

ment of the debt due him; but its tendency must be to impede or entirely prevent the distribution of assets among creditors generally, and it affords no means by which, on any condition whatever, a debtor once insolvent can be enabled to continue his business, with any hope of ultimate success.

In the Province of Ontario, although un-repealed laws respecting Insolvency still stand upon the Statute Book (Con. Statutes U. C., Cap. 18 and Cap. 26) they have been practically disused since the passage of the Insolvent Act of 1864.

In the Province of Quebec no Insolvent law is in existence except the Insolvent Act of 1864; although one of the principles upon which every system of Bankrupt law rests, is a leading feature of its common law. The right of the creditors of an Insolvent to a just distribution of his assets among them all, has always been recognized by the law of Lower Canada; although the means under the common law of enforcing that right were cumbrous and expensive. The effects of the debtor could only be realized under execution, and by this process only the minimum price of the goods sold was ever obtained.

And after deduction of the costs of the action, the expenses of the execution, the cost of fying the claims of the creditors, and of preparing and rendering the judgment, distributing the moneys, the movable effects of a debtor seldom realized sufficient to pay the rent and other privileged claims upon them. With regard to real estate, it almost invariably happened that the debtor, having no means of obtaining a discharge in case of failure, had burdened it in a considerable proportion to its value before he finally stopped payment, and at a Sheriff's Sale of it for cash, it usually fell into the hands of the mortgagee, who had the privilege, by reason of his right to the proceeds, of abstaining from paying the price, unless his claim proved invalid. No means existed for obtaining possession or even a sight of the books of an Insolvent, and his debts could only be obtained by attachment—a process so costly and so inconvenient as to be seldom if ever resorted to, except as to isolated claims of large amount.

Practically, therefore, the only Insolvent or Bankrupt law in the Dominion, which is extensively resorted to is the Insolvent Act of 1864, an Act passed by the Parliament of the late Province of Canada, in that year, and having force in the Provinces of Quebec and Ontario. With regard to the other systems referred to, your Committee believed from the preliminary inquiries they made respecting them, that a more extended and minute examination of their nature and operation was unnecessary. But the Insolvent Act of 1864 appeared to be acted upon so frequently in the late Province of Canada, and to enter so largely into the regulation of commercial questions connected with Insolvency, that your Committee felt it to be their duty to organize as formal and extensive an inquiry into the operation and effect of it, as their powers enabled them to do.

With this view it was determined in the early part of the Session to address a series of questions to persons interested in its working and to those engaged in putting it in force. These questions were of two classes, one of which was submitted to all the persons addressed, and another which accompanied the first. When it was transmitted to persons holding any official position giving them cognizance of proceedings adopted under the Act. These questions were as follows:—

(To Official Assignees.)

1st.—In how many cases of Voluntary Assignment, and in how many of Compulsory Liquidation have you acted as assignee?

2nd.—What has been the rate of return to the creditors in those cases?

3rd.—What has been the average expense of carrying those cases through?

4th.—What has been the average length of time occupied in so doing?

(To Judges, Boards of Trade, &c.)

1st.—As to the mode of effecting a Voluntary Assignment; and as to the expense of it.

2nd.—As to the circumstances which are made to constitute Acts of Insolvency.

3rd. As to the mode of compulsorily divesting a debtor of his estate; and of enforcing a complete discovery and delivery of it to the assignee.

4th.—As to the powers, duties and remuneration of the assignee, and the means of controlling him.