

fact, been like the disputed oyster in the fable—with the creditors on the right and the debtor on the left; the law has opened and quietly proceeds to swallow the oyster, handing the shells to either side; that sent to the left, containing, indeed, the “pearl of great price,” in the shape of a *discharge*; that to the right, the mother of the pearl only, with the bill of the price, staring from its deceptive glitter. Even in the operation of the lately repealed Insolvent Act, it not unfrequently occurred to us, that the sixty, seventy, or an hundred pounds, thrown away upon *legal proceedings* and notices, *usque ad nauseam* by persons professing to have nothing, would have been much more fitly bestowed in paying even a trifling dividend, which would at least have shown the will, if the ability was slight.

Such then being the tolerably accurate history of the past, we question whether the mercantile classes of this great and growing Province, will quietly submit to future legislation in the same objectionable direction, nor is it to be wondered at, that, unable to devise a better, the tendency rather leans to a desire for an utter absence of all law on the subject.

No commercial country can long prosper, however, without well defined laws, regulating, what of necessity, follows the footsteps of commerce in all countries; and, therefore, we trust but short time will elapse before the production of some well matured measure. All that a bankrupt law ought to aim at, is, an equitable, speedy, and economical distribution of whatever a man is able to pay, less than the twenty shillings per pound which he is justly due, among those to whom he is so indebted, and securing the honest unfortunate from vindictive proceeding, or any prospective wringing of the balance of deficiency out of his future exertions, carefully fencing the city of refuge against the entrance of the fraudulent or dishonest, or punishing them if they obtain admission.

Now, if one country, from which many in this Province hail, which has long enjoyed a prestige in reference to her laws, both in regard to bankruptcy and banking, has long ago made the path to this desirable terminus tolerably clear and open; and has even lately cut away some of the obstructions which entangled it, why should we, who are as of yesterday, hesitate to follow her lead? Thus, we believe, Scotland has done, and that by the introduction of a consolidated Bankrupt Law, which only came into operation on the 1st November last, what before enjoyed a fair reputation for equitable provisions, has been rendered as yet the *ne plus ultra* of bankruptcy legislation.

It would exceed the limits of this article minutely to analyze the provisions of this statute, but its principles are easily shown forth. Introducing the debtor and creditors by mutual consent, or if necessary, without the debtor's consent, merely within the precincts of the Court, it leaves the creditors to be the judges of their own interest in winding up and realizing the estate for their own benefit, evoking only as much or as little law as they may see needful. The first step the law takes, except under special circumstances, is to appoint a meeting of creditors, at which the bankrupt must produce a state of his affairs, and if it seem most proper to a certain majority of the creditors present, that the estate would be better wound up by private arrangement, the law sanctions such arrangement, and gives facilities and powers for carrying it out; if, on the other hand, this cannot be achieved, the creditors elect a trustee in whom the estate vests, for their