

But do not these last words indicate the necessity of an assignment or of compulsory liquidation ?

Section 98, corresponding to section 9, par. 3, of the Act of 1864, declares that "the consent in writing of the said proportion of creditors to the discharge of a debtor absolutely frees and discharges him, *after an assignment or after his estate has been put in compulsory liquidation*, from all liabilities whatsoever." With a provision of law so clear and express, it must be held that the learned Judge's decision is directly opposed to the letter of the statute.

Section 105 of the Insolvent Act of 1869, as well as clause 9, par. 10 of the Act of 1864, is clear and positive with regard to the discharge granted by the Court. "If after the expiration of one year from the date of an assignment made under this Act, or from the date of the issue of a writ of attachment thereunder," the debtor cannot obtain his discharge from his creditors, he may petition the Court for a discharge.

And if it were otherwise, the creditors, who have the right to oppose all and every application for discharge, and whose number cannot be legally ascertained until a month have elapsed from the assignment, would be completely at the Insolvent's mercy. He could simply divest himself of his property under the common law so as to make the requisite affidavit, with which he would immediately present himself before the judge and obtain his discharge at once. Such a mode of procedure is too summary to be authorized by the Insolvent Act of 1869.

CAN A PERSON WHO CEASED TO BE A TRADER BEFORE THE PASSING OF THE INSOLVENT ACT OF 1869, TAKE BENEFIT OF THE ACT?

J. E. Villeneuve was a trader of Laprairie, in 1857, when he became an insolvent. Failing to make a settlement with his creditors, he then ceased to be a trader and became and has ever since been an officer of the Custom House in Montreal. In 1870, being still debtor of his commercial liabilities, which for the most part were not yet prescribed, he made an assignment to Sauvageau, official assignee, under the Insolvent Act of 1869. In 1871, after the passing of the Amendment Act of that year, he applied for a discharge. Three creditors, holding claims created since he retired from trade, opposed his petition, upon the ground that under the Statute of 1871 the discharge could not be granted, ex-