

advantage of law which equity would deny them ; our Courts teem with instances of attempted and but too often futile resistance to the rule which appears to have been only that of

“The good old way, the simple plan,  
That he should take who has the power,  
And he should keep who can ;”

and a chief in the mercantile community will exhibit underhand bills of sale, chattel mortgages, and confessions of judgment, through which he has “rendered himself master of the situation,” with as great a feeling of triumph as his aboriginal prototype in savage life would have exhibited so many scalps ; but this state of things cannot long exist, the material scalping knife has been sheathed by the march of civilization, and the allegorical must follow by the growing mercantile intelligence of the age.

Nor is this all. The state of the law, or rather the absence of the law, which (through instruments not unfrequently executed, and taken as part and parcel of the arrangement on first opening business,) enables a wholesale house to place itself individually, and, to the prejudice of subsequent creditors, beyond the ordinary risks which appertain to the giving of all mercantile credit, has led to a widely-extended and unhealthy system of trade, of which not only the Province, but shipping houses at home are now reaping the bitter fruits.

With a mere outward distinction in name, sufficient for the achievement of the important object of raising a fictitious capital through Bank accommodation, which, in many instances, is rendered doubly fictitious by the prepayment in defiance of all the rules of mercantile prudence of unmatured obligations, into hands from which these obligations have already passed for “value received,”—enabled to assume the position of creditors where even-handed mercantile justice would make them partners, a mere *alter ego* ramification of goods depots, by would-be-monopolists, prevails throughout the cities, towns and villages of this Province, which, irrespective of the positive harm they inflict upon established trade, exclude by an unhealthy competition with parties as ostensible managers, but having no real interest at stake, the settlement of bona fide traders, who, to good character, may add such an amount of even limited means, as will at least, afford an average guarantee to those who are called upon to give credit, that attempted success will be tempered by prudence and caution. This system it is, which is completely changing the character of Canada, as an eligible place of settlement for persons of limited means, for which it has hitherto been so highly lauded, and until the axe is laid to the root of this superstructure, until “legislators in their wisdom, devise some means to keep in the natural bounds marked out by the requirements of consumption,” this undue expansion of illegitimate trade, until bankers in regarding the face of a note, really think it of some importance to scrutinize the circumstances and position of the promiser for “value received,” with as much, or even more minuteness than those of the promisee who comes before them in the character of “value expected,” it will inevitably occur that a sowing of the wind will periodically result in the reaping of the whirlwind.”

Also, page 100:—

“With recollections of the former expired Bankrupt Law, the decease of which was far from being regretted, this alone it is, which ‘gives us peace, and makes us rather choose the ills we have, than fly to others, that we know not of,’ or, rather, that we know too much of, for it is an undeniable fact, that hitherto in bankruptcy affairs the mediation betwixt one party having nothing to lose, and the other parties something more than they had already lost, the Law has had more than the lion’s share, the reversion becoming “small by begrees and legally less,” reaching at length that homœopathic stage of dilution, where something ends and nothing begins. A previous writer has defined a bankrupt as “a corpse in