

The Commercial

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NATIONAL BANKRUPTCY LAW.

In the United States, as in Canada, the need of a uniform bankruptcy law for the whole country, is greatly felt. Here in Canada we have different laws in the different provinces, while in the republic the law varies in different states. Some of our provincial laws are good and some bad, affording opportunity for preferences and unfair dealings, and the same is true in the States. Bankruptcy laws should from the very nature of things, be federal in character, and not local. A measure is now before Congress, known as the Torrey bill, which aims to provide a uniform system of procedure in bankruptcy, under federal administration. The measure has received the endorsement of leading commercial bodies throughout the country, and is generally regarded with favor, as it has come to be a belief that in order to secure justice, uniformity and economy the state bankruptcy laws should be superceded by a federal enactment, covering the whole country.

In Canada at present there is a movement in commercial circles in favor of a national insolvency law, to supercede varying provincial laws. It will therefore be of interest to consider some of the arguments advanced in the States, in favor of a uniform national system of bankruptcy. Following are some reasons given in the report of the judiciary committee, in favor of the proposed national law:—

A debtor cannot under the present insolvency laws of most of the states, secure an extension of time or a settlement, except by the voluntary clemency of everyone of his creditors, whereas under the proposed bankruptcy law he may, with the concurrence of a majority of his creditors, secure more time to pay his debts or effect a compromise by means of which the amounts owed will be reduced. A creditor who wishes to secure a settlement for a debtor under the laws of most of the states may be practically coerced into purchasing the claims of other creditors who have it in their power to prevent a settlement, and in that way secure a price for their consent, while under the bill proposed, creditors of the same class will enjoy equal rights, and cannot, therefore, impose on each other. Under many of the state laws a debtor cannot legally secure even a limited discharge; under any of them he cannot secure a discharge from a non-resident creditor, while under the proposed law a debtor may, if an honest man, secure a discharge as a matter not of clemency but of right. A creditor who donates or sells a release to a debtor by the laws of most of the states knows that some other creditor may have joined therein on more advantageous terms, participated in fraudulent misrepresentations, or become the subject of favoritism, while under the proposed law every creditor will receive only what in equity belongs to him, and will be bound by the decree of the court confirming the settlement. Under the present laws of most of the states a debtor's property may be attached while he is temporarily embarrassed and broken up in business, though amply able, if given a little time, to pay his creditors and have a surplus left, while under the proposed law attachments will not be availing solely to the creditors causing them to be levied, provided the defendant is adjudged bankrupt under

a petition filed within four months after the levy of the attachment.

Under many of the present state insolvency laws a creditor is frequently compelled, through fear that some other creditor will take advantage of a common debtor, to make an affidavit as to facts he does not know to be true, and to give a bond in order to secure a ruinous attachment against an honest debtor, while under the proposed law he can deliberately inquire into the affairs of his debtor, and, if necessary, render him assistance in the form of an extension of time, of the scaling of the debt or of the loan of money, with the assurance that his generosity will be appreciated by the debtor, and that he will be protected by the court. Under the present insolvency laws of many of the states a debtor cannot, as a practical proposition, have a meeting of his creditors, because of a probable scramble among the creditors to secure their claims by attachments, garnishments and replevins in case of a notice calling such meeting, while under the proposed law such a meeting can be called as often as desirable, since the creditors cannot get an advantage over either the debtor or each other on learning that he needs their assistance. Under the insolvency enactments of most of the states a creditor cannot secure the confidence of his embarrassed debtor, because the debtor knows that the creditor will be compelled in his own selfish interest to take advantage of him and the other creditors; if the present law be enacted the creditor can always have the confidence of his debtors, and be thereby enabled to assist them in avoiding trouble and to help them, if it comes, with advice and with money, if occasion requires.

A debtor, by the terms of many of the present state laws, may be induced to give or coerced into giving preferences, and thereby bring on his financial ruin without actual necessity, with the result of favoring a few creditors and being compelled to continue to owe the others; the proposed act forbids the giving and receiving of preferences, and, as a result, the creditors will receive their equitable share of the estate, and the debtor, if honest, will be discharged. A creditor, in view of the provisions of many of the present insolvency laws, suffers a nightmare of apprehensions lest his debtors should, in anticipation of real or imaginary dangers, dispose of their estates to his financial detriment; under the measure submitted for passage he will be without fear, as he knows that whatever misfortune may befall his debtors he will receive his share of their estates over and above their exemptions. A debtor frequently commits moral and occasionally legal wrongs with regard to his property in the protection of his dependents under present laws; he will not have occasion to do so after the passage of the proposed law, as it will permit him to retain the exemptions allowed by the laws of his state, grant him a discharge if he is honest, and thereby enable him to honorably perform his duties to his dependents.

A creditor at present, when selling goods or loaning money, must take the chances of his debtor giving secret liens and conspiring with others to defraud him; under the bill now favorably reported, such secret liens cannot be enforced and such frauds may be prevented. He will, therefore, be liberal in extending credit, and thereby greatly benefit his debtors. A debtor may now, almost without restraint, engage in reckless speculation, buy goods, not intending to pay for them, and make away with his assets, with but small risk of punishment; under the proposed act such conduct, if the creditors protect their interests, will result in a liquidation of his estate, the refusal of a discharge, and in his punishment; the effect will be a diminution of illegitimate transactions and the promotion of conservative methods in the affairs of commerce. A creditor under the present laws of many of the states is without remedy as against his fraudulent debtor; by the provisions of the proposed law an adjudication may be secured; the entire property and

all property rights will thereupon vest in the trustee, who will be entitled to use all processes known to the state and federal courts for securing the property and enforcing the property rights for the benefit of all the creditors. A debtor, in view of the present laws, cannot now secure reasonable financial concessions from his creditors, because they prefer to obtain judgments against him and hold them over him; after the proposed law is enacted he can obtain such concessions as he may be equitably entitled to, because his creditors will know that unless they are granted he can go into a bankruptcy court and enforce them.

A creditor knows that less than 2 per cent. of the people engaged in conducting the credit transactions of the country fail annually, and realizes that all of such debtors may now defraud him of every cent of his claim, and that such a result would cripple him financially, while under the proposed law such claims would all be collectible in part, and hence it would be impossible for him to be seriously crippled by the failure of that percentage of his debtors.

HARDY FRUITS.

A bulletin upon cherries has been prepared by John Craig, horticulturist of the Dominion Experimental farm at Ottawa, and published by the Department of Agriculture. The bulletin deals principally with results of experiments with hardy varieties of cherries, which have been brought from northern Europe, and tested at the farm during the past few years. Some of these varieties appear to be very hardy, and they have done well at the experimental farm and in portions of Quebec, where experimented with. It is expected that some of these varieties of cherries will prove adapted to cultivation in the prairie region of Manitoba and the Territories, where the list of tree fruits sufficiently hardy to stand the climate, is somewhat limited. Buds of these cherries were distributed last season among nurserymen, and a further distribution will be made from the experimental farm next season of propagation. The bulletin gives instructions in the various modes of propagating cherries. No doubt in time many new varieties of fruit, which will bear cultivation in our climate, will be brought out by these experiments carried on at the farm.

NEEDED RAILWAY EXTENSION.

A year or two ago the COMMERCIAL referred at length to the desirability of opening up the territory north of Stonewall, in this Province, to railway communication. There is a large area of country, north of the present terminus of the Stonewall branch railway, at Stonewall, and between lakes Winnipeg and Manitoba, which is well adapted to settlement. The region is specially reliable for mixed farming, being well wooded and watered, and with rich pasturage. It is in every respect an excellent district for farming and stock-raising, and the abundance of wood for fuel is a valuable feature. Its proximity to Winnipeg is also an advantage. For some distance north of Stonewall the country is very well settled, but as the distance from the railway increases, settlement becomes more sparse. The geographical location of this portion of the Province, which has placed it outside the line of usual travel westward, has led to a lack of appreciation of its value for settlement. A railway up through the region and which could be made to tap