

## CONGRESS WAKING UP!

On the 7th February last, the House of Representatives at Washington passed a resolution, calling upon the Secretary of the Treasury to communicate to Congress a statement regarding the state of American trade with Canada since the abrogation of Reciprocity, and what have been the effects produced by the abrogation of the treaty. The exact words of the resolution were:—"showing to what extent, if any, the interests of the United States have been affected by such abrogation; also, as to the nature of the arrangements made for securing to American citizens the free navigation of the river St. Lawrence and the privilege of fishing in the waters adjacent to Canada."

Not having the necessary time, Secretary McCulloch handed over this resolution to Mr. George W. Brega, whose report to Congress has since been published. During the three years since the Reciprocity Treaty was abrogated, this is the third report which Congress has obtained on International trade, and we are gratified to be able to add, that this one reflects much credit on its author, Mr. Brega, enunciating as it does sound and liberal views as to the commercial relations which ought to exist between the two countries.

Mr. Brega proves to Congress very conclusively, that since the adoption of their retrograde trade policy towards this country, their exports to Canada have declined, whilst their imports have been as large as formerly, and the prices paid to us fully as large, if not larger, than before. To substantiate this position tables are given of our trade from 1860 to 1867, showing our imports and exports to and from the United States and all other countries. Returns for Nova Scotia, New Brunswick and Newfoundland, are also given, and then a table showing the prices obtained in Canada during 1865, '66, '67 and '68,—which tables fully bear out the position taken. This fact may be news to the "Congressmen," as Artemus Ward would say but it is none to the people of Canada. Whilst we regret that the total volume of International Trade has been contracted by the barriers so foolishly put in its way, still we have suffered comparatively no injury from want of reciprocity, for we have always been able to find purchasers for all the productions we had to sell, and at higher rates than we were able to obtain at any previous time, unless it was for a short time during the Crimean war. To-day, the majority of our people are quite easy on the subject of a new treaty, but those who take an interest in commercial affairs, know that the volume of trade would rapidly augment by a nearer approach to free trade between the two countries, and that such an enlightened measure would increase that cordial feeling of friendship which ought to exist between us.

On the vexed point—who pays the duty?—Mr. Brega gives no uncertain sound. He says:—"An examination of these tables shows the remarkable fact that 'large as were the sales of produce by Canada to the United States, under their free admission to our markets, yet the prices obtained in Canada after the termination of the Reciprocity Treaty, for such articles, was in almost every instance higher than when in operation. It cannot be denied—granting the correctness of the figures given above, which are from official sources—that whatever amount of this produce was purchased for consumption in the United States since March, 1866, was purchased at as high prices in the Canadian markets as before the abrogation of the treaty; and that the American consumer was compelled to pay the American duty in addition."

The report next alludes to the timber trade, which is one of great importance to the American people. From statistics given, it appears that in 1866 we exported 465,812 thousand feet of planks and boards, valued at \$4,583,075; almost the whole of which quantity was bought across the lines. In 1867, we exported 533,192 thousand feet, valued at \$6,104,342; the Americans took of this, \$5,043,367 worth. It is quite evident from these figures that the Americans have purchased quite as largely from us of timber as before reciprocity came to an end, and Mr. Brega very clearly shows by a table of the prices going at Ottawa, that the prices paid by them during 1866 and '67 were larger than were previously required. The Maritime Provinces have not come off as well as Ontario and Quebec. They have suffered from want of the treaty, both in the prices of fish and coal, but the injury done to them has not increased the prices to the American consumer, as the prices are no higher than when Provincial competition existed. Mr. Brega warns Congress

that a persistence in heavily taxing Nova Scotia coal may induce the Dominion Government to place a tax on that of the United States, and he maintains that 50 cents a ton would enable that Province to send coal to Western Canada and compete successfully with American coal in the market. "There can be no doubt whatever that in placing duties on timber our neighbours had to pay the whole of it themselves; that a duty of 50c. per ton on coal would have the effect stated, we are not quite so certain."

The navigation of the St. Lawrence is next taken up by Mr. Brega, who very candidly shows to Congress, that their vessels only now navigate the St. Lawrence by the sufferance and liberality of the Canadian Government. The importance of the route to Western trade is also dwelt upon, as well as the fact that the navigation of Lake Michigan is not accepted by us as an equivalent for the free navigation of our waters.

Mr. Brega next enters upon the fishery question, and we must certainly express our appreciation of the exceedingly impartial character of his remarks on this question, as, indeed, upon all other points. He appears to have approached the important subject which the Secretary of the Treasury placed before him, not as an American or a Canadian, but purely as a commercial man, who had no interests to serve but those of both countries. Very pointedly is the injustice of the United States in taxing the fish of our fishermen at \$2 per barrel, shown, whilst American fishermen get nearly all the catch in Canadian waters at a nominal tonnage duty of 50 cents per ton. Congress informed that this state of things is not likely to continue, and the writer mentions that the starving fishermen of the Maritime Provinces have asked to have the duty increased to \$2 per ton, which is held to be only reasonable under the circumstances. These opinions are, intrinsically, not remarkable. Nobody can dispute their justice. But they are remarkable as coming from an American writer, and evince an amount of impartiality and candour in discussing this question which we have seldom witnessed of late. Unless the United States alter their tariff with regard to fish, we think there must be a full assertion of our rights to our own fisheries. It is too bad altogether—it is, in fact, unbearable—that we should present our neighbours with the fish, and that they should in return place such a duty on those taken by our fishermen as practically shuts them out of American markets. Mr. Brega only acts the part of a friend of justice in pointing out that Canada is not likely much longer to endure this manifest and glaring injustice.

The conclusion at which the report arrives is, that a new Reciprocity Treaty should at once be entered into. The interests of both the United States and Canada demand this, and we quite agree with Mr. Brega, that it is preposterous to enquire which country may derive the greater advantage. It is quite enough to know that both countries will be benefitted, and it is the sheerest stupidity and selfishness for one country to refuse to receive a benefit simply because another country may receive a slightly greater one. To make things equal, however, Mr. Brega holds that 5 per cent duty ought to be charged on our produce, which formerly entered the United States free. This duty would make things about equal between our farmers and those across the lines, the latter having at present to bear a very heavy rate of internal taxation. We see nothing unreasonable in this proposition, but only a proper regard for the interests of the American farmer, and we do not doubt that, so far as Canada is concerned, it would be no bar to successful negotiations.

We regard this report as a hopeful sign of the times. It plainly indicates that a better state of feeling, and more enlightened views on the subject of international trade, are being entertained among our American friends. It takes an unusually fair and liberal view of the question, and while proving and lamenting the recent check to the development of the trade of the two countries, clearly points out the remedy. We have not the pleasure of Mr. Brega's acquaintance, but we feel assured this report will increase his reputation throughout the United States and wherever it is read. It is short but comprehensive; it touches all the main points of the question, but is yet concise, decided and convincing. We trust it will have due effect upon Congress, and that it will do much towards the opening of negotiations between the governments of Washington and Ottawa, with a view to the withdrawal of all barriers in the way of our commercial intercourse.

## REPORT OF THE COMMITTEE ON BANKRUPTCY AND INSOLVENCY.

FRIDAY, 17th April, 1868.

The Select Committee appointed to inquire into and report upon the nature and operation of the laws of Bankruptcy and Insolvency now in force in the several Provinces of the Dominion, with power to report from time to time, beg leave to present the following as their third report:—

In pursuance of the objects for which they were appointed, your Committee proceeded to ascertain, in the first place, what are the laws respecting Bankruptcy and Insolvency in existence in the several Provinces.

In New Brunswick there is no bankrupt or insolvent law whatever, nor are there any provisions of law under which the estate and effects of a person unable to pay his debts can be distributed among his creditors, otherwise than by the ordinary means of executions issued at the suit of those obtaining judgments, nor, under which the preferences and claims to which executions give rise under the common law and statute law can be avoided or set aside for the benefit of creditors generally.

In Nova Scotia an Act is in force for the relief of insolvent debtors, but its operation is limited. It is rather a remedial measure, intended to supplement and mitigate the law of imprisonment for debt; than a complete system of insolvent or bankrupt law, having for its object the discovery and realization of the assets of an insolvent and his discharge from liability in consideration of the surrender of his property.

This Act, cap. 137 of the Revised Statutes of Nova Scotia, third series, permits a person imprisoned upon any writ of *mensure*, process, execution, or attachment for non-payment of money issuing out of the Supreme Court, to petition for his discharge. And upon complying with the condition prescribed by the Act, he has a right to obtain an order discharging him from custody, in the suit or proceeding in which the warrant for his imprisonment issued. These conditions render necessary a discovery by the insolvent under oath of the property he possesses, and of the debts he has incurred, and require of him as a preliminary to his release the execution of a deed of assignment in trust, for the benefit of the debtor upon whose suit he was arrested. The effect of the order for his discharge seems only to release him from the restraint upon his liberty actually imposed upon him in the suit or proceeding in which the order is made. And the assignment in trust seems only calculated to secure to the benefit of the creditor, who is plaintiff in the suit.

The act, therefore, seems to afford to any creditor effective means for compelling payment 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 conditions 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 (Consol. Stat. U. C., cap. 18 and 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 Bar 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 expense of the execution, the cost of filing the claims of the creditors, and of preparing and rendering the judgment distributing the moneys, the moveable 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 an 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 prepared by the Parliament of the late Province of Canada in that year, and having force in the Provinces of Ontario and Quebec. With regard to the other systems referred to, your committee believed from the preliminary enquiries they made respecting them that a more extended and minute examination of their return 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 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 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 the working and to those engaged in putting it into force. These questions were of two classes, one of which was submitted to all persons ad-