

# THIRD REPORT

OF THE

SELECT COMMITTEE

ON

## BANKRUPTCY AND INSOLVENCY.

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, beg leave the 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 liens to which executions give rise under the Common 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 mesne 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 conditions 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, at whose suit he was arrested.

The effect of the order for his discharge seems only to be 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 pay-