overdue notes endorsed by Dufresne for $1,607.54, and in table 5 overdue drafts drawn by Dufresne for $2,219.40.

For some reason, not clearly made apparent by the evidence, Gilmour did not succeed in securing from Dufresne recognition as being, after the sale, entitled to run the establishment at Bedford, and only partially so the store in Montreal; and on the 12th September following the sale, Gilmour makes an affidavit before the prothonotary of this Court for the issuance of a writ of *saisie-revendication* to attach all the property mentioned in the deed of sale, alleging his ownership; that the property was worth the sum paid; that Dufresne refused to deliver over the property; and that he had reason to believe that Dufresne had fraudulently removed a portion. The writ issued and under it the property at Bedford and Montreal was seized. This seizure was apparently the means of making known to the other creditors the sale to Gilmour, for on the 17th September, Dufresne makes an abandonment, and as he says in his evidence, under pressure from his creditors; and in the statement of his assets he includes the greater part of the property sold to Gilmour, under the following general headings: "Stock at Bedford, stock in Montreal, fixtures, book debts," and which he adds are claimed by one of his creditors, Gilmour.

Claims to the amount of $48,722.41 were filed with the curator, including one of $10,726.34 from Gilmour, composed of the amounts of the three hypothecs already mentioned; of a note dated 26th August, 1888, for $1,100; of a draft drawn by Dufresne on the 23rd April, 1888, and of the hypothec dated 25th August, 1888, for $3,000; but as to the latter he declares in the claim that he does not intend to avail himself of it as the insolvency occurred within thirty days of its registration. The curator also reported claims as known but not filed to the extent of $16,126.65. Dufresne must have left the country shortly after his cession, although the date of his departure does not appear from the record.

The household furniture was not claimed by Gilmour, and being sold by the curator, netted $227.85. By an agreement between Gilmour and the curator, on the 8th November, 1888, the other movable property was sold by the latter on the 15th and 20th of November, and netted $6,903.23, which with $700 collected from the books, has been deposited in La Banque Nationale in the joint name of Gilmour and the curator, to abide the result of the present litigation. The immovables were sold by the sheriff on the 2nd April, 1889, for $3,534.33, which was paid and distributed as follows: For costs and taxes $138.50, and the balance $3,395.83 to Gilmour on account of his hypothecs.

The practical aspect of this contestation then is, that if the sale to Gilmour be maintained there will be $227.85 to divide among the creditors; and if it be annulled there will be $7,603.23 to apportion among them.

To succeed the plaintiffs must establish: First—That as creditors exercising rights then existing, the deed of sale of the 25th August, 1888, from Dufresne to Gilmour was made in fraud of their rights, C.C. 1032, 1039. Second—That the deed was given by Dufresne with intent to defraud them, and that it has had the effect of injuring them, C.C. 1033. Third—That Dufresne was insolvent at the time, C.C. 1035. Fourth—That Gilmour was not in good faith at the time, and that he knew Dufresne to be insolvent, C.C. 1035.

The quality of the plaintiffs as creditors of Dufresne is shown by the evidence and by the admissions made by Gilmour. Since the institution of the action one of them, Letourneux, has become insolvent, and the curator to the estate petitions to be permitted to continue the proceedings, to which of course there is no objection.

Stripped of all qualifying words, that which vitiates the contract as between the debtor and his creditors is fraud; and that which taints it as between the creditors and the contracting third party is fraud. If fraud be not found to exist, in any form, then the contract is perfect between all the parties; and it is useless to pursue the enquiry further concerning it, or to dilate upon the wrongs which have resulted from its execution. The best evidence which can be given of the fraudulent intention is the knowledge on the part of the third party and