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INSOLVENCY LEGISLATION.

It is quite probable that the bill enacting the repeal of the Insolvent Act of 1875, and amendments, will be successfully carried through both Houses during the present session of Parliament. The almost universal dissatisfaction which prevails against the Act is not so much with the law itself as with the manner in which it is administered, and this feeling is shared not only by those who as creditors have had direct and frequent experience of its working during the last four years, the wholesale merchants and manufacturers of our business centres, but by the great numbers of respectable retailers throughout the country who indirectly have suffered still more severely, and as a class have been too little regarded in settlements under the Act with unfortunate or fortunate local competitors.

For several years prior to the depression of 1875-9, the number of traders in this country increased disproportionately to the growth of the population, until the competition became so great, that profits disappeared, and the weaker began to go to the wall. The easy terms upon which some of these superfluous traders recovered their estates demoralized business in their vicinity, but, having once taken a step into insolvency, the possibility of another step became less forbidding, and ruinous competition went on unabated. Owing to over-importation, and the efforts to keep money employed, men with a few hundred dollars capital, and with little or no idea of business principles, found credit for as many thousands, until the legitimate storekeeper was also obliged to extend his credits. This resulted in a general abuse of the credit system as the cause of the trouble—the credit system, without which, trade is not—until it became a surprise to many that legislation did not interfere. Meanwhile the number of the unfortunate began to increase, and it was found necessary to make alterations in the Act with the view of a more equitable adjustment of the difficulties arising between debtors and creditors, to protect both of whom—the latter when simply unfortunate and not culpably responsible—the Act was first designed. But in the administration of the law so many abuses have crept in that it has fallen into general contempt, and there is loud clamor for its repeal. Last session repeal was averted by the vote of the Senate, but it will scarcely meet with such strong opposition again.

It is perhaps in the appointment of assignees under the Insolvent Act that the greatest evil is to be found. The number of these functionaries has been gradually increased during the last four years, and at such a rate that one might conclude the Powers that Be had little confidence in the possibility of an early return to better times for Canada. The suggestions made from time to time in these pages, reflecting the opinions of merchants of sagacity and prudence in our business centres, had they been heeded, would we fancy have modified the evil. The appointment of assignees should have been vested in the Boards of Trade, who are undoubtedly better qualified than the Government authorities to judge of the requirements of the position. This would have kept out of the profession many assignees who certainly have not been a credit to it, who may be charged to a considerable degree with the present antagonism towards the Act, the repeal of which must deprive them of their occupation. It has also been suggested that the party to whom the writ is addressed should not in any case be the assignee of the estate, but should be merely the custodian or trustee until the first meeting of creditors, who should then choose the assignee to administer the affairs of the estate. This would put an end to the "canvassing" for estates which has been productive of so great mischief. The power given to creditors by the 29th section of the Act to appoint whomsoever they please as assignee, they are not always free to exercise, for obvious reasons. Creditors generally feel a delicacy in opposing the re-appointment of the *pro tem* assignee. Had the Boards of Trade had the appointment of the official assignees, many of the practices now common among some of the profession would be less frequent; we should have fewer meetings of creditors or inspectors called to consider this, that or the other questionable proposal to which the assignee wishes their apparent sanction, when the truly conscientious and capable assignee might be trusted except in rare cases—such as the acceptance of a composition in a disputed claim—to order everything for the benefit of the creditors. No matter how perfect a law might be framed a faulty administration would bring it into contempt, and in this respect even the common law of the land does not escape. An English poet said, with some degree of truth:

> For modes of government let fools contest;
> That which is best administered, is best.

There have been times during the last four years when even those who best understood the merits and demerits of the present Act found their opinions wavering in the desire to retain the lesser of two evils, when they observed the trade of the country largely at the mercy of a number of harpies solely intent upon the pursuit of troubles in the body mercantile, and adding to them wherever an opportunity offered.

THE CREDITORS RELIEF ACT OF 1880.

There is a serious responsibility involved in the repeal of any measure which has taken years of labor to frame and improve. In the United States they are again clamoring for an Insolvent Act. A discussion of the new Act proposed last session should be had. The question immediately arises: What provision does the common law of the land make for the equitable distribution of a debtor's effects among those to whom they properly belong? The Legislature of Ontario, foreseeing the difficulties that must arise after repeal, have recently framed what is known as the "Creditors' Relief Act," a measure which, however well intended, leaves much to be desired as a remedy for the anticipated evils. Under this enactment the trader will still be at liberty to give a chattel mortgage to secure a debt; the landlord still retains the privilege of allowing rent to go on accumulating for years, having therefor a first lien upon the estate as usual; a mortgage upon real estate may also be given as security, and,