

The Legal News.

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THE SUICIDAL IMPULSE.

The lamentable death of Mr. Justice Colt, of the Supreme Judicial Court of Massachusetts, by his own hand, in a fit of melancholy, has already been noticed. Concerning this gentleman the bar of Massachusetts have adopted the following kindly resolution:—

"Resolved, that in his death the Commonwealth has suffered a severe public loss. His ample learning; his conscientious application of his best powers to the execution of the duties of his high office; his broad, sagacious, and practical apprehension and understanding of affairs; his patience in investigation; his fraternal courtesy and spirit of professional fellowship; his kindly and sympathetic interest in the rights of suitors, and his unsullied integrity of personal character, combined to make him worthy of our utmost confidence and our highest respect and esteem." Judge Hoar once said of him, that "he had that quality of respecting everything that is respectable, which is one of the best traits of the best men of this Commonwealth." It is much to be lamented that the career of such a man should have so melancholy a termination. The parallel cases of Sir Samuel Romilly and Mr. Justice Willes in England, at once suggest themselves, (not to mention that of Hugh Miller in a different calling.) The *American Law Review*, for October, mentions that Abraham Lincoln, according to his biographer Lamon, had to struggle against the same suicidal impulse, which occasionally exercises so powerful a sway over highly gifted and cultivated minds.

FRAUDULENT PREFERENCE A

"SECRETING."

A case which has long stood in the reports received an emphatic overturning during the last term of the Court of Queen's Bench. In *Gault v. Donnelly*, 1 Lower Canada Law Journal, p. 119, (A.D. 1866) it was held that a fraudulent preference is not a secreting. Mr. Justice Badgley, who rendered the decision in the

Superior Court, remarked: "This sale bears all the appearance of a fraudulent preference, but it has been already decided that a fraudulent preference is not a secreting. The word secreting conveys the meaning of concealing, hiding, putting aside in unfrequented places. Fraudulent preference, therefore, does not in any way come within the meaning of the legal term secreting. The act of secreting his effects would be a selfish act for his own advantage; whilst a preference given to a particular creditor is not for the debtor's own advantage but for that of the creditor."

The case was taken to appeal, and was there affirmed by Justices Drummond, Mondelet and Johnson, but the then Chief Justice (Duval) strongly dissented. "The whole case" his honor remarked, (3 L.C. Law Journal, p. 57) "turns upon the interpretation to be put upon the word 'secreting.' The facts of the case are that the defendant, being the plaintiffs' debtor and being insolvent, made over a portion of his property to Mr. Walsh, another of his creditors. It is contended that this was only an undue preference, and does not amount to a fraudulent secretion. But what meaning can be given to the term 'secreting,' if it be not a secreting to put property beyond the reach of the creditors, as was done in this case?" The view of the late Chief Justice has been adopted by the majority of the same Court in the case of *Gault & Dussault*, reported in our present issue. The same principle is to be found in *Molson & Carter*, 3 L.N. 258.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, Sept. 20, 1881.

DORION, C. J., MONK, RAMSAY, CROSS, and BABY, JJ.
GAULT et al. (plffs. below), Appellants, and
DUSSAULT (deft. below), Respondent.

Captus—Secreting—C.C.P. 798.

Fraudulent preference, by which assets which should be available to the creditors generally, are given to one or more, is equivalent to secreting.

The appeal was from a judgment of the Superior Court, Montreal, Rainville, J., granting the petition of respondent, a trader in Sherbrooke, for liberation from arrest under writ of