

Causes of the Repeal of Bankruptcy Legislation in Canada.

The repeal by Parliament in 1880 of the Insolvent Act of 1875 was probably due to an aggregation of evils rather than to any specific cause. Under the Act of 1875 there was no single Bankruptcy Court. The Act was administered in Quebec by the Superior Court, in Manitoba by the Court of Queen's Bench, in Ontario, British Columbia and Prince Edward Island by the County Courts and in Nova Scotia by the Court of Probate, until such time as County Courts should be established in that province. There was no examination of the debtor in open court. True, a debtor was liable to be examined under oath before the assignee and was bound to attest his statements of liabilities and assets under oath. The administration of the estates was committed to a privileged class of persons called official assignees who were appointees under the party system of Government. No effective audit of the accounts of these assignees was provided for and the security required to be given by them for the proper administration of estates committed to their care was nominal. The debtor by obtaining the execution by a majority in number and three-fourths in value of his creditors having proved claims of \$100 and upwards could obtain his discharge unless some dissenting creditor chose to intervene and oppose confirmation of the composition upon grounds enumerated in the statutes. Moreover, at the time that the Canadian Parliament dealt with the matter in Canada an agitation was on foot in England to repeal the bankruptcy law of that country. As the dissatisfaction existing in England with the working of the bankruptcy law then in force contributed in no small degree to the repeal of the Canadian Act—helping as it did to discourage the supporters of bankruptcy legislation here and to confirm the opponents of it in their antagonism—we may digress for a moment to glance at some of the defects in the English Act which gave rise to the aforesaid dissatisfaction and agitation.

In most respects the English Act of 1869 was an admirable one, but the English practitioner discovered in it what in the slang of the present period may be called a "joker."