In Re Killam, Ex Parte.

long as they do not chance to conflict in any case with the provisions of a statute of the other legislature within its exclusive authority; but when they do so conflict and only then, the exclusive authority on the particular subject must prevail. Such for example would obviously be Chap. 137 Rev. Stat. 3rd Series. So long as the party seeking the benefit of that chapter has not become insolvent under the Dominion Statute, all the proceedings under it are valid and effectual, for they only relate to property and civil rights; but as soon as the Dominion Statute on insolvency is invoked that chapter has no more force as to him or his case, and the relief it contemplates can only be obtained under the Dominion Statute. He is then in Bankruptcy or Insolvency within the meaning of the British North America Act, and the Insolvent Act of Canada thereforth attaches with exclusive authority upon his person and property. When and where that chapter conflicts or operates inconsistently with the Dominion Insolvent Act of 1869 or 1875 it is superseded, and must be treated as repealed by the concluding clause of sec. 154 of the former Act, or 149 of the latter. In any instance where it does not so conflict, and its operation does not become inconsistent with either of those Acts, there is nothing to hinder its provisions being carried out, and *quoad* that case it is, as an act *intra vires*, unrepealed and by the Dominion Parliament unrepealable. Such seems to be the view held in the United States, a country that has like ours a federal constitution and distribution of legislative powers between local and federal legislatures; a view I think that indicates the only principle upon which the different powers of such legislatures can be harmonized. See Bump on the Law & Pr. of Bankruptcy, p. 293–4, where under the title "State Insolvent Laws," referring to Statutes for the relief of insolvents from civil imprisonment, it is said, "The State laws are not entirely abrogated (by the Federal Law. They exist and operate with full vigour until the insolvent law attaches upon the person and property of the debtor." Similarly this Statute of Nova Scotia, cap. 97, relating to absent or absconding debtors (which like cap. 137 and its amendments is not technically an Insolvent Act, although it deals with the case of persons presumed to be grammatically speaking insolvent,) is perfectly effectual and valid, so long as the debtor's property and rights and the relative rights of his creditors have not by proceedings under the Insolvent Act of the Dominion been drawn within the supreme influence and control of that Act. Then, and then only, the provisions of that Act exclusively apply, and those of the local Act are superseded in the particular case. The very fact of absconding is declared to be an act of insolvency; an act which warrants the creditors if they see fit, in putting the machinery of the Dominion Statute in motion, and getting the full benefit of its provisions. From that moment the debtor's estate is liable to liquidation, and all proceedings taken under any local Statute to prevent it, must give way. The local Act is in the language of the repealing clauses of the Insolvent Act, "inconsistent" with the Statute, in that it gives the first attaching creditor by virtue of the registry of his attachment a lien upon the real estate of the debtor over every incumbrancer; whereas the Dominion Statute acting in accordance with the general principle and object of Bankrupt laws, provides as a result of such an act of insolvency, for a general distribution of assets, real and personal, among all the creditors. Therefore the provisions of Ch. 97, and its corollary, sec. 24 of Ch. 79 (like those of Ch. 137 Rev. Stat. 3rd Series) in so far as they are in this manner inconsistent with the Insolvent Act of Canada, are *pro hac vice*, but only *pro hac vice*, repealed; and such Statutes wherever they are thus inconsistent, if passed after the Insolvent Act of Canada are *pro hac vice*, but only *pro hac vice*, inoperative. I say only *pro hac vice*, because the effect of the repealing clause in the Insolvent Act upon such Statutes, even if expressly named, could only be to render them inoperative as against proceedings under that Act, and as against creditors who, upon the commission of acts of insolvency by the debtor, seek to secure the equitable benefits of that Act. To abrogate them to any further intent, the most express language of repeal in a Dominion Statute would, I apprehend, be *ultra vires*. But if Parliament is within its powers when it says, as it does in section 3 of the Act of 1875, that a "debtor shall be deemed insolvent," if he "absconds" from "any Province with intent to defraud any creditor, or to defeat or delay the remedy of any creditor," and thereupon proceeds to prescribe certain consequences of that absconding in respect to the disposal of his property, and enacts that any local "Act or parts of Acts" which are "inconsistent with the provisions" of that Act are "repealed,"—then surely any local Statutes prescribing a totally opposite mode of dealing with such property are *pro tanto* invalid and nugatory as against any creditors, or the assignee on their behalf claiming the supervention of those consequences.

It must have been upon the ground of the implied repeal, *pro hac vice*, of inconsistent enactments that *Henry* v. *Douglass*, cited in Clarke on the Insolvent Act, p. 249, from the U. C. L. J. N. S., p. 108, was decided. It is stated to have been there held, altogether independently of sect's 59 of the Act of 1869, and 83 of the Act of 1875, avoiding liens on goods and on the proceeds of goods sold under execution,—before those