closest attention, I have been unable to see that it establishes anything. At the argument I asked for some explanation of the principle on which it was framed, but I could obtain no satisfactory answer. Mr. George Varey, who made it, says it is not a balance sheet, but merely a statement of assets and liabilities (p. 20), and on his third examination he is totally unable to say on what it was founded. He tells us "that we did not keep books like merchants keep their books," "that it was made from Mr. Molson's books, and memoranda which we kept," but how much was from books, if there were any, and how much from memoranda, he is totally unable to say. We therefore find ourselves in face of the fact that this particular sum of money had been transferred on a transparently absurd pretext from the petitioner's credit to that of his wife, that he then drew it, avowedly to put it aside for his own purposes, and no coherent explanation of what these purposes were. I must say that this appears to me to be the crudest form of secreting.

I have already said we have nothing to do with the merits of the title to the St. James street property; but the petitioner's mode of dealing with that security may serve as an indication of the intent to defraud. In the first place, he borrowed the money knowing the objection to his title, and when he changed the heading, on the 9th July, 1875, he must have known of his own impending insolvency, and then it is clear he had made up his mind to take advantage of the pretended defect in his title. Notwithstanding this, he withdraws the money, and, according to his own statement now, he spent all of it but $6,000 in releasing stocks, and paying other debts. Not satisfied with this, he leased the property, taking a quality which on the face of it defeats the plaintiff's recourse for rent. It is said that there is no harm in this, that plaintiff may test whether in deciding that the title set up in his loan is bad the petitioner is right or not, and that obstructing a creditor is not, under the code, a ground of fraud. It seems to me that the putting of one's estate by legal forms out of the reach of one's creditors, if the design be manifest to defraud, is obstruction, and it seems to me that the most obvious form of secreting, that is, placing in concealment, is only an obstruction. If an insolvent, to defraud his creditors, dig a hole in the ground, and hide his money and valuables in it, would it be ground for his release from capias to say, "If you had looked in the right place you would have found them?" I think, therefore, that the judgment rejecting the petition should be maintained, taking all petitioner's pretensions to be true.

In reply to a question as to the exclusion of the evidence of Mr. E. Barnard, counsel for petitioner in the Court below,

RAMSAY, J., said the Court did not think the point of sufficient importance to make it necessary to send the case back. He did not think it was a good rule to admit the counsel to give evidence, and that what Judge Papineau thought the law was, should be the law. But if Mr. Barnard's evidence were admitted here, it could make no difference in the judgment, and, therefore, there was no occasion to send the record back.

Sir A. A. DORION, C. J., remarked that it was a great abuse for advocates engaged in a case to appear as witnesses if it could be avoided. In any event, the lawyer should first set out in an affidavit what his evidence would be.

CROSS, J., said that Mr. Barnard had acted here rather as a negotiator. But the facts necessary to the decision of the case were all patent.

Judgment confirmed, Monk and Cross, JJ., dissenting.

Barnard & Monk, for Appellant.
Bethune & Bethune, for Respondent.

SUPERIOR COURT.

MONTREAL, July 31, 1880.

CROSSLEY et al. v. MCKEAND, and BAYLIS, intervening.

Conservatory proceeding for appointment of sequestrator—Intervention by third party.

On the 28th July, Torrance, J., in Chambers, granted the plaintiffs' petition for the appointment of a sequestrator pending a hypothecary action, and ordered the parties to appear in Chambers on the 30th of July for the nomination of a sequestrator.

On the 29th July Baylis asked for the allowance of a petition in intervention and stay of proceedings, upon the ground that he, Baylis, was proprietor of the property in question by virtue of a deed passed prior to the institution