

### INSOLVENCY LEGISLATION.

Although few questions brought before Parliament are of greater importance than that of insolvency legislation, it is one respecting which it is difficult to arouse public opinion into such active and general expression as so impresses the Government, and legislators, as to compel them to take decisive action. It is unfortunate that the British North America Act is sufficiently indefinite in regard to the several powers and functions of the Provincial Legislatures, and of the Federal Parliament to have left an opening for such varied local laws relating to bankruptcy as now exist in Canada. In this Province the law is clearer, and far more in the general interests of business than in Ontario and the Maritime Provinces. Probably this is owing to the influence of

#### FRENCH IDEAS RESPECTING INSOLVENCY

and credit, which make the laws and customs of France very severe upon those who fail to pay their creditors in full. The effect of such severity is to make insolvency so dreaded as to lead traders to adopt the utmost precautions against what is regarded as a social as well as a commercial disgrace. An illustration of the effect of this fear was given when the revolution of February, 1848, compelled thousands of French merchants to suspend. The manufacturers in English manufacturing towns had several hundred customers in France, whose acceptances were current when the French monarchy was overthrown. Most of those traders failed, but not a single one of their notes was paid for less than its face amount, and in not a single instance was there an attempt made to compromise claims. In these facts we have a striking proof of the power of the law, and of public sentiment to prevent insolvencies. It must, however, be admitted that such severity is a restraint upon enterprise and is too restrictive for a country like Canada, where public sentiment is in sympathy with all honest endeavours to establish an independent business, to the success of which this country owes most of its commerce and its wealth. The initial struggles of

#### THE LEADING FIRMS IN CANADA

could hardly have been entered upon had failure been regarded with such dread as it is in France, or had our banks and capitalists been less desirous of giving financial assistance to men of small means in order to help them in their efforts to establish new enterprises. In Great Britain there is a feeling about bankruptcy and bankrupts not so severe as in France, but strong enough to be both deterrent and punitive, as a bankrupt even after discharge is always under a cloud, and before he gets his discharge is commercially outlawed. While it must be admitted the special circumstances of a new country ought to be considered in framing a general Insolvency Act, there is no reason why it should not be so framed as to restrain, as far as possible, all forms of fraud and of unfairness to creditors. Insolvencies from incapacity,

from insufficient capital, from trade fluctuations, will never be prevented. But, insolvencies caused by gambling, or extravagant living, or those entered into from criminal intentions, might be checked by the law relating thereto being made "a terror to evil doers," as it is in the old country under the English Bankruptcy Act. The startling statements made by

#### MR. E. B. GREENSHIELDS,

one of the leading dry-goods merchants of this city, when recently addressing the Premier and members of his Cabinet at Ottawa, prove only too plainly the urgent necessity of protecting merchants, and the community at large, from such frauds as can now be perpetrated with impunity in some Provinces. Mr. Greenshields spoke of crimes by which his firm had been victimized. Other merchants have informed us of similar experiences, and English manufacturers and merchants some months ago complained bitterly to the Finance Minister when in London of their having been robbed by fraudulent insolvents who acted under cover of the law in certain Provinces of Canada—happily not in Quebec. Goods have been obtained on credit, then made over to a confederate, then the trader has gone into insolvency, paid a few cents on the dollar, and recommenced store-keeping with a stock of goods re-transferred to him which he has secured for nothing, beyond a fee to his accomplice in crime. Were this done in England the perpetrator would be imprisoned, indeed the jail of this city some three years ago held a dry-goods merchant who had swindled a local wholesale house in the manner above stated. Where the law is so lax men are tempted to enter trade not to live by it, but to get an opportunity of making a fortune by rascality. Hence, a wrong impression is apt to be created respecting our traders, into whose ranks—like wolves into a sheepfold—those have entered who have brought scandal and injury on the business community. The question of

#### PREFERENTIAL CLAIMS

by which so many frauds are practised is not free from difficulty, as the extension of bank accommodation would be seriously restricted were bankers prohibited from making any arrangement by which their claim would be preferential. Bankers, however, are most desirous of an Insolvency Act for the Dominion being passed, and there need be no fear of their sanctioning any legislation, favorable to themselves, which would be in the least degree open to the imputation of injustice to the business interests of other creditors. We believe the bankers wish to have a discharge made contingent upon an insolvent paying a certain fixed percentage of his debts, so as to prevent traders going on wasting their assets until a small fraction only is left for their creditors. These are points calling for careful attention, as are those also, relating to the machinery of winding up insolvent estates with economy and speed.