p. 577 of his opinion, seem to us conclusive that the former construction of the statute is the correct one.

In *Long v. Hancock* (e), the Court of Appeal was still divided in opinion on the subject.

But when this case came before the Supreme Court (g) the judges all reasoned upon the assumption that the doctrine of pressure was applicable under the statute, and one of them, Gwynne, J., expressed an emphatic disapproval of the views of Patterson, J.A., upon the subject.

In the Ontario Statute of 1885 (c. 26, s. 2) the words "or which have such effect" were added after "preference," and the section so amended appears in Rev. Stat. Ont. c. 124, sec. 2.

(a) *Martin v. McAlpin* (1883) 8 Ont. App. 675, rev'g S.C. 3, Ont. Rep. 499. Compare sec. 33 post.

(b) *Clemmow v. Converse* (1869) 16 Grant 547; *Bank of Toronto v. Alder* (1865) 15 U.C.C.P. 475; *Totten v. Bowen* (1882) 8 Ont. App. 602; *Slater v. Oliver* (1882) 7 Ont. Rep. 158.

(c) (1884) 9 Ont. App. 565.

(d) (1884) 9 Ont. App. 565.

(e) (1884) 12 Ont. App. 532.

(g) (1885) 12 S.C.R. 137.