insolvency. It is therefore to be presumed, indeed it is a necessary implication, that the Imperial statute, in assigning to the Dominion Parliament the subjects of bankruptcy and insolvency, intended to confer on it legislative power to interfere with property, civil rights, and procedure within the Provinces, so far as a general law relating to those subjects might affect them. Their Lordships therefore think that the Parliament of Canada would not infringe the exclusive powers given to the Provincial Legislatures, by enacting that the judgment of the Queen's Bench in matters of insolvency should be final, and not subject to the appeal as of right to Her Majesty in Council allowed by Art. 1178 of the Code of Civil Procedure. Nor, in their Lordships' opinion, would such an enactment infringe the Queen's prerogative, since it only provides that the appeal to Her Majesty given by the Code framed under the authority of the Provincial Legislature, as part of the civil procedure of the Province, shall not be applicable to judgments in the new proceedings in insolvency which the Dominion act creates. Such a provision in no way trenches on the royal prerogative.

Then it was contended that if the Parliament of Canada had the power, it did not intend to abolish the right of appeal to the Crown. It was said that the word "final" would be satisfied by holding that it prohibited an appeal to the Supreme Court of Canada, established by the Dominion Act of the 38th Vict., c. 11. Their Lordships think the effect of the word cannot be so confined. It is not reasonable to suppose that the Parliament of Canada intended to prohibit an appeal to the Supreme Court of Appeal recently established by its own legislation, and to allow the right of immediate appeal from the Court of Queen's Bench to the Queen to remain. Besides the word "final" has been before used in Colonial legislation as an apt word to exclude in certain cases appeals as of right to Her Majesty. (*See* the Lower Canada Statute, 34 Geo. 3., c. 30.) Such an effect may, no doubt, be excluded by the context, but there is none in the enactment in question to limit the meaning of the word. For these reasons their Lordships think that the Judges below were right in holding that they had no power to grant leave to appeal.

The question of the power of the Queen to admit the appeal, as an act of grace, gives rise to different considerations. It is in their Lordships' view unnecessary to consider what powers may be possessed by the Parliament of Canada to interfere with the royal prerogative; since the 28th section of the Insolvency Act does not profess to touch it, and they think, upon the great principle that the rights of the Crown can only be taken away by express words, that the power of the Queen to allow this appeal is not affected by that enactment. In consequence, however, of the decision in *Cuvillier* v. *Aylwin* (2 Knapp's P. C., 72) which has been relied on as an authority opposed to this view, it becomes necessary to review that case in connection with the subsequent decisions on the subject.

The question in *Cuvillier* v. *Aylwin* arose upon the Lower Canada Colonial Act, 34 Geo. 3, c. 6, which enacted that the judgment of the Court of Appeals should be final in all cases under the value of £500, and an application for special leave to appeal in a case under that value was refused by a Committee of the Privy Council. The remarks attributed to the Master of the Rolls in his judgment rejecting the petition are directed to one aspect only of the question, viz., the power of the Crown with the other branches of the legislature to deprive the subject of one of his rights. No allusion was made to the principle that express words are necessary to take away the prerogative rights of the Crown, nor to the provision contained in the statute itself, that nothing therein contained should derogate from any right or prerogative of the Crown. This case, moreover, if not expressly overruled, has not been followed, and later decisions are opposed to it.

In re Louis Marois (reported in 15 Moore, P. C. 189) upon an application for leave to appeal from a judgment of the Court of Queen's Bench for Lower Canada, Lord Chelmsford, in giving the judgment of this Committee, after stating that in *Cuvillier* v. *Aylwin* the very point was decided against the petitioner, said:

"If the question is to be concluded by that decision, this petition must be at once dismissed, but upon turning to the report of the case, their Lordships are not satisfied that the subject received that full and deliberate consideration which the great importance of it demanded. The report of the judgment of the Master of the