

prudence dictates, to both these forms of borrowing. The foundation of capital should be wide enough to carry with perfect safety the superstructure of credit. As a rule, the deposits of loan companies are destined to be locked up; and locked up capital cannot respond to a call for repayment, on short notice or without notice. No one has charged that fictitious capital has been created, in the way we have pointed out; it is not our intention to convey the impression that such a thing has been done; but it is desirable that a form of loan which would make such a transaction possible should be avoided.

That loans are sometimes made in this objectionable form by loan companies is confessed. When such cases become public, the Finance Department would not be going out of its way, if it intimated to the offenders that they are assuming to exercise powers of which they are not constitutionally possessed.

#### THE RAILWAYS AND THE ESPLANADE.

Things have arrived at such a state of confusion among the railways, on the Esplanade, in this city, and the danger to individuals in crossing them is so great that it is imperative that some relief should be obtained. If bridges are built they must either be built by the city or the railway companies, exclusive of the Grand Trunk. When the original contract for building the esplanade was let, it provided for the crossing the railway tracks to get to the water front. The city, however, afterwards agreed that the bridges should be dropped out of the contract, and as a consideration £10,000 was deducted from the contract price. The Grand Trunk was thus relieved, for all time, from any liability to build bridges or crossings.

In various ways, the railway companies, have been permitted from time to time, to make serious encroachments on the Esplanade. Under this head, the 40 feet of trackway originally given to the Grand Trunk does not properly come, since it was a matter of agreement. But in time, 40 feet was said to be too little for the trade ways; leave was given to put down additional tracks and once there, they have been allowed to remain. To facilitate the crossings of the tracks by the railway companies and to reduce the danger of crossing by teams and foot passengers, an Act was passed in 1865. The crossing by the railways of each other's lines was provided for, and the tracks were required to be filled up level with the rails, so that they could be crossed any where. Tracks and crossings are not to be obstructed, and trains are not to be run more than four miles an hour between Parliament and Brock streets, nor to load or unload on the tracks. The provisions as to time and loading and unloading are constantly violated, and the excuse given is that it is in the interests of the public. It is difficult to see how the endangering the lives of foot passengers, who have occasion to cross the tracks, can be in the public interest.

The Northern Railway Company holds forty acres on the Esplanade by adverse

possession, against the city and refuses either to give up or to pay for it; and the Grand Trunk occupies city property on the Esplanade, and blocks a street with freight sheds. A bond for \$5,000 to remove these sheds on notice was given; the Great Western Railway Company also gave a bond to remove a box office and other obstructions, which stand on Esplanade Street; but the city does not regain possession of its property, nor the public of the street.

The Credit Valley Railway Company does not fare so well; it has been paying the Northern about \$2 a car to haul its cars to its (the Credit Valley's) own station. By a bill now in progress through the Legislature at Ottawa, the Credit Valley gets the right to haul its own cars over the Northern tracks. For this privilege a toll is payable, which is right and proper; but it is a strange anomaly that part of the land over which the haulage is made was obtained by the Northern by squatters' privilege from the city, and is held without payment of any kind.

All this shows great looseness and confusion in dealing with railway encroachments on the Esplanade. The city has been nominally represented on the Northern Railway Board; but it is certain that this representation has in no way operated to the protection of the former's interests. Against the Grand Trunk all the rights of the city appear practically to have been waived; and it is quite certain that this Company will volunteer nothing by way of restitution.

It is obvious that the city has rights which ought to be enforced; while the building of bridges across the tracks has become absolutely necessary in the interest of public safety. The obstructions which have been permitted to block up the Esplanade prevent access by the water lot owners to their property; and the city has ceased to insert in the leases of these lots any obligation to give them a right of way to their property. Important as these roads are and powerful as they are, they should not be allowed to infringe private rights and endanger public safety.

#### THE NEW ENGLISH BANKRUPTCY BILL.

Mr. Chamberlain's Bankruptcy Bill now before the English Parliament, and likely soon to become law, contains much that is new on the subject of insolvency legislation. Under its provisions proceedings may be instituted by a petition in bankruptcy, followed immediately by a receiving order and subsequently either by a composition or arrangement on the one hand, or bankruptcy on the other. This petition may be presented either by a creditor or the debtor. The old proceeding by debtor's summons is abolished. The peculiarity about the initiative stage of the new measure is that no bankruptcy, technically speaking, takes place unless there is a failure to effect a compromise in the way pointed out by the law. When once a debtor becomes subject to the law, a receiver can be appointed, but his estate is not put into bankruptcy until there is an opportunity afforded for a compromise; and none of the disabilities and presumably not the stigma either of bankruptcy attaches to the debtor unless he attempts to effect a

compromise fail, and proceedings in liquidation are directed by a subsequent order.

The first meeting of creditors is called to consider whether a composition shall be granted, or the debtor adjudged a bankrupt. To confer voting powers it is necessary that proofs and proxies shall be deposited with the receiver at least twenty-four hours before the time appointed for the meeting. Every debtor against whom a receiving order is made must be publicly examined in Court as to his conduct, dealings, and property. The official receiver is to take part in this examination as directed by the Board of Trade, and creditors are also allowed to put questions all of which the debtor is bound to answer.

Failing an acceptable composition, creditors may pass a resolution in favor of adjudication whereupon the court decrees the debtor bankrupt and directs the liquidation of his estate. The creditors may then appoint a trustee who must give security to the satisfaction of the Board of Trade, from which the certificate of his appointment must emanate. The official receiver is eligible for appointment as trustee and acts as such during any vacancy.

The liquidation of the estate is then conducted by the trustee with the assistance of a committee of inspection appointed by the creditors or failing such appointment under the direction of the Board of Trade. Very large powers of supervision are also conferred upon the court.

The debtor at any time after being adjudged a bankrupt may apply to the Court for an order of discharge, but his application cannot be heard until after his public examination has been completed. A public prosecutor is appointed to supervise the punishment of fraudulent debtors, and this officer is clothed with very large powers. In this respect nearly the whole of the administration is conferred upon this officer and the Court, and removed altogether from the control of the creditors.

The remuneration of the trustee is to be fixed by creditors, and to be in the nature of a commission or percentage charged partly on the net amount realized and partly on the amount distributed in dividends. This allowance is in the event of one fourth in number or value of the creditors objecting to the subject to revision by the Board of Trade.

One of the features of the measure that has called for much notice is that requiring all moneys over fifty pounds in amount to be paid into the Bank of England to the credit of the Board of Trade. The income derived from money thus invested is to be paid into the Exchequer for the purpose of meeting the expenditure out of the public funds in respect of bankruptcy proceedings.

The London Court of Bankruptcy is merged in the High Court of Justice, but bankruptcy proceedings are to preserve their distinctive name, and are to be transacted under the direction of a judge specially assigned for that purpose. Throughout the whole measure there is a marked tendency to restrict creditors' control, and confer full powers on the court and its officers.

Special provision is made with a view of lessening the expense in case of small bank-