

erty and civil rights in the province, unless it is withdrawn from their legislative competency by the provisions of section 91 of that act, which confers upon the Dominion Parliament the exclusive power of legislation with reference to bankruptcy and insolvency.

The point to be determined, therefore, is the meaning of those words in section 91 of the British North America act, 1867, and whether they render the enactment impeached *ultra vires* of the provincial legislature. That enactment is section 9 of the Revised Statutes of Ontario of 1887, c. 124, entitled: "An Act respecting Assignments and Preferences by Insolvent Persons." The section is as follows:—"An assignment for the general benefit of creditors under this act shall take precedence of all judgments and of all executions not completely executed by payment, subject to the lien, if any, of an execution creditor for his costs, where there is but one execution in the sheriff's hands, or to the lien, if any, of the creditor for his costs who has the first execution in the sheriff's hands." In order to understand the effect of the enactment it is necessary to have recourse to other sections of the act to see what is meant by the words "an assignment for the general benefit of creditors under this act." The first section enacts that if any person in insolvent circumstances, or knowing himself to be on the eve of insolvency, voluntarily confesses judgment or gives a warrant of attorney to confess judgment, with intent to defeat or delay his creditors or to give any creditor a preference over his other creditors, every such confession or warrant of attorney shall be void as against the creditors of the party giving it. The second section avoids as against the other creditors any gift or assignment of goods or other property made by a person at a time when he is in insolvent circumstances or knows that he is on the eve of insolvency, with intent to defeat, delay, or prejudice his creditors, or give any of them a preference. Then follows section 3, which is important. Its first sub-section provides that nothing in the preceding section shall apply to an assignment made to the sheriff of a county in which the debtor resides or carries on business, or to any assignee resident within the province with the consent of his creditors as thereafter provided for the purpose of paying, rateably and proportionately, and without preference or priority, all the creditors of the debtor their just debts. The second sub-section enacts that every assignment for the general benefit of creditors