Under this section, also, proof of pressure was held to be admissible to negative fraudulent intent. (*b*)

Sec. 8, sub-s. 4 of the Act of 1864 (equivalent to sec. 89 of the Act of 1869, and sec. 133 of the Act of 1875) made null and void transfers of property by any person, "in contemplation of insolvency" whereby the creditor "obtains an unjust preference over the other creditors."

The phrase, "in contemplation of insolvency," was interpreted to mean that the Act assailed must be done with the intent of defeating the general distribution of effects which is provided for by the Act (*c*).

It was held in several cases that the presumption, as declared by this section, was rebuttable by proof of pressure. (*d*)

A different construction, however, commended itself to the Court of Appeal in *Davidson* v. *Ross* (*e*) their decision being based upon the fact that the legislature had omitted all reference to the intent of the debtor and simply declared that the transfer should be void if the effect was to give the transferee an unjust preference. "The object of the law," said Patterson, J., "is to make it the duty of a trader who, from the knowledge which he has of his own affairs or the intentions of his creditors, has reason to apprehend that proceedings under the Insolvent Act will be taken against him, or that he may have to resort to that Act for relief, to do nothing which will prejudice the ratable distribution of his assets, by giving one creditor a preference over another, and if, under such circumstances, he gives a preference, he does so in contemplation of insolvency, whether he does so from a desire to favour the preferred creditor, or only because that creditor has succeeded by urgency in overcoming his reluctance to give the preference" (p. 69).

(*b*) *Newton* v. *Ontario Bank* (1868) 15 Grant 283; *Roe* v. *Smith* (1868) 15 Grant 344; *Clemmow* v. *Converse* (1869) 16 Grant 547; *Archibald* v. *Haldan* (1871) 31 U.C.Q.B. 279.

(*c*) *McWhirter* v. *Thorne* (1896) 19 U.C.C.P. 303. For a case in which the evidence was held to negative the inference that the debtor made the transfer impeached "in contemplation of insolvency," see *Patterson* v. *Kingsley* (1878) 25 Grant 425.

(*d*) *Allan* v. *Clarkson* (1870) 17 Grant 570; *Campbell* v. *Barrie* (1871) 31 U.C.Q.B. 279; *In re Hurst* (1876) 6 P.R. 329; *Keays* v. *Brown* (1875) 22 Grant 10. But in the last cited case, and in *Davidson* v. *McInnes* (1875) 32 Grant 217, Vice-Chancellor Blake regretted that, under the authorities, the doctrine of pressure was applicable under this section, as it tended to bring about results which the statute seemed to be intended to prevent.

(*e*) (1876) 24 Grant 22.