demns and forbids retrospective laws which impair the obligation of contracts, or partake of the character of *ex post facto laws*, there can be no doubt that the Imperial Parliament or Colonial Legislatures, within the limits of their jurisdiction, have a more extended authority; and where their intention is to make a law retrospective, it cannot be disputed that they have the power. That intention is to be made manifest by express words, or to be gathered clearly and unmistakably from the purview and scope of the Act. It is a question of construction; and, the Act being its own chief exponent, still the surrounding circumstances are to be looked at."

Applying these principles to the Act of 1871, there can be no question, I think, that it was intended to govern the operation and to enlarge the scope of the Act of 1869, and that all future proceedings in cases of bankruptcy, and the traders to whom it shall apply, must be regulated by it.

The reference to the Statute of Limitations is not strictly within the scope of our present enquiry, but in a matter coming before all the Courts of Probate in our Province, and which will be eagerly discussed, it is not amiss, I think, that I should add, that where the debts of a person who had been a trader before, but had ceased to be so on the 22nd June, 1869, have been barred by the Statute of Limitations, or prescribed, (that is where they are no longer enforceable at law,) such person is not entitled to the benefit of the Act.

Under the facts in this case I am of opinion that the insolvents came within the Act, if it applies to proceedings actually commenced in our courts of Probate, or under appeal in this court.

This is the only question that remains, and several cases in Fisher's Digest, 8231, were cited by Mr. McDonald as bearing on it, on behalf of the insolvents. In *Wright* v. *Hale* it was held that the 23 & 24 Vic. c. 126, enabled a judge to certify in an action commenced before the passing of the Act. "There is a considerable difference," said Pollock, C. B., "between new enactments which affect vested rights, and those which merely affect the procedure in courts of justice. When an Act alters the proceedings which are to prevail in the administration of justice, and there is no provision that it shall not apply to suits then pending, I think it does not apply to such actions." See the Imperial Act 24 & 25 Vic. c. 26, sec. 5. The same principle is recognized in *Freeman* v. *Moyes*, 1 A. & E. 338, and in the Admiralty case of *The Ironsides*, reported in 1 Lush. 458. I have already held that the first section of the Act of 1871 must operate as a retrospective enactment, and I see no reason why it should not apply to a a pending suit or appeal. To hold otherwise would only oblige the insolvents to commence *de novo*. The case of *Cornill* v. *Hudson*, 8 E. & B. 429, where it was held that the 10th section of the Mercantile Law Amendment Act did not extend to actions already commenced, and our own decision of the like purport in *Coulson* v. *Sangster*, 1 Oldright, 677, proceeded mainly on the language of the enactment, and, as I think, do not apply here. I confirm, therefore, the discharge of the insolvents, but as they have succeeded on a ground which had no existence when they entered their appeal, I must decline giving them costs.

QUEBEC.

COURT OF REVIEW.*

Martin v. Thomas.

Insolvency—Compulsory Liquidation—Official Assignee.

Held:—1. That an insolvent under the Act has no legal interest to plead an assignment made by him under the Act, in bar of proceedings on compulsory liquidation.

2. That, in case of an assignment so made to an official assignee, non-resident in the county or place where the insolvent has his domicile, evidence must be adduced by the party pleading such assignment, that there is no official assignee resident in such county, and this notwithstanding that the sheriff, in his return to the writ of attachment, certifies that there is not an official assignee so resident, and that, in consequence thereof, he has appointed a special guardian.

3. That a petition to stay proceedings fyled by an insolvent, after the expiration of five days from the demand of an assignment, on the ground that he has assigned to an official assignee, is too late.

[Montreal, Nov. 30, 1870—15 L. C. J. 236.]

This was a hearing in Review of a judgment rendered by the Hon. Mr. Justice Lafontaine, at Aylmer, in the district of Ottawa, on the 18th of June, 1870, maintaining the petition of the defendant to stay the proceedings of the plaintiff in compulsory liquidation, by writ of attachment, under the Insolvent Act of 1869, and quashing the attachment.

The insolvent resided at Bonsecours, in the district of Ottawa, where a demand of assignment was served on him by plaintiff, on the 21st December, 1869.

On the 29th December, 1869, the insolvent made an assignment in notarial form, to Henry Howard, official assignee, residing at St. Andrews, in the district of Terrebonne.

On the same day, the plaintiff sued out proceedings in compulsory liquidation by writ of attachment, at Aylmer.

The writ was served on the insolvent on the 30th December, 1869, and was returned on the 10th January, 1870. And, in his return, the Sheriff certified that there was no official assignee resident within the district of Ottawa, and that in consequence he had appointed a special guardian.

On the 12th January, 1870, the insolvent caused a petition to stay proceeding to be served on the plaintiff, which was fyled on the 13th January, 1870. By this petition the insolvent pleaded the assignment to Howard, alleging that there was no official assignee resident in the county or place where the insolvent had his domicile, and that Howard was the nearest resident assignee.

To this petition, the plaintiff fyled a general answer on the 16th February, 1870.

No evidence of any kind was adduced in support of the petition, and the parties having been heard before the Judge, he rendered the following judgment on the 18th June, 1870:—

"Considering that, at the time of the execution of the present attachment, the defendant was an insolvent, and his estate and effects vested in

* Before Berthelot, J., Torrance, J., Beaudry, J.