

and the different conditions of the two countries dictated. Wage earners and farmers are exempt from the liability to be declared bankrupt, and from the operation of the Act. This is a point which has been hotly contested in regard to a Canadian Act, and has been obstructive to the passage of one, as the agricultural interest in Parliament was averse to farmers being liable to insolvency proceedings. Now, there has been a precedent established by the States which relieves farmers from this liability, it would be desirable to grant the same exemption to our farmers, as this would greatly facilitate the passage by our Parliament of much needed legislation. All persons, firms and corporations, except National and State banks engaged in mercantile pursuits, may be declared bankrupt upon default or after a trial in Court. Such trial may be instituted by a creditor who gives security for costs and for any damages to the debtor such trial may occasion if his actual insolvency is not proven, the amount of which the Court shall direct. While this provision is intended to protect persons from a malicious or otherwise unjustified action to test his solvency, it affords a means of checking the career of one who is believed to be squandering or concealing his creditors' money, and preparing to defraud them by paying a small composition or dividend. Cases are not infrequent in which a creditor has grave suspicions about a debtor's proceedings, but he shrinks from making him an insolvent. Under this new Act a suspected debtor may be put on his defence. If he proves he is solvent, the creditor who put him to the test is liable for costs and damages as fixed by the Court; if, however, his insolvency is proved, then his estate is handed over to the creditors under the rules of the Bankruptcy Act. This is a novel provision, and, though open to abuse, has a wise intention. The duties of a bankrupt are of the ordinary character, such as his attendance at meetings of creditors, furnishing a schedule of his assets and debts, and generally helping to provide all the information required in equitably winding up his estate. Bankrupts may be arrested and kept in custody on the order of a judge who is furnished with satisfactory proof of such person being about to abscond. An important clause is the one forbidding the acceptance by creditors of a composition prior to the examination of a bankrupt in open Court. After such hearing any application for the Court approving a composition must be signed by a majority in amount of the creditors, and the money to meet all preferred claims and all costs must be deposited where ordered by a judge before such application will be heard. Before any composition is passed by the Court, the judge must be satisfied of its being in the best interests of the creditors, that the bankrupt has not been guilty of any act to bar his discharge and that the agreement of the creditors to the composition offered has not been procured by any form of fraud. This is a highly important feature, as it is notorious that the acceptance of a composition has often been procured by the insolvent bribing one section of his creditors to give their assent by engaging to pay them a further

dividend, after his discharge, out of assets concealed from the whole body of the creditors. After one month and within one year and a half, a discharge may be granted by a judge after hearing any objections thereto unless the bankrupt has committed a penal offence, or concealed his assets, or books, or failed to keep books of account or records by which his true financial condition might be ascertained. After a discharge has been granted it may be revoked within one year if it is shown to have been procured by fraud. A discharge releases a bankrupt from all debts except those for taxes, judgments in actions for fraud or crime, debts not declared by the bankrupt or liabilities incurred by embezzlement, while acting as an officer in a position of trust. A demand for any person, firm or corporation to be declared bankrupt must be endorsed by claims aggregating \$500.

The regulations in regard to preferred creditors are of especial interest to us, as preference claims are understood to be the main difficulty in securing an insolvency Act for the Dominion. A preference is declared to be: any act by which one creditor may obtain a greater percentage of his debt than others of the same class. Any such preference given within four months of bankruptcy, or after a petition was filed, is declared voidable, and any property given to secure a preference is recoverable at law. The assignment by a debtor of property to a solicitor ostensibly to cover costs to be incurred in a bankruptcy suit can be enquired into by the Court and set aside at its discretion. All taxes, Court fees and expenses of the bankruptcy proceedings are declared to have a prior claim to other debts. Wages earned three months before insolvency to extent of \$300 are to be paid in full. In case a discharge is set aside, and the insolvent has acquired property since his composition was accepted, which property is more than sufficient to pay debts incurred since his discharge, such excess is to be applied towards paying the old debts. This provision is intended to meet the case of an insolvent who has secreted his assets until securing a discharge. Several such cases have taken place by which merchants in this city have been defrauded without any remedy. Under the new Act, when a discharged debtor is discovered to have concealed property, his discharge can be cancelled, and the property so concealed applied for the benefit of the original creditors. Any lien created or obtained within four months of a person becoming bankrupt which was obtained when he was insolvent, and which will create a preferential claim, will be dissolved by the Court. Were such a provision put in force in a Canadian Act, the wholesale merchants and bankers would be protected against a practice which obtained in some of the Provinces, where, in view of coming insolvency, some traders granted liens on their estate of a fictitious nature in order to prevent the whole of their assets being taken for the payment of their debts. Other clauses elaborate this provision so as to render it almost impossible for a debtor to make any preference for a fraudulent purpose.

The American Act is exceedingly well drawn in this respect, and affords suggestions for the protection of creditors, which are well worthy the attention of those who are interested in promoting an Insolvency Act for Canada, which includes all who desire to see the present confusion in our laws reduced to uniformity and order. The new Act is defective in that it makes no provision for meeting the objection of bankers to any legislation which would weaken the security and