

1875.

KEYS V. BROWN.

Insolvency—Preferential Assignment—Pressure.

Traders, who had been in business for about eight months, and were at the end of that time in insolvent circumstances, had sent an order for goods to their largest creditor, whose account against the firm had increased to double the amount it was originally agreed that it should be, which goods were packed up, but not sent for some days, when one of the firm waited on the creditor, taking with him a list of debts due the firm, intending, by arrangement with his partner, to offer to assign to the creditor such of these accounts as the creditor should select, and which he accordingly did offer on being asked if he could pay any money on account, and a transfer thereof was accepted by the creditor.

Held, that this was sufficient pressure on the part of the creditor to prevent the assignment being considered as a preferential one within the Act.

This was the rehearing of a decree dismissing the bill in this case with costs.

Statement.

The bill was by *William J. Keys* against *John Brown*, setting forth that *Dillman M. Kenzie* and *Joseph Matheson McIntyre* had been carrying on business in partnership; and having become hopelessly insolvent did, on the 9th October, 1873, make an assignment to the plaintiff, official assignee for the County of Lambton, under the Insolvent Act of 1869, for the benefit of their creditors. That prior to such assignment, namely, on or about the 30th August, 1873, *Kenzie* and *McIntyre* being then hopelessly insolvent, and indebted to several persons besides the defendant, and unable to meet their engagements, and with intent to defeat, delay, and hinder their other creditors, and in contemplation of insolvency, assigned and set over to the defendants, carrying on business under the style or firm of *John Brown & Co.*, to whom they were indebted, certain accounts, (setting them forth) due *Kenzie & McIntyre*, amounting in all to \$2,109.30, and executed a memorandum in the following words: "We hereby transfer