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THE INSOLVENT ACT.

When the Insolvent Act of 1864 came into force, it was thought that the great number of debtors who took advantage of it was explained by the fact, that there were many traders throughout the country, with old liabilities clinging to them, to whom the new law afforded an escape from their embarrassments. Unfortunately, however, the list of bankrupts shows no falling off, for our table this month includes eighty-eight assignments and seven attachments.

Other causes are evidently at work to keep up the steady march towards insolvency. The chief of these perhaps is that debtors find in the Insolvent Court a too ready means of freeing themselves from the consequences of imprudent speculation, extravagance, or careless management of their affairs. Another reason for the crowd of bankrupts probably is, that few small traders in this Province connect the idea of insolvency with disgrace or dishonor. There can be no doubt that very many of the failures which are daily taking place might be avoided, by industry and careful management, and probably would be, if traders generally had a more scrupulous sense of commercial integrity.

It is tolerably certain, also, that creditors are afraid to press their debtors as in former times. Costs incurred in obtaining judgments being unprivileged, creditors naturally fear to incur legal expenses in prosecuting claims which may be got rid of by an assignment.

Some discussion has recently taken place in the daily press as to the benefits derived from the Act. One writer denounces the law as favoring the dishonest trader, and opening the door to barefaced fraud. This attack has been met by one of the official assignees, who seeks to show that the dishonest trader does not find his path through the Insolvent Court very pleasant and free from thorns. A leading Queen's Counsel has also written several letters on the subject, showing that our Act lacks some of the provisions for the punish-

ment of fraud contained in the English law. We do not propose to enter upon the consideration of this subject at present, but merely append an important decision which we find in our Upper Canada legal contemporary, and which is understood to have caused some dissatisfaction among creditors in that quarter.

IN RE LAMB, AN INSOLVENT.

Insolvent Act of 1864—Application by Insolvent for discharge—Fraudulent preference—Neglect to keep proper books of account—Measure of punishment.

It appeared, on an application by an insolvent for his discharge under the Insolvent Act of 1864, that he had within three months before his assignment paid one of his creditors in full under such circumstances as were considered to amount to a fraudulent preference, and had neglected to keep proper cash books or books of account suitable to his trade. The County Judge granted a discharge suspensively, to take effect four months after the order made.

Upon an appeal from this order by a creditor, the judge in Chambers thought that the judge below had acted with extreme leniency, and though he would not interfere with the order that he made, dismissed the appeal, but without costs.

Remarks upon the breach of duty in not keeping proper books of account, which should be severely punished.

The requirements of the act on debtors asking for discharge should be peremptorily insisted on.

[Chambers, Toronto, Nov. 27, 1866.]

The facts of this case are fully set out in the petition of the creditors of the insolvent, who appealed against the order made by the judge of the County Court of the United Counties of Lennox and Addington, granting to the above insolvent a discharge suspensively, to take effect on 1st February, 1867.

The petition stated:

That the above named insolvent, Thomas Lamb, on the first day of June, in the year of our Lord 1865, made an assignment under the Insolvent Act of 1864, to Henry Thorp Forward, of the Town of Napanee, in the County of Lennox and Addington, Esquire.