

traveller for a London firm, to whom his employers were largely indebted, and to whom they had previously given authority to collect certain debts, not specifically mentioned, which their customers owed them, was summoned to town by a letter, stating that they were seriously embarrassed, and wished to discuss the situation. During the discussion Griffith asked them to authorize him to obtain the money due to him by collecting certain specified debts. The firm at first refused to do so, but at length, on the very day before signing the petition, assigned the debts to him. It was held that the purpose of the assignment was clearly to give Griffith a preference, and that it was therefore invalid, under the statute of 1869, and would have been so even under the old law.

In *Tomkins v. Saffery*, (d) the facts of which are stated in sec. 5, post, Lord Cairns considered that, even supposing legal pressure might be predicated of such a case, the evidence shewed clearly that the payment was made as a part of parcel of machinery set in motion by the debtor himself when he announced, in compliance with the rules of the Stock Exchange, that he was a defaulter, and, also in accordance with those rules, made his Stock Exchange creditors the persons to judge of the disposition of properties, and surrendered the sum which they required him to pay. (p. 225)

No bona fide pressure is established where a debtor tells one of his creditors that he is about to stop payment, and, upon the creditors threatening to commence proceedings if he does not fulfil a promise, made when the debt was contracted, to furnish security, transfers two bills of exchange to the creditor and files a petition seven days afterwards. (e)

It has been assumed in one case that an absolutely crucial test of the validity of a transfer is the fact that the scheme attacked "originated in the will of the creditor." (f) Usually there is no difficulty in applying this test, as the dealings between the parties,

(d) (1877) 3 A.C. 213.

(e) *Ex parte Hall* (1882) 19 Ch. D. (C.A.) 380.

(f) *Whitney v. Toby* (1884) 6 Ont. Rep. 34, quoting language of Patterson, J.A., in *Davidson v. Grant* (1869) 24 Grant 22, p. 64. A verdict for the transferee creditor will not be set aside where the transfer was made in pursuance of negotiations begun by the sending of a letter requesting the debtor to call and arrange matters. *Campbell v. Barrie* (1871) 31 U.C.Q.B. 279. This case was overruled in *Davidson v. Ross*, 24 Grant 22, (see sec. 31 post) but this special point was not adverted to.