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FALLACY OF INSOLVENCY LAWS.

Editor MONETARY TIMES:

SIR,—It seems that after prolonged effort certain dispensers of credit have, at length, prevailed on the Dominion Government to introduce an Insolvency Bill. The provisions of such a bill are more far-reaching in their effects than most people are aware of, and it is only through the apathy of the public, and want of due reflection, that a measure such as the one proposed could ever pass the House of Commons and become law. The deputations which, from year to year, have repeatedly waited on members of the Government to urge the introduction of the bill, have constantly contended that its provisions affect only them, and that, therefore, the voice of the country, which is distinctly opposed to this legislation, should not be allowed to prevent its enactment. It will be seen on the slightest investigation that such a contention cannot be sustained for a moment; nothing, indeed, is further from the truth. A law of this kind affects the interests, not merely of traders, to whom it immediately relates, but indirectly of everyone in the land.

The essential feature in any insolvency law is the provision for a *pro rata* division among his creditors of the assets of an insolvent debtor. This seems, on a superficial view, to be a very innocent thing; indeed, it may appear to most persons, at first sight, to be quite a desirable and proper thing to thus anticipate fraud and make provision against possible preferences in favor of one creditor over another, etc. Whether or not it may be in accord with the principles of jurisprudence to bring all of a class under the ban of an arbitrary law, because some may act fraudulently, we need not here, however, discuss; let it be granted that it is. But a thing may be perfectly right in itself, standing alone, yet if it happen to stand also in a certain necessary relation to something else, it may become utterly wrong. It is quite a right thing for a man to marry the woman of his choice; but if he stands in the relation of husband to some other woman, it would be wholly wrong. So with this insolvency law; let it be granted that it is a proper thing, *per se*, to anticipate fraud by statutory enactment so as to insure the creditor; but, if in so doing you put it into the power of the dispenser of credit to accomplish greater and more widespread injustice than what it is contemplated to avoid, you have merely prevented one source of wrong-doing by establishing another source of far greater range. At best, this would be but reversing the plea of *Bassanio*, "To do a great right, do a little wrong." So to do a great wrong do a little right.

The practical effect of an insolvency law is to shift the only just grounds on which credit ought to be dispensed, namely, integrity and ability of the recipient, to the false ground furnished by the assurance of getting an equal division of the assets of a debtor in case of insolvency. Who does not recognize the far reaching evils of such a result? It may safely be asserted that had a provision, such as is now being sought, been on the statute books for any length of time, the trade of Canada to-day would be collapsing everywhere like a house of cards, instead of being, as it is, in a comparatively stable condition.

There is nothing more demoralizing in trade at the present day, even without an insolvency law, than the manner in which credit is dispensed. The root of the evil is here. This is really the occasion of probably nine-tenths of the failures in business. Do, then, let the lash be applied to the right shoulders, and not to the back of the innocent public. While the dispensers of credit are chiefly responsible for any loss they bring on themselves, for parliament to enact a system of assurance to relieve them of their responsibilities by special class legislation, and so aid them in inflicting further injustice and wrong on thousands of others by a reckless haste to increase riches in the perversion of the use of capital, is most pernicious and thoroughly vicious in principle. Wealth has a power from which I do not seek to detract, but it is another thing altogether to make laws to give it more power than it naturally possesses, and this an insolvency law undoubtedly does. Those who may incur loss by the absence of such a law have the power to prevent it almost entirely in their own hands in withholding or curtailing credit, while those who suffer loss through failures multiplied by a law of this kind shifting the ground of credit from a just to an unjust basis, are helpless to avoid the evil.

The State has no right whatever to protect a man or any set of men from what is chiefly the result of their own wrong-doing; if it does it will cause loss and injustice to fall on multitudes of innocent persons. If a merchant leave his shop door open at night, his safe unlocked and his cash box on the counter, one would be disposed to say that it served him right to lose his property for neglecting reasonable precautions to protect it. He would, moreover, be blamable for putting temptation in the way of dishonest men to steal, and also responsible for wrong inflicted on others by the use the thief would make of the stolen goods. If after due precaution loss is suffered by robbers, he, no doubt, will have the sympathy of his fellows, but the State cannot do more than help him catch and punish the thief. The principle cannot be admitted for a moment that the State provide for losses through fire, or flood, or robbers, or other misfortunes common to mankind. Still less can it, under any plea of justice or right, be asked to insure rich dispensers of credit against loss arising chiefly from their own disregard of what is honorable, true and just. Yet this is actually what is being asked for by the advocates of an insolvency law—asking for a patent State insurance system to protect them against the consequences of their own misconduct.

Not only does an insolvency law become a source of wrong to legitimate traders and to the public generally; it is also opposed to the best interests of those who are seeking it—the dispensers of credit themselves, that is, of such of them as desire to do business upon straightforward commercial principles. Strictly honorable and upright dispensers of credit, in good standing, feel that, besides being unjust to the great body of the people, these laws are opposed to their own interests and those of the legitimate wholesale trade, as, among other things, they give an opportunity for persons of no standing whatever to enter into speculative ventures by importing largely and thus trading on the capital of British and foreign merchants and manufacturers, which these would not permit were they not secured by a law in this country providing for a *pro rata* distribution of assets in case of insolvency. And again, these adventurers are free to credit right and left all sorts of persons, as they are themselves secured in like manner.

To enact an insolvency law is analogous to sitting on the safety valve; additional speed may be gained by the ship for a time, but with the inevitable prospect, however, of shortly bringing about widespread destruction. Surely there is more than sufficient pressure on already. Why, then, increase the danger? Millions are being spent annually now by dispensers of credit in Canada to pay agents travelling through the country virtually to solicit traders to accept credit, and representatives from nearly all the manufacturing and commercial centres in Europe are calling at every city and town and hamlet in the Dominion for a like purpose.

Space will not admit of reference now to the many other evil results of an insolvency law. It may be remarked here that some of its advocates are wont to support it with plausible arguments intended to set forth a beneficent purpose therein. To these professions of benevolent intention I would at present merely say with Shakespeare, in the "Merchant of Venice":

"In law, what plea so tainted and corrupt,
But, being season'd with a gracious voice,
Obscures the show of evil."

THOS. RITCHIE.

Belleville, 2nd April, 1894.

[Mr. Ritchie will find himself in a decided minority, among merchants, in his views on this question. But he will not much mind this, having the courage of his convictions. Ed. M. T.]

A CONSIDERABLE DEFICIT.

According to a Washington press telegram dated April 2nd, the official comparative statement of receipts and expenditures of the United States for the nine months of the current year, shows that the expenditures have exceeded the receipts \$55,342,000. For last March, the expenditures exceeded the receipts \$6,295,000. The aggregate receipts for the nine months were \$223,117,385, and the aggregate expenditures \$278,549,412. The decline in receipts is attributable almost exclusively to customs duties.

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