

Courts over Dominion Queen's Counsel. This may be true, but whether it be true or not, it does not seem to be a matter of great importance. It is difficult to appreciate the value of a title which must be abandoned the moment the dignitary gets beyond the limits of the Province in which it was conferred. A local Q. C. going from Montreal to Ottawa, to plead a case in the Supreme Court, would find himself divested of his rank at the end of his journey. Nay more, inasmuch as provincial Courts are Dominion Courts for insolvency and election matters, the conflicting claims to precedence would be confusing indeed. The creation of a new and purely local dignity under the old name is to be deprecated. Some eminent members of the Ontario bench and bar seem to be of this way of thinking, for we observe that Mr. Bethune, a leading counsel who was a Q. C. of Ontario, formally abandoned his pretensions to the rank, not only before the Supreme Court, but before the Court of Common Pleas at Toronto, and his course received the approval of the Chief Justice and other members of the Court.

NOTES OF CASES.

COURT OF REVIEW.

MONTREAL, Oct. 31, 1879.

MACKAY, RAINVILLE, PAPINEAU, J.J.

LOGAN V. KEARNEY et al., and KEARNEY, petitioner.

[From S. C., Montreal.

Insolvent Act—Abuse of process—Attachment by prête-nom at the instance of an official assignee.

MACKAY, J. This is an appeal by a man who has had a writ of attachment in insolvency taken against him at the instance of one Bain, official assignee. Kearney petitioned in the Court for insolvency matters to have the attachment quashed, but was unsuccessful. He is at present in the Penitentiary, but though this be so, he is as much entitled to protection against undue law processes taken against him as is anybody else. Logan is a bailiff; petitioner never owed him a cent, and had been in the Penitentiary for some time before the idea occurred to Logan to work any bankruptcy process against him, nor did the

idea, from anything that I see, occur to Logan's principal; for it appears that in reality this process was procured to be commenced in Logan's name by Bain, an official assignee, for whom it turns out that Logan is *prête-nom* of a bad kind. Logan swore to the affidavit for attachment, though, while swearing, he was not a *bona fide* creditor of the petitioner; according to my idea of what the word creditor means. Logan had lost nothing by him, never loaned to him, never sold to him, never bought from him.

The writ issued in Logan's name, addressed to Bain.

The real mover in the matter was and is Bain, official assignee, seeking practice, apparently; (*Query*, whether the bankruptcy system was introduced for the benefit of persons acting as he is doing?). The whole proceeding looks like a fraud upon the Bankruptcy Court. Persons using the bankruptcy process ought to have grievances. An hour before the transfer to Bain, he had no grievance—no claim whatever—against the petitioner. Bain contrives one; but he himself keeps back, using Logan for his purposes; and even now Bain has really only \$30 of interest, under a transfer to Logan from Mr. Pagnuelo, of costs, alleged to be due him by Kearney and his partner. Logan, examined as a witness on the petition to quash the attachment, says he did not pay the \$30 personally, nor did he see it paid. (Here the learned Judge read from the deposition of Logan, showing that Logan's name was simply used for the purposes of Bain, without Logan ever having been a creditor in any way of the man whom he appeared to be putting into insolvency.) The Court cannot approve of such courses as Bain's and Logan's. The Bankruptcy Court is to help aggrieved creditors, but not so much so those who invent *crances* late, or create grievances, so called, towards oppressing their neighbors. For myself, I was disposed to quash the attachment, seeing the facts before referred to proved; but the petitioner's case is strong on other grounds. There is no debt claim proved. In their hurry Bain and Logan omitted essential evidence, or proofs. No proof is made that Mr. Pagnuelo, whose (alleged) rights Bain founds upon, ever had a claim to transfer. Nothing shows it. No copy of judgment is filed. So the Court unanimously, for