THE INSOLVENCY BILL DISCUSSED.

How it is Progressing—Some of the Clauses Criticized—Some Views of leading Merchants—The danger of delaying the passing of the Bill until another Session.

INSOLVENCY bills are not new; in fact, discussions on insolvency legislation have been proceeding for twenty-five years, and still all the points do not seem to be clearly explained. Nevertheless, with a definite bill before them, the newspaper writers, the lawyers, the merchants and the bankers have attacked the subject with renewed vigor; and much new light, strong and clear, has been thrown on the subject.

True to its promise, the Government of the day has facilitated the work of passing the bill. A committee of twenty-six senators was appointed to consider the bill in detail and to hear all deputations and individuals with opinions to express.

On May 1st, Hon. Mackenzie Bowell in opening the discussion on the bill said that five principles brought out by the discussion with the representatives of the Boards of Trade and Bankers' Associations should first be considered and an opinion expressed on them. They were: 1. That the distinctions made by the bill between traders and non-traders should be done away with; 2. That a trader may be put into insolvency only by his creditors and not on his own application; 3. That all incorporated companies be included under the provisions of the bill; 4. That a receiving order may be issued on the affidavit of a creditor instead of a petition by creditors; 5. That the official receiver shall not be eligible for the liquidatorship. Each of these principles was affirmed.

It was decided to make the clause deferring the application of the act, to include all debtors except banks, railways and companies to which the Winding-Up Act applies; incorporated trading companies, however, being transferred from the provisions of the Winding-Up Act to those of the Insolvency Act. The clause respecting the minimum rate on the dollar at which composition and discharge may be granted, was amended to make the minimum figures 66⅔ cents, instead of 33⅓, and as originally provided by the act. It was definitely decided that the interim assignee cannot be confirmed as liquidator. There were some strong objections to merchants being allowed to assign book debts in advance, but this was allowed to stand over.

The bill is being discussed in Parliament at present and it will be nearly a month before it will be definitely known whether it will be passed or not. It being a Government measure, it will no doubt be passed if time permits.

As to whether the bill should apply to traders and non-traders alike, we acknowledge that we cannot see the wisdom of forcing a farmer into insolvency. It will tend to make the retail merchant careless of credit, and he is careless enough now. It will make the farmer more extravagant, and this would be grievous. The lien law is sufficient to guard creditors' interests as against agricultural debtors, and the bill in its first form was much better than in the form as amended by the Senate Committee. Moreover, the introduction of this amendment is likely to defeat the bill, or at least delay, to the great detriment of trade. The experiences of the United States and Great Britain should be a warning to those who have charge of the bill not to carry unnecessary burdens.

There is another clause worthy of consideration:

8. (c) The debt owing by the trader to the petitioning creditor, or if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors amounts to not less than two hundred and fifty dollars.

This clause should be altered to have the effect that a single creditor petitioning to have a debtor put into insolvency should have a debt of $500, or if a combination of creditors, the combined amount should not be less than $1,000. We suggest this because we do not desire to see any retailer put into insolvency simply because some small firm with whom he may have had a misunderstanding has a claim against him of $200 or $300. At the same time as such a claim as this is pressed, a larger firm, with a better understanding of the situation and a better acquaintance with the debtor, might be willing to extend the debtor's line of credit rather than restrict it. Should the creditor for the small amount prove fractious, both a solvent debtor and a large creditor might be put to serious inconvenience, with disastrous results. We have fought hard for an insolvency act, but we have no desire to see it unnecessarily severe on the honest debtors.

Another clause which bears rather hard on the debtor is clause 34. T. A. Forman, of Woodstock, has written a long letter to this journal on the subject, but owing to limited space it has not been published. Mr. Forman, however, is right. The clause enacts that a postmaster may be ordered to send all the insolvent's letters for three months to the receiver or liquidator, and be opened by him in presence of clerk of court and insolvent. This is an unwarrantable interference with a man's private liberties, and is one which cannot be defended. The ideas of freedom in the middle ages are not the ideas of the people of to-day, and some of the sages who help draft the bill would do well to take notice of the fact. Anything which gives the slightest suspicion of interfering with that liberty which makes men men, is bound to rouse opposition of a desperate sort. Parliament should avoid even the appearance of such an undesirable thing as this, especially when nothing can be gained by such procedure. Moreover, it is as miserable treatment as could be meted out to the worst criminal, and a debtor who cannot pay his debts is not necessarily a criminal—the assumption should be that he is not.

The act of 1875 was repealed because the official receiver was an intolerable expense, yet clause 23 seems to be reviving this class with their great chances to charge fees. These receivers should be in existence, but they should not be allowed to hold the estate more than ten days, and should not receive more than $25. The bill provides that the first meeting of the creditors must be held within twenty days. This should be ten, and still the time would be sufficient to enable notices to