and application of statutes of the Dominion Parliament. To this end an amendment to the Supreme Court Act will be necessary, giving to the Supreme Court an appeal from any case originating in any inferior Court, when the decision has turned on the validity or construction of any enactment of Parliament, whether the question has been raised by the pleadings or not; or at least such an appeal in any case, wherever originating, if the cardinal point for its determination involves the validity, construction or application of any such enactment relating to insolvency. Or if, as probably is the case, the leading Nova Scotian decision is the correct one, an amendment to the B. N. A. Act ought to be sought by which Parliament may acquire the power to legislate in respect to rights, liabilities and jurisdictions arising out of insolvency as the terms of section 125 purport to do. If one section of the Insolvent Act is to be rescinded or curtailed in its operation as clashing with the powers of the Local Legislatures over property and civil rights, or the establishment of Courts, it is easy to point out many others which will require to be similarly treated for the same reason; so that while parliament may enact the shell of an insolvent law the inconvenient necessity will remain of invoking the Local Legislatures to supply the kernel. Meanwhile I invite discussion of the conflicting doctrines of the three cases referred to, and trust that some of the able writers on the B. N. A. Act will favour the profession with their views.

Nova Scotia, Nov. 9, 1885. Yours etc., LEX.

[The above communication suggests two questions for discussion:—(1) The propriety of the decision of Thompson, J. (now Minister of Justice), in *Pinco* v. *Gavaza*, and (2) The right of appeal from inferior Courts to the Supreme Court in cases involving the constitutionality of Acts of the Dominion or the Provinces.

1. As to the first point we say that if the judgment of Thompson, J., was delivered while the Insolvent Act was in force, it would seem to conflict with the Ontario cases cited in his judgment, and also with cases under the English bankruptcy law. See *Ex parte Cohen*, L. R., 7 Ch 20; *Ex parte Baum*, L. R., 9 Ch. 673; *Ex parte Lopez*, 5 Ch. D. 65. *Dumble* v. *White*, 32 U. C. Q. B. 601. *Crombie* v. *Jackson*, 34 U. C. Q. B. 579, and *Burke* v. *McWhirter*, 35 U. C. Q. B. 1, decided that all creditors of an insolvent after the appointment of an assignee in insolvency, whether holding liens or securities on such insolvent's property or not, must enforce their legal rights through the Insolvent Court, and that under s. 50 of the Insolvent Act of 1869 they could not bring independent suits in other tribunals to enforce their claims as creditors or their specific liens on the insolvent's property. It was further held in *Crombie* v. *Jackson* that the 50th section of the Act was not *ultra vires*, nor an interference with legislative authority of the Provinces in regard to property and civil rights in the Provinces, nor in establishing Provincial Courts for the administration of justice; and further that the Dominion Parliament had authority to legislate respecting property and civil rights in so far as the same were affected by Acts relating to bankruptcy and insolvency—a decision since abundantly sustained by the judgments of the Supreme Court and Judicial Committee of the Privy Council, and notably by the Judicial Committee in *The Citizens' Insurance Company* v. *Parsons*, 7 App. Cas. 96.

But if the judgment in *Pinco* v. *Gavaza* has been rendered since the repeal of the Insolvent Act by 43 Vic. c. 1 (D.), it may be a question whether the absolute prohibition from litigating in other Courts applies, seeing that the saving proviso in the latter Act does not in express words refer to "creditors and the enforcement of their rights or liens in respect of such insolvent's estate." The judgment of Thompson, J., does not touch that ground; but though the reasons given by him may not be sound, the result of his judgment nevertheless may be found to be good law. As to the partial validity of the mortgage we would refer to *Totten* v. *Douglas*, 15 Gr. 126, 18 Gr. 341, and the cases there cited.

2. We endorse the remarks of our valued correspondent as to the right of appeal to the Supreme Court as respects the validity of Acts of the Dominion and Provinces. A general provision authorizing such appeals will be found in ss. 54 to 57 of 38 Vict. c. 11, (D.), as amended by 39 Vict. c. 26, s. 17 (D.), and which was accepted by Ontario by R. S. O. c. 38. And in 1881 the Legislature of Ontario by 44 Vict. c. 27, s. 17, authorized the Attorney-General to appeal to the Court of Appeal in cases arising under the summary jurisdiction of the Courts to quash convictions by justices of the peace under the Liquor License Acts, whenever the Attorney-General certified "that in his opinion the point in dispute is of sufficient importance to justify the case being appealed;" and under which power *Reg.* v. *Hodge* and *Reg.* v. *Frawley* reached the Court of Appeal (7 App. R. 246), and the former the Judicial Committee (9 App. Cas. 117). Similar provisions in the laws of Nova Scotia would enable litigants in that Province to test the validity of the laws of the Dominion and the Province by the same or a similar process of appeal.—ED. L. J.]