

THE LORD CHANCELLOR OF ENGLAND—INSOLVENCY—CONFLICTING ASSIGNEES.

midst of plans for various reforms that had for years baffled the resources of less able men. He is said not to have his equal in Great Britain in forensic or legal ability, and is in the meridian of his vigorous intellect. But neither his intellectual superiority nor the high office which he held, could avail to give him that firmness of character, which should have rendered him deaf to any voice but that of duty and the public welfare—regardless alike of fear, favour, or affection—above the weaknesses of misplaced confidence—vigilant and acute in detecting frauds upon the public, and superior to allurements of a vicious system, which it would have been his glory to overthrow.

All these minor points of this melancholy subject, will however soon be forgotten, and it behoves us now to turn as well to the bright side of the picture, a view not we think brought as prominently forward as it deserves. History tells us that when Lord Bacon stood self-convicted of great crimes, the nation as one man demanded that he should be punished according to his deserts, without reference to his exalted rank and the fame of his marvellous intellect. He was sentenced to a fine of forty thousand pounds (an immense sum in those days), to be imprisoned in the tower during the king's pleasure, to be incapable of holding any public office, and of sitting in Parliament or coming within the verge of the Court. The same hatred to corruption in high places that effected this, and has made Great Britain conspicuous among the nations of the world, and which has been as it were the salt that kept her pure, still remains. It is a thing to be proud of that even the *suspicion* of impropriety is sufficient to drive from his position the highest and most favoured servant of the Crown, backed up by the prestige of his services and his abilities, and all the influence of the Government.

Thus for the second time has England purged herself from the stain that lay upon her, and that to the ruin of a man worthy, we think, of a better fate. Few countries, if any, can make the same truthful boast. Let it be our endeavour to follow in her footsteps.

INSOLVENCY—CONFLICTING ASSIGNEES.

A much debated point has just been decided in the Court of Chancery under this act, with reference to the respective force and validity of a voluntary assignment made since the act, but not under its provisions, and proceedings under the act for compulsory liquidation.

Sec. 3, 1 (i) of the act provides that a debtor shall be deemed insolvent, and his estate subject to compulsory liquidation, if, amongst other things, he has made any general conveyance or assignment of his property for the benefit of his creditors, otherwise than in the manner prescribed by the act. This provision was generally considered (and it was so held in *Hogge's* case by the learned judge of the County Corrt of York and Peel) not to apply to assignments made previous to the time the Insolvent Act came into force, and which were valid, under the law as it then stood, as general assignments for the benefit of creditors; from which it would follow that assignees appointed under them are still liable and compellable to wind up and distribute the estates entrusted to their care. It would also seem to follow that if an assignment made before the act were bad in point of law as against creditors, it could not prevail against subsequent proceedings under the Insolvent Act; and in discussing this it would be material to consider whether the assignee under the act would have a *locus standi* to contest it, there being no special provision in the act which would make him stand in the stead of the creditors generally.

If making an assignment contrary to the provisions of the act is an act of insolvency, it would seem to follow as a natural consequence that such an assignment could not be permitted to stand in the way of proceedings taken under and in accordance with the act, unless indeed three months should elapse from the time of committing this act of insolvency before the commencement of such proceedings: (Sec. 3, subsec. 5.)

His Lordship Vice-Chancellor Mowat, in giving judgment in *Willson v. Cramp*, the case in which the point came up,* considered that any construction of the act which would prevent an assignee appointed under the act from receiving and administering the property of the insolvent, would render futile the enact-

* Reported in full on page 217.