

ENGLISH BANKRUPTCY AMENDMENTS—LAW SOCIETY, EASTER TERM, 1866.

it shows a tendency to return to the "good old times," when insolvency was considered a crime, and occasionally visited with a little hanging.

Whilst on the subject of the Scotch Bankruptcy laws, it may not be amiss, as it will be certainly amusing to many of our readers who never heard it before, to refer to the punishment inflicted upon the *dyvours* or bankrupts of early time. These unfortunates were obliged to wear in public a parti-colored garment, half yellow and half brown, as a distinguishing dress! We can easily fancy that many a thin-skinned trader would make an extra exertion to "liquidate" in full, rather than wear this prison garb. It is a pity that human laws are not sufficiently discriminating to enable us, even in these days, so to put a mark on *dishonest* insolvents.

This law was only relaxed in the case of innocent insolvents, the victims of misfortune, in 1688; and although the practice had long before fallen into disuse, it was not abolished by statute until 1836.

We have already referred to the proposed alteration of the English Bankrupt Acts, in an article in the *Local Courts Gazette** (copied, we notice, into one of the English legal periodicals), and in it noticed the apparent want of any adequate punishment for frauds on the part of insolvents. We hardly think that this most important part of a good and efficient Bankrupt Act will be omitted. Any Act which is not very explicit on this subject is defective.

It is rather a curious fact in connection with this subject, that the Americans are only now introducing a system of bankruptcy law into their country. The author of a bill recently introduced with this object in view, in closing the debate on the subject, made an able speech in favor of the measure, part of which it may not be uninteresting to publish.

In answering the first objection, that no law should be passed which authorizes the discharge of a debt without payment in full, or which conceals the object of a contract; and that all bankrupt laws on this principle would be pronounced inexpedient and unjust, he said:

"My reply is, that in the progress of civilization it has become repugnant to the consciences of enlightened nations that there should be any

longer servitude for debt. There are two parties to every contract, and there are uncertainties with regard to the performance of it by each. All commercial nations have discovered that it is as necessary for the prompt transaction of business, the preservation of mercantile honor, and the encouragement of trade and enterprise, to provide a remedy for the honest, unfortunate debtor against the persecution of some grasping creditor, as to provide a remedy for the creditor against a fraudulent debtor. The security, even the life of trade, requires that the relief provided by the law should be mutual. Otherwise, honesty is confounded with fraud, and misfortune with crime.

"A well-adjusted system of bankrupt law provides the desired remedy; and while it strengthens rather than weakens the creditor's rights and powers, it rewards unfortunate honesty with emancipation. Hereafter, if this bill becomes a law, imprisonment for debt, that relic of barbarous ages which still lingers in some of the States, will cease to exist, and can never be restored. The energies of the unfortunate debtor will no longer be lost to his family and his country. The past, with its retrospect of embarrassment and misfortune, will no longer cast its baneful shadow over his mind, his future will no longer be uncheered by hope. The pursuit of happiness, the road to honor, a career of industry and enterprise, with its rewards, will again be opened to him, and he will enter anew, as a redeemed man, into the life and prosperity of the State."

The changes that we see going on in the bankrupt laws of England and other countries from year to year, must convince us that we ought always to be ready, after due deliberation, to alter and improve our own, when either the necessities of the trader or the experience of the lawyer demand it—not blindly copying a statute in force in another country, but taking therefrom what may seem to be beneficial to our own.

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The following rule, lately made by the Benchers, is worthy of notice:

"Ordered, that all monies paid to the Law Society shall be received by the sub-treasurer until two p. m. on every day, except Saturday, and on that day until twelve, noon."

The effect of this rule will not be much felt until next Michaelmas Term, when the annual certificates must be taken out. Much more promptitude on the part of the profession