

exclusive legislative power conferred upon the Dominion Parliament.

The enactment in question was, of course, section 9 of the Act, but, as I have already submitted, the premises thus laid down would lead to a like conclusion as to the remaining enactments in the statute. Thus it will be seen that the judgment of Chief Justice Armour, in the very first reported decision upon the constitutionality of the Act, *Broddy v. Stuart*,* has received its final justification.

It will thus be seen that the Privy Council do not, in their judgment, profess to define what is covered by "bankruptcy and insolvency." All they say is, that provisions for securing a rateable distribution of an insolvent person's assets, on the application of a creditor *in invitum* of the debtor, is an essential feature of a system of bankruptcy and insolvency, although provision may be made for a voluntary assignment as an alternative. In the course of the argument, indeed, the Lord Chancellor had stated that it seemed to him that there is very little necessarily included in the idea of bankruptcy and insolvency, and that if there was nothing else in an Act but a simple provision that if a man could not pay his debts his estate should, at the application of a creditor, be vested in an official, whose business it should be to distribute it, that would be a bankruptcy law, but that provisions as to fraudulent preferences, though a common adjunct to bankruptcy law, are obviously not an essential part of it.

But apart from the importance of this judgment of the Privy Council, as throwing light upon what is meant by bankruptcy and insolvency, in section 91 of the British North America Act, it possesses much constitutional interest by reason of the *dicta* in the concluding portions of it, in which their lordships observe that it may be necessary, by way of provisions ancillary to a system of bankruptcy legislation, to deal with the effect of executions† and other matters, which would otherwise be within the legislative competence of the provincial legislatures, and: "Their lordships do not doubt that it would be open to the Dominion

* 7 C.L.T. 6 (1886).

† In a Nova Scotia case of *Kinney v. Dudman*, 2 R. & C., at p. 19; 2 Cart., at p. 412 (1876), it was decided that section 59 of the Insolvency Act of 1869, which was very much like section 9 of our Assignment for Creditors Act, was *intra vires* of the Dominion Parliament.