payment out notwithstanding the defendant's appeal to the Supreme Court of Canada.

Held, following *Re Donovan*, 10 P.R. 74; *Marsh* v. *Webb*, 15 P.R. 64; and *Honsell* v. *Lilley*, 56 L.T.N.S. 620, that the plaintiff was entitled to the order asked for.

Mulock, Q.C., for plaintiff. *Ewart*, Q.C., for defendant.

Full Court.] BRAND *v.* GREEN. [Dec. 23, 1898.

Practice—Procedure—Foreign insolvent corporation—Garnishment.

The plaintiffs residing in the State of Massachusetts brought this action against an incorporated company organized under the laws of the State of New York, and domiciled therein; a cause of action arising wholly outside of Manitoba. They then obtained an order attaching money alleged to be owing by a resident of Manitoba to the defendant company to answer the judgment to be recovered in the action, and served the order on the garnishee.

Before the commencement of the action an order had been made by the proper court in the State of New York, appointing a temporary receiver of the assets of the company, and restraining the company and its officers from exercising its franchises or collecting its assets, and its creditors from bringing actions against it. Subsequently, but after the service of the attaching order the New York Court made a decree dissolving the company and appointing a permanent receiver of its assets.

The defendant company and the receiver then obtained from the Referee in Chambers an order staying proceedings in the action and setting aside the attaching order. The Referee's order was affirmed on appeal by BAIN, J. On appeal to the Full Court,

Held, 1. If, as was claimed, the company was absolutely defunct, so that the action could not be carried to judgment, then it could not make any application, and the receiver had no locus standi to be heard on that ground.

2. Proceedings in bankruptcy, and even a discharge under the insolvency laws of one state or country, are not necessarily a bar to an action by a resident of another state or country who has not voluntarily made himself a party to the insolvency proceedings, and if they are a bar they should be pleaded.

3. That the question whether any judgment obtained could be collected here out of the attached money is one which should be determined in some more formal proceeding than a chamber application to set aside the attaching order.

Appeal allowed, and order in chambers discharged with costs.

Perdue, for plaintiffs. *Haggart*, Q.C., for defendant.