

has gone rather to the opposite extreme, the creditor now being viewed by the law as the offender, and the debtor as the ill-used individual. It is hard to say, as a matter of public policy, whether or not the evils produced by an over consideration for the unfortunate in the enactment of a bankruptcy law are in excess of the benefits. It is found, in Ontario at least, that failures have become very frequent, that the standard of commercial morality has been lowered, and that the hero of repeated compositions or questionable suspensions has just as good a chance in the world and holds his head quite as high in the church as the man who has paid his debts in full. The facilities afforded by legislation for escape, on the part of the debtor, from the consequences of recklessness, or ignorance, or fraud, are not unsatisfactory so far as he is concerned. At the same time, we admit that creditors themselves are greatly to blame for the temptation they sometimes lay before the debtor. No trader has difficulty in getting goods on credit, more especially so when over-importation has left large stocks on the shelves of our wholesale houses. If a country dealer cannot obtain credit in one city he can go to another, and there have his orders filled. If one Province suspect him, he need only go to another. Character now-a-days is not a requisite where rash competition has full play. No law could be framed to meet such a state of affairs. If an insolvency law such as ours affords facilities to dishonesty, it is very questionable whether it does so to a greater extent than the present system of credit which excessive competition has engendered.

However, as we have a system by which escape from debts is furnished, it is advisable to perfect it, as far as possible, so that justice may be done between debtor and creditor. The report of the Committee of the House of Commons, appointed to examine the subject of bankruptcy and insolvency, contains suggestions which are worthy of consideration. It appears that in New Brunswick there is no bankrupt or insolvent law. In Nova Scotia an act is in force for the relief of insolvent debtors, but its operation is limited. Practically the only insolvent or bankrupt law in the Dominion which is extensively resorted to is the Insolvent Act of 1864, in force in Ontario and Quebec, and now, we suppose, about to be extended to the other Provinces. Under this Act a discharge may be obtained by consent of a certain proportion of creditors; by a deed of composition and discharge assented to by a similar proportion of creditors; or by order of a Judge made after the expiration of one year from the date of insolvency. We agree with the committee in thinking that a Judge should have a power in respect of discharge, if we are to have an insolvency law at all. Were discharges classified as first, second, or third class, opportunity would be afforded of punishing indirectly in cases where miscon-

duct is not susceptible of exact definition. Extravagance, over-trading, or undue speculation might be thus censured. The great trouble is not with glaring frauds, but rather with those innumerable forms of improper conduct which cannot, with propriety, be made the subject of penal enactment. At present the circumstances under which a Judge is bound to refuse a discharge consist of fraudulent preferences; fraud in procuring the assent of creditors; fraudulent concealment or retention of assets; misconduct on examination; neglect to keep a cash book and other suitable books of accounts; and refusal of delivery of such books. Whether non-payment of a dividend exceeding a certain sum should not be added to these, is questionable. In the United States' law such a provision finds favour, but it has been rejected in England. The committee are adverse to its adoption, and justify themselves by a forcible argument. We are not aware that it has yet been decided that the Act embraces those cases in which no assets are shewn by the insolvent. Mr. Justice Adam Wilson, in a recent decision, raised the question, but did not pronounce upon it. It might be as well to have the point made clear in amending the Act.

It has been proposed that the discharge should not be final, but that the debtor should always be subject to a further contribution towards his indebtedness, to be levied under an order of the Judge. This idea has been adopted in England. But we cannot, consistently with the principles on which the Insolvency Act rests, follow English legislation in this particular, owing to the proximity of the United States. It has been thought expedient to offer the debtor an inducement to remain in the country and recommence his career, and it would be bad policy to defeat the very object of the Act by conditions not likely to produce any good results.

The great objects to be arrived at are simplicity of procedure, a speedy realization of assets, and the prevention of fraud. There is no advantage in spreading proceedings over a great length of time, or in the multiplication of expensive advertisements in the *Gazette*. Some cases may and should be disposed of in a quarter of the time rendered necessary by the Act. Why should an insolvent be forced to wait a year before he can apply to a Judge for a discharge? That year is generally one of virtual idleness and indecision.

The committee considers the present law to be open to objection in the following particulars: (1) In permitting delay in divesting the debtor of his estate in voluntary assignments; and when a proceeding was adopted which was not open to this objection, leaving the choice of the assignee to the debtor. (2) In imposing any restriction either dependent on residence or official character (if, in fact, such be its correct interpretation) upon the choice of an assignee by the credi-

tors. (3) In not providing a more convenient means by which the creditors could exercise a constant control and supervision over the assignee, by means of inspectors, of a supervising committee, or otherwise. (4) In requiring too long a period to intervene before real estate can be sold, dividend declared, or meeting of creditors validly held. (5) In not permitting the assignees, with the authority of the creditors, to sell the entire estate of the insolvent in one lot, either at a fixed price, or for a percentage upon the liabilities. (6) In not providing for the punishment of fraudulent acts as crimes. (7) In abridging to too great an extent the power of the creditors over the debtor's discharge. (8) In not granting power to the judge and the creditors to mark disapprobation of the conduct of the debtor by granting a discharge of an inferior class. (9) In not making more ample provision for facilitating compositions, particularly with respect to compositions for time payments. (10) In not authorizing the contestation at the expense of the estate at the discharge, or conformation of the discharge, of a debtor. (11) In several minor details as to procedure, chiefly in the province of Ontario.

INTERCOLONIAL TRADE *ONE ONLY SAFEGUARD AGAINST DISRUPTION. By R. G. Haliburton, M.A.

Such is the title of a pamphlet of some forty pages by the above author, which, though dealing with a dry subject, is interesting and attractive. Its sentiments are evidently inspired by the right kind of motives, and are opportune, and calculated to do good at the present stage. Mr. Haliburton's views have a great deal of good sense in them, and are well backed up by sound reasoning. His pamphlet is adapted to impart a correct idea of our commercial position and our prospects, and these latter the writer refers to in flattering terms. Though speaking from a Nova Scotia standpoint, there is much fairness in the ideas thrown out, showing evidently that Mr. Haliburton has not permitted popular clamor in his own Province to dwarf his ideas, but endeavours to point out the sources of the existing dissatisfaction in Nova Scotia, and seeks to have these removed instead of advising a return to the old colonial position. This pamphlet ought to be generally read.

STATEMENTS RELATING TO TRADE, NAVIGATION, MINING, &c., OF THE DOMINION OF CANADA, AND ANNUAL REPORT OF THE COMMERCE OF MONTREAL FOR 1867. By Wm. J. Patterson, Secretary of Board of Trade and Corn Exchange Association, Montreal.

This, the fifth of a series of Annual Reports published by Mr. Patterson, is a comprehensive and eminently practical compilation necessary involving the expenditure of much thought and research. It is a little better than any of its predecessors, having quite as wide a scope, and being arranged in a more readable shape. We cannot undertake to devote the space necessary to give even an idea of its arrangement, or a summary of its contents, but shall make some extracts from it as we find opportunity. Every business man in the Dominion should obtain and preserve a copy.