clauses in fact became part of the Insolvent Act in force in the old Province of Canada, and while the Act of 1864, which did not contain such provisions, was law,—that a writ of attachment levied upon the insolvent's goods, followed by executions in the Sheriff's hands, was ineffectual to prevent the estate levied on passing wholly to the Assignee. So it seems to have been held by one of the higher Courts of Lower Canada in the case of *Bacon* v. *Douglas*, 15 L. C. R., p.156, cited on p. 246, of Clarke. If without such provisions as are contained in sec. 83 a seizure under an execution could not prevail as against the Assignee, upon what principle should a levy under an attachment against an absconding debtor so prevail? The case of *Neal* v. *Smith*, decided by the learned Chief Justice of Nova Scotia and cited on p. 248 of Clarke and 112 of Edgar and Chrysler, would appear to conflict with the principle of these cases, but in addition to the fact that this seems to be the decision, not of the whole Court, but of a single, although eminent Judge, and therefore not so absolutely binding, it is to be noted that in that case the goods had been actually sold under the attachment, and the proceeds alone were the subject of controversy, bringing it within the case of *Whyte* v. *Treadwell*, cited on p. 247 of Clarke, from 17 Common Pleas U. C., p. 488. In view of those decisions of the Courts of Upper and Lower Canada, it is likely that the section 59 of the Act of 1869 and 83 of the Act of 1875 were passed with the sole object of avoiding the operation of the principle established in *Whyte* v. *Treadwell*, by giving the Assignee the right, not only to the goods after levy, but the right to their proceeds when sold until "the payment over to the plaintiff," thus extending instead of limiting his title as previously recognised. Hence, the absence of any reference in those sections to liens by attachments under local civil Statutes, or by their registry, does not affect this case. It were superfluous to specially avoid these liens when the courts had already decided that they must yield to a subsequent attachment in insolvency. It is further to be observed that the Canadian Act of 1864 contained no repealing clause whatever. The Court proceeded upon implication only.

The decision of the Supreme Court delivered by Judge McCully in the case of *Murdoch* v. *Walsh* referred to on p. 106 of Clarke on the Insolvent Act, and cited to me from the newspaper report, does not apply here. The reasoning of the Bench in that case fully commends itself to my judgment, independently of its binding authority upon an inferior Court. It was the case of a certificate of judgment, which when registered, by virtue of sec. 22, ch. 79, binds the lands "*as effectually as a mortgage*," and therefore, like a mortgage, can only be set aside as against the assignee in insolvency when given voluntarily as an undue preference. But undoubtedly the Dominion Parliament might have made such a security null and void if acquired within a period when it would seem to thwart the policy of the Insolvent Act looking to a general distribution of the estate, as the Supreme Court, in effect, intimated in the judgment in *Kinney* v. *Dudman*, 2 R. & C., p. 19, when they decided that sec. 59 of the Act of 1869 was *intra vires*. That it did not deal with these as it did with certain liens acquired by execution was probably *a casus omissus*; a judgment registered not binding real estate in the old Province of Canada as here. An attachment, moreover under our Provincial law is a *mesne process* only; and under sec. 24 of ch. 79, only binds the lands of the party until thirty days after judgment is obtained in the cause. It may never ripen into a judgment at all, for the suit may be successfully defended. Again, the lien acquired by it may be destroyed by the defendant putting in special bail, and no one can pretend that in the event of such bail being compelled to pay the debt they could have any preferential claim upon the estate. It would be exceedingly inconvenient if a lien of such a vague and uncertain character should bind the land as against the assignee in insolvency; and I hold these local Statutes to be exactly those to which the repealing clauses of the Dominion Act are intended to apply when "all Acts or parts of Acts" "inconsistent" with its provisions are referred to. The language of sec. 22, ch. 79, "as effectually as a mortgage," is not used in connection with the lien acquired by an attachment. The judgment here was not obtained until 5th July, 1877. Therefore, before the 5th August, 1877, the lien created by the attachment ceased. It would have merged in the judgment but for the *prior* issuing and registry of the attachment in insolvency; after which no registry or judgment can bind the property or have any force or effect whatever as against the Assignee.

Therefore, I am clearly of opinion that the levy made on the eleventh day of May, 1876, under the writ of attachment issued by the claimant under the Provincial Statute, and the registry of the copy thereof, and of the appraisement, do not constitute a lien upon the real estate so levied upon as against the assignee in insolvency, and the said claimant is not entitled to be paid his claim in full. But I think he is entitled to be paid his costs of the attachment *bona fide* incurred under the Provincial Act, but which the subsequent proceedings in insolvency under the higher authority of the Dominion Statute have, in my opinion, superseded.—*Digby Courier*.