the time of the bankruptcy, was a creditor of Paramore to a considerable amount, and that on the 24 of June, 1844, seeing the dissipated habits of the bankrupt, and that he was neglecting his business, he instructed his (defendant's) clerk to go to the bankrupt's store, and get goods to the amount of his account. The bankrupt was absent, but, after some search, was found in a brothel, and gave an order to have the goods delivered. They were conveyed away by the defendant from the bankrupt's premises in the course of that day and the following morning, and in the course of the 25th June, several other creditors likewise got goods to the amount of their respective accounts. On the 26th of the same month the commission of bankruptcy issued against Paramore, on affidavits that he had made, on that and the previous days, fraudulent assignments of his property. It did not appear that the defendant knew, or could have known, that Paramore would become bankrupt on the 26th, nor that any secrecy was observed in taking away the goods.

For the plaintiff it was contended that the Bankrupt Law in force in this province had adopted a principle which was recognised as well by the French Law as by the laws of almost all commercial countries—that for a certain period before the *bankruptcy* all sales and conveyances of the bankrupt to any creditor are *presumed* to be a fraudulent preference, unless the party seeking to avail himself of the sale or transfer rebuts that presumption, by proof of the *bona fide* character of the transaction, and of its being one in the ordinary course of dealing between the parties; that by the Bankrupt Law of Canada that period was fixed at 30 days, and by the Law of France at 10 days. * It was, also, urged that the conveyance to Footner was in itself an act of bankruptcy, inasmuch as by that conveyance the bankrupt had given the defendant nearly one third of his whole stock in trade, and had rendered it impossible for him to pay the other creditors in the same proportion,—and that thus the title of the assignee extended by relation back do the Commission of the act of bankrupcy. †

For the defendant, it was urged, that fraud could in no case be presumed;—that the goods were got in the ordinary course of dealing;—that no knowledge of the impending bankruptcy of Paramore was brought home to the defendant, and unless it was proved he had such knowledge, he must be supposed to have been in good faith. ‡

That the Bankrupt did not spontaneously part with his goods.

That it had not been proved the goods were got otherwise than in the ordinary course of dealing, and that the defendant was perfectly justified in using the degree of diligence he did. That he was merely desirous of closing accounts with a man who was not attending to his business, and with whom he wished to have no further dealiugs; and that the transaction was one which was protected by the 38th section of the Bankruptcy Law.

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* See Bell's Com. vol. 2. p. 182, wherein will be found a statement of the Laws of all Europe on the subject. Montague & Nyrton, Bankruptcy, page 81. 4. East's Report, p. 201.

† See case of Polald vs. Glyn, 2 D & R.. p. 310. Archbold's Bankruptcy, p. 172.

‡ See Montague & Ayrton, vol. 1., p. 82 note; 1 Mood & M.; Reports, p. 498, Ward vs. Clarke.