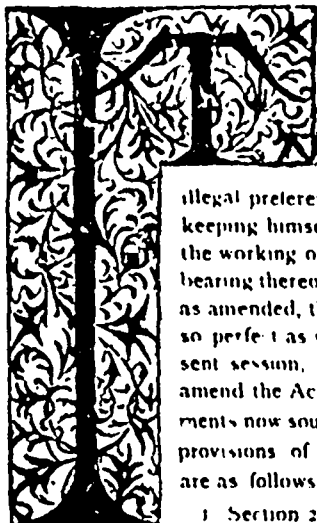


IMPORTANT LEGISLATION.



It will be remembered that at the last session of the Ontario Legislature, Mr. G. B. Smith, member for West York, introduced a bill and successfully carried it through its various stages dealing with illegal preferences. Since then Mr. Smith has been keeping himself thoroughly versed in regard to the working of the Act and decisions of the courts bearing thereon. This satisfied him that the Act as amended, through his instrumentality, was not so perfect as was desired and he has, at the present session, introduced another bill to further amend the Act. To clearly understand the amendments now sought it will be necessary to give the provisions of the bill passed last session. They are as follows:

1. Section 2 of the Act respecting Assignments and Preferences by Insolvent persons is repealed, and the following substituted therefor:

2. 1. Subject to the provisions of the third section of this Act, every gift, conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes or securities, or of shares, dividends, premiums, or bonus in any bank, company or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances, or is unable to pay his debts in full, or knows that he is on the eve of insolvency with intent to defeat, hinder, delay or prejudice his creditors, or any one or more of them, shall as against the creditor or creditors injured, delayed or prejudiced, be utterly void.

2. Subject also to the said provisions of the third section of this Act, every gift, conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes, or securities, or of shares, dividends, premiums, or bonus in any bank, company, or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances, or is unable to pay his debts in full, or knows that he is on the eve of insolvency, or for a creditor with intent to give such creditor an unjust preference over his other creditors or over any one or more of them, shall, as against the creditor or creditors injured, delayed, prejudiced or postponed, be utterly void.

a. Subject to the provisions of section 3 aforesaid, if such transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall in and with respect to any action or proceeding which, within sixty days thereafter, is brought, had or taken to impeach or set aside such transaction, be presumed to have been made with the intent aforesaid, and to be an unjust preference within the meaning hereof, whether the same be made voluntarily or under pressure.

b. Subject to the provisions of section 3 aforesaid, if such transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall, if the debtor within sixty days after the transaction makes an assignment for the benefit of his creditors, be presumed to have been made with the intent aforesaid, and to be an unjust preference within the meaning hereof, whether the same be made voluntarily or under pressure.

The amended bill now introduced reads as follows:

1. Section 2 of the Act Respecting Assignments and Preferences by Insolvent Persons, as the said Act is amended by the Act passed in the 34th year of Her Majesty's reign chaptered 20 is amended by inserting therein before the word "presumed" where it occurs in clauses a and b of sub-section 2 of the said section, the word "conclusively".

2. Where the word "creditors" occurs in the ninth line of sub-

section (2) of the said section 2, and in the second and third lines of clause (a) of said sub-section and in the second and third lines of clause (b) of said sub-section, the same shall be deemed to include any surety and the indorser of any promissory note or bill of exchange, who would upon payment by him of the debt, promissory note or bill of exchange, in respect of which such suretyship was entered into or such endorsement given become a creditor of the person giving the preference within the meaning of said sub-section 2.

3. This Act shall not affect any action, suit or proceeding now pending, but the same shall be adjudicated upon and determined as if this Act had not been passed.

These proposed amendments further safeguard the rights of creditors, and it would now appear utterly impossible for the Courts to find an opening for the exercise of their peculiar faculty of rendering judgments to perplex and harass the trade of the country. In regard to section 2, it will be seen that it places the surety or indorser of a note in the same position as other creditors after the debt or note has been paid by such surety or indorser. That is to say that a surety or indorser cannot rank on the estate unless he has paid the debt or note and must take his chances along with the other creditors and not as a preferred creditor.

Another important measure, introduced by the Attorney-General, is "An Act to further amend the law respecting mortgages and sales of personal property." It is as follows:—

1. The provisions of the Act respecting Mortgages and Sales of Personal Property shall extend to mortgages and sales of goods and chattels, notwithstanding that such goods and chattels may not be the property of, or may not be in the possession, custody or control of, the mortgagor or bargainor or any one on his behalf at the time of the making of such mortgage or sale, and notwithstanding that such goods or chattels may be intended to be delivered at some future time, or that the same may not at the time of the making of said mortgage or sale be actually procured or provided, or fit or ready for delivery, and notwithstanding that some act may be required for the making or completing of such goods and chattels, or rendering the same fit for delivery.

2. The words "void as against creditors" in said Act shall extend to simple contract creditors of the mortgagor or bargainor suing on behalf of themselves and other creditors, and to any assignee for the general benefit of creditors within the meaning of the Act respecting Assignments and Preferences by Insolvent Persons and amendments thereto, as well as to creditors having executions against the goods and chattels of the mortgagor or bargainor in the hands of the sheriff or other officer.

3. The "actual and continued change of possession" in said Act mentioned shall be taken to be such change of possession as is open, notorious and reasonably sufficient to afford public notice thereof.

4. A mortgage or sale declared by said Act to be void as against creditors and subsequent purchasers or mortgagees shall be incapable of being made good or valid as against such creditors and purchasers by the subsequent taking of possession of the things mortgaged or sold by or on behalf of the mortgagee or bargainor.

We draw special attention to section 3 which speaks for itself.

A clause has also been added to the Act respecting liens which in effect is that all liens on stocks of goods for sale in stores on which it is intended to retain the ownership to the vendor, while they give over possession to the vendee, must be registered with the clerk of the County Court the same as chattel mortgages.

Mr. Tait, one of the Toronto members, has introduced a bill to amend the Assessment Act as follows:

1. Section 7 of The Assessment Act is amended by inserting the following after sub-section 17:

17a. The capital of any person which is invested or employed in any wholesale or retail mercantile business in this Province, and the stock in-trade, book debts and other assets held for the purposes of or in connection with said business, but the income or profits derived from such capital shall be liable to be assessed.

2. Section 1 of The Assessment Amendment Act, 1891, is repealed.

We have advocated the passage of such a measure on the ground of justice and fair play and will be very much surprised if the bill is not adopted by the Legislature. The agitation has been kept up by the special committee of the dry goods section of the Toronto Board of Trade and success should crown their efforts. The Attorney General will receive a deputation of those favoring the measure on the 22nd of this month and then the bill will come on for its second reading. If the Attorney General is favorably impressed with the arguments of the deputation, as there is every reason to believe that he will, then the success of the measure is assured and a long standing and iniquitous burden upon merchants and manufacturers will be removed.