

# THE CANADIAN DRY GOODS REVIEW

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## THE DRY GOODS REVIEW

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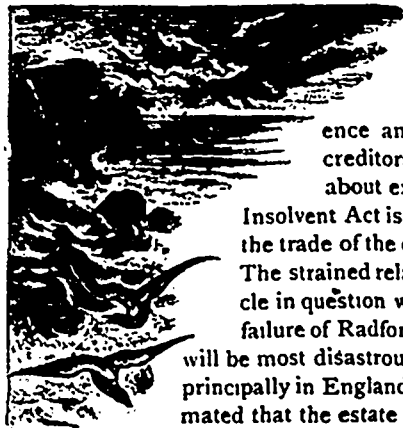
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### WANTED AN INSOLVENT ACT.



THE article in our last issue from the Drapers' Record shows plainly that the patience and forbearance of British creditors of Canadian bankrupts are about exhausted and that unless an Insolvent Act is passed without loss of time the trade of the country will suffer materially. The strained relations referred to in the article in question will not be minimized by the failure of Radford Bros. of Montreal, which will be most disastrous to the creditors, who are principally in England and Scotland, as it is estimated that the estate will not realize more than 20 cents on the dollar, if even that. Our English friends need not, however, imagine that the mercantile community of this country is not as fully alive as they to the beneficial effect on the trade of the passage of an Insolvent Act and we have no hesitation in saying that its appearance on the Statute Books of the Dominion would be just as gladly welcomed by them. Those merchants and others who clamoured for the repeal of the Insolvent Act of 1879 have come to recognize the errors of their ways and would, we feel sure, be very thankful to have the same Act in force to-day. The government were unable to resist the strong pressure brought to bear upon them for its repeal, but Sir John Macdonald, who voted against the repeal, expressed the opinion then that those who were so anxious to be without an Insolvent Act would soon find that they had made a mistake and his words have come true. The principal argument used against the Act was that any one could get a discharge. Of course they could if the creditors did not take any trouble to stop it but they had the power to do so if they chose to exercise it. The present leader of the government, Hon. Mr. Abbott, framed the first Insolvent Act, and as he thoroughly understands the question it is not at all improbable that an Act can be put through, if not this session, at least the

next,—that is to say if our Boards of Trade and the business community take the matter in hand at once and bring it to the notice of the government.

Regarding the Ontario Act the recent decisions in the courts have undoubtedly caused serious alarm among the wholesale merchants, notably the decision of Chief Justice Galt on section nine, which he declared ultra vires. A case in point, Hanover Furniture Company v. Francis Owen, has just been wound up in the Tenth Division Court, Toronto. The plaintiffs in the case obtained judgment against the defendant and placed an execution in the bailiff's hands. Immediately after the seizure Owen assigned for the benefit of his creditors to W. Robertson, of Hamilton, who demanded the goods. The execution creditors refused to deliver up possession and the bailiff interpleaded, the issue being tried by Judge Morson, who gave judgment in favor of the execution creditors. From this judgment the assignee appealed to Senior Judge Morgan, who dismissed the appeal with costs. The bailiff, after having been in possession fifty-three days, sold the goods and paid the money to the Hanover Company, who were thus the only creditors of Owen to receive anything, there being nothing left after payment of the costs to satisfy the remaining claims, which aggregated about \$12,000. The manifest injustice of such cases need not be dwelt upon and the sooner the matter is remedied the better it will be for the whole business community throughout the Province.

The creditors are quite powerless to take the estate out of the hands of the sheriff, once it gets there, and place it in the hands of a man of their own choosing, who in all probability would be better fitted to wind it up. The sheriff goes on winding up the estate under the Creditors Relief Act, and the creditors have no control over him whatever as to the manner in which the assets shall be realized.

They receive no notification other than the ordinary sheriff's notice, which many of them may never see or hear of. Therefore the estate may be distributed among only a few of them, whereas an assignee is bound to notify, by registered letter, each creditor whose name he finds in the insolvent's books or becomes aware of in any other way.

An assignment made under the Ontario Act or an Act of any of the provinces, makes no provision for the discharge of the insolvent, because the provincial parliaments have no power to pass an Insolvent Act which can only be done by the Dominion parliament. Consequently many deserving men who have been unfortunate cannot get their discharge because some greedy and exacting creditors refuse to sign it.

It is not creditable to the Dominion that its bankruptcy laws should be in such an unsatisfactory and muddled state. We repeat that it is quite evident our trade and commerce will be seriously injured unless an Insolvent Act is passed by the Dominion parliament, and it therefore behooves our Boards of Trade and business men generally to be up and doing in the premises so as to shew British merchants and manufacturers that they, at least, do not merit the odium of allowing things to remain as they are without making a strong effort to rectify them.