meantime been so extended by the amending enactment as to bring the case within its scope.

[Sup. Ct. N.S.—June 2, 1871.—*Sir W. Young, C. J.*]

Sir William Young, C. J., now (June 2, 1871,) delivered judgment as follows:

This is an appeal from an order of the Judge of Probate and Insolvency at Halifax, dated 1st March last, discharging the insolvents under secs. 105 and 106 of the Act of 1869. Their petition set out their assignment of 1st December, 1869, and that more than one year having elapsed from the date thereof, and the petitioners having failed in obtaining from the required proportion of their creditors a consent to their discharge, they applied to the judge to grant such discharge pursuant to the statute. The insolvents were thereupon subjected to personal examination before the judge respecting their dealings, books and liabilities, which extended over three days, and after careful examination, the counsel who appeared for the creditors and against the insolvents, expressed themselves satisfied with the explanations afforded by the insolvents, and acquitted them of fraud in their dealings. Some delay then took place with a view to the legal objection being raised which was urged on the appeal, but which had not been brought before the Judge of Probate, who granted the order of discharge as unopposed The first hearing on the appeal was had before me at Chambers on the 31st March, when some preliminary objections were taken on the part of the insolvents, which were afterwards withdrawn, and the main question came up on an admission of the insolvents that at the time the Act passed in 1869 they had ceased to be traders. The case of *Surtees* v. *Ellison*, 9 B. & C. 750, decided in 1829, was then cited, and I looked into the point and was prepared to give judgment, but withheld it at the instance of the counsel, who were negotiating for a settlement. In the meanwhile the Dominion Parliament passed, on the 14th April, the amending Act of 1871, chapter 25, upon which the insolvents insisted at a second hearing on the 26th May, and I am now to consider the effect of both Acts.

The policy of the imperial and colonial legislatures has varied much from time to time, as to the persons to whom the privileges and obligations of the bankrupt laws should extend The 34 & 35 Hen. VIII. c. 4, passed in 1542, was aimed at all persons who, in the quaint language of the preamble, "craftily obtaining into their hands great substance of other men's goods, do suddenly flee to parts unknown, or keep their houses, not minding to pay or restore to any of their creditors their debts and duties, but, at their own wills and pleasures consume the substance obtained by credit of other men, for their own pleasure and delicate living, against all reason, equity, and good conscience,"—a description which might be applied to a good many bankrupts of the present day. The 13 Eliz. c. 7, and the 21 Jac. I. c. 19, comprehend all persons using or exercising the trade of merchandise and some other trades or professions. By the 6 Geo. IV. c. 16, all persons using certain trades, and doing certain acts, and all persons using the trade of merchandise, shall be deemed traders; and the present Bankrupt Law in England, the 32 & 33 Vic. c. 71, passed in 1869, extends to non-traders as well as traders, a full description of traders being given in the schedule, while a recent decision* has extended it to peers of the realm.

The Canadian Insolvent Act of 1864, the parent of the present one, applied in Lower Canada to traders only, and in Upper Canada to all persons, whether traders or non-traders. The Dominion Act of 1869 applies to traders only, and this the amending Act of 1871 has somewhat modified.

Under the Act of 1869, I should have held, on the authority of *Surtees* v. *Ellison*, that a person who had ceased to be a trader at the passing of the Act did not come within it. The trading in that case was before the passing of the 6 Geo. IV. c 16, and the court were all of opinion that they must look at the statute as if it were the first that had ever been passed on the subject of bankruptcy, and that there was no sufficient trading to support the commission. Lord Tenterden, in stating this result, lamented that a statute of so much importance should have been framed with so little attention to the consequences of some of its provisions. The legislature, he added, cannot be said to be *inops consilii*, "but we may say that it is *magnas inter opes inops*." The reasoning of this case has a direct bearing on the Act of 1869, and in my opinion confined its operations to persons who had been and continued to be traders at the time it passed.

We may infer that such was the opinion also of the Dominion Parliament, and that it led, among other things, to the Act of 1871, amending the Act of 1869, the first section of the later Act being as follows: "The first section of the said Act (that of 1869) is hereby amended by adding thereto the following words: 'And persons shall be held to be traders who, having been traders, and having incurred debts as such, which have not been barred by the Statutes of Limitations or prescribed, have since ceased to trade; but no proceedings in compulsory liquidation shall be taken against any such person, based upon any debt or debts contracted after he has so ceased to trade.'"

This is a very comprehensive and a very important provision, peculiar, so far as I know, to our law, and the true construction of which it is of great moment to ascertain. The section I have just cited is not declaratory in its form—it is professedly, as it is in fact, an amendment, but an amendment incorporated with the original section, and henceforth forming an essential part of it. Even in statutes distinct from each other, but on the same subject, the several Acts are to be taken together as forming one system, and as helping to interpret and enforce each other—being in *pari materia* they are to be read as one statute. The doctrine as to the retrospective operation of statutes was fully considered by this court in the case of *Simpson's Estate*, 1 Oldright, 317, and had been previously reviewed in the case of *Wright* v. *Hale*, in the Exchequer, reported in 6 H. & N. 227 We held "that however it may be in the United States, where the constitution expressly con-

* *Ex parte Morris. In re Duke of Newcastle*, L. R. 5 Ch. 172. *See* 6 C. L. J. N. S. 189.