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THE CONFUSIONS OF MODERN INSOLVENCY.

The necessity for some compulsory process for winding up equitably the estates of insolvent traders in this Province is emphasized almost daily. Each new failure makes more evident the lameness and unsatisfactory condition of the present law. The recent alterations in the procedure of the courts tend to increase the complications and difficulties which formerly surrounded the subject. These changes in procedure were designed to facilitate the speedy recovery of judgments in cases in which no real defence existed.

Experience has shown that they may be made use of with signal advantage in cases where both plaintiff and defendant are anxious to attain the same end, that end being an immediate judgment. In other words the special powers conferred by the legislature upon creditors with a view of enabling them quickly to enforce payment of their debts, intended also, partially at least it is presumed, to prevent debtors from giving preferences, is found the safest and most impregnable means of securing these very preferences. This is not the fault of the local authorities, who, we have repeatedly pointed out, are practically precluded from dealing effectually with the questions of preferences and the liquidation of insolvent estates, on account of their limited jurisdiction. The only authority that can enact a law, which will meet the present needs of the business community, is the Dominion Parliament.

The present months of July and August have been prolific of cases where debtors have been able to grant preferences and put their creditors to much inconvenience as well as loss. Not only are creditors seeking their rights at this time of the year, hampered by the imperfect provisions of the law, but they find the existence of vacation an additional drawback. The courts are supposed to be closed, and only certain steps in suits may be taken. Defendants have the power, by entering a defence, to delay proceedings until after vacation. True, on a special application to the judge, immediate judgment may be applied for. But the opinions of the judges as to the cases in which such special favor should be shown during vacation vary so much that the result is wonderfully uncertain. In fact this special assistance appears to be given more frequently in cases where the parties are acting in collusion, than where the proceedings are really adverse.

A striking example of the confusion into which things are thrown by the present mode of dealing with insolvent estates in this Province, was recently afforded in the case of Bull & Co., of Thorold and Welland. This case is not exceptional in its nature, though on account of the extent of the liabilities of the firm, it has attracted a little more than the ordinary amount of notice. The case with its scramble among creditors, solicitors, and court officials, is not without its ludicrous side, though doubtless many of the unfortunate wholesale men, who were kept on tenter-hooks, were scarcely able to appreciate the mirth-provoking side of the picture.

Let our readers imagine a concern that had been floated along for a considerable time after it should have suspended payment but which, upon the trying fourth of the month, finds itself suddenly unable to continue the battle longer. Then comes the conflict of emotions between duty to the general body of creditors, and the peculiar obligations, real or fancied, to some bosom friend, or some creditor who had been a little more generous than the others, or some confiding acquaintance who had been good enough, without consideration, to back the firm's paper. Fancy further, the pressure brought to bear from this quarter, when it gradually leaks out little by little that the game is up. One creditor in consternation implores that he at anyrate be saved. Another urges the peculiar circumstances which render it obligatory on the debtors to see him safe from loss whatever occurs. One urges his past friendliness. Another becomes pathetic over his own perilous condition.

Soon chaos reigns. The sage banker, the ubiquitous attorney and the principal creditor with wits unduly sharpened in view of prospective loss, are upon the scene. Circumstances place the firm first in the hands of one of fortune's favorites. The scramble begins. Writs are issued all over the country by the score. Wily solicitors concoct plausible affidavits and bring long-faced creditors to interview judges who are supposed to be taking their holidays. And it becomes a matter of speculation whether this court or that, whether a judge in the city or one in the country, is the more likely to facilitate the schemes in view. One creditor having effected service of process himself, arranges matters with an end to making it inconvenient for other creditors to find their men. Writs are issued against the firm. Writs are issued against the individual members of the firm. One creditor finds the senior member but cannot find the junior. Another stumbles upon the junior, while the senior evades him.

Clerks in charge are put through a certain unvarying catechism about their principals, whereabouts by a score of eager attorneys, creditors, and sheriff's officers in succession until the iteration and reiteration of the same answers and excuses become monotonous. The privacy of home even, is invaded. The debtors' wives are seen by this creditor and by that, and their impressionable feelings worked upon to show the doleful consequences which must follow if their spouses are not at once forthcoming. Numberless devices are resorted to to gain priority. Writs come

from the north and from the south, from the east, and from the west, and while one creditor is scheming to secure the judge's sympathy, another with an unmaturing claim is moving heaven and earth to have an assignment made for the general benefit of creditors. Friendly creditors failing the desired immediate judgment, get chattel mortgages of questionable validity instead. And so confusion becomes daily worse confounded until at length checked by the much desired assignment.

Nor do the troubles end here. Some of the creditors have been fortunate enough to recover judgments in time to have a precedence of the assignment. Others hold other securities. Some judgments have been recovered with wonderful expedition. Some are perhaps irregular. Questions arise as to the relative exact minutes of time from which executions and assignment take effect. Add to all this, new complications likely to arise on account of an alleged dissolution of partnership, said to have taken place some months ago, though not recorded until within a few days of the suspension, and we see what a cheerful prospect for the liquidation of the concern, creditors have before them.

Bad as all this is, it is not "so bad but that it might be worse." Had the debtors not been successfully prevailed upon to make the assignment, the condition of affairs would be still more perplexing. And what is the remedy for this state of things? Clearly nothing short of some law whereby, when a debtor becomes insolvent his estate may be, by one process, equitably distributed among those entitled thereto, instead of being left to be squandered in ruinously expensive proceedings by each creditor on his own account. Wholesale men will have only themselves to blame if they do not unitedly bring such pressure to bear as will speedily secure the needed changes in the law.

Examples such as the above are of constant occurrence. Nor is the case referred to by any means one of the worst, though on account of its magnitude, one of the most noticeable. About the same time another person in business in this city, suspended payment and coolly proceeded with the realization of his own estate and the collection of his own accounts, in spite of the most urgent proceedings of the creditors seeking to enforce settlement of their claims. This insolvent carefully calculates the time at his disposal before the sheriff can be put in possession, and makes the best possible use of it in pressing collections. This done just at the critical period, he crosses the lines with the proceeds in his pocket. The old law, ineffective as it was, would have completely met the above case, and a great many others, equally glaring, that have occurred within the past few months.

THE BOUNDARIES IMBROGLIO.

Public men are proverbially fond of telling what they have done to entitle them to the regard of their constituents; the propitiation of Buncombe being with them a matter of supreme concern. It was in order for M. Mousseau, when appealing to the electors of Jacques Cartier to tell what he had done on the question of the Ontario