

the case of an insolvent person his assets shall be rateably distributed amongst his creditors, whether he is willing that they shall be so distributed or not. Although provision may be made for a voluntary assignment as an alternative, it is only an alternative. In reply to a question put by their lordships, the learned counsel for the respondent were unable to point to any scheme of bankruptcy or insolvency legislation which did not involve some power of compulsion by process of law to secure to the creditors the distribution amongst them of the insolvent debtor's estate.

In their lordships' opinion these considerations must be borne in mind when interpreting the words "bankruptcy" and "insolvency" in the British North America Act. It appears to their lordships that such provisions as are found in the enactment in question, relating, as they do, to assignments purely voluntary, do not infringe on the exclusive legislative power conferred upon the Dominion Parliament. They would observe that a system of bankruptcy legislation may frequently require various ancillary provisions for the purpose of preventing the scheme of the Act from being defeated. It may be necessary for this purpose, to deal with the effect of executions and other matters which would otherwise be within the legislative competence of the Provincial Legislature. Their lordships do not doubt that it would be open to the Dominion Parliament to deal with such matters as a part of a bankruptcy law, and the Provincial Legislature would doubtless be then precluded from interfering with this legislation, inasmuch as such interference would affect the bankruptcy law of the Dominion Parliament. But it does not follow that such subjects as might properly be treated as ancillary to such a law, and therefore within the powers of the Dominion Parliament, are excluded from the legislative authority of the Provincial Legislature when there is no bankruptcy or insolvency legislation of the Dominion Parliament in existence.

Their lordships will therefore humbly advise Her Majesty that the decision of the Court of Appeal ought to be reversed, and that the question ought to be answered in the affirmative. The parties will bear their own costs of this appeal.

Appeal allowed.

Notes of Canadian Cases.

SUPREME COURT OF CANADA.

Exchequer Ct.]

[Feb. 20.

FARWELL v. THE QUEEN.

Information of intrusion—Subsequent action—Res judicata—Jurisdiction of the Exchequer Court—B.N.A. Act, s. 101.

In a former action by information of intrusion to recover possession of land in British Columbia, the title to such land was directly in issue and determined (see 14 S.C.R. 392). On an information of the Attorney-General for the Dominion of Canada, praying for an order of the court directing the defendant