

to the claims of third parties, it would seem that he is also to be a judge. A little further on (P. 78) the author cites from a treatise by Mr. Edgar of Toronto, a passage as to the duties of the assignee. The Act imposes upon assignees, men for the most part destitute of legal knowledge, the onerous duty of deciding disputes as to the admissibility of evidence, &c., points which often perplex the most experienced Judges. This part of the bankrupt system we cannot help regarding as highly dangerous. Assignees possess the most extensive powers. They may be guilty of the most arbitrary acts, and there is hardly any way of controlling them, and in any dispute in which they may be involved, they will generally have the privilege of fighting at the expense of the estate.

Page 99, Mr. Girouard considers the question whether there is a right of appeal from a Judge's order. Under the ordinary statutory law an appeal lies "from any judgment of the Superior Court." Is a Judge's order under the Insolvent Act equivalent to a judgment of the Superior Court? Since the publication of Mr. Girouard's work, this question has been decided in the affirmative by the Court of Review in the case of *Johnston v. Kelly*, reported in the present number.

Mr. Girouard (P. 100) finds fault with the delays granted to insolvents, it being in their power to extend the time for the first meeting of their creditors. Even the most insignificant notice must be published for two weeks, and the notice to file claims for two months.

Page 120, the commentator points out that there is no punishment provided in case the insolvent covers up fraudulent transactions by making away with his books. P. 127, the opinion is expressed that the action *en séparation de corps et de biens* does not require to be advertised like the action *en séparation de biens*, and that this unnecessary publicity will prove a source of pain to the injured wife.

P. 129, Mr. Girouard thinks the wife may be made a witness against her husband under the following clause, "any other person who is believed to possess information respecting the estate or effects of the insolvent, may also be from time to time examined before the Judge upon oath."

Such are some of the points noticed by Mr. Girouard in the course of his commentary. His conclusions are strongly adverse to the new law. He says it is easy to perceive that the Insolvent Act is incomplete and prejudicial to the commerce of the country in general. It opens new doors to fraud, and affords to the bankrupt new

means of deception. Moreover, Mr. Girouard thinks that this, like every other bankrupt law, will injure our credit abroad. Canada cannot placard her losses and failures without creating mistrust in the mind of foreign exporters and manufacturers. "Finally," he says, "we think we do not stretch the truth in affirming that a large number of merchants would be satisfied with a few amendments and simple additions to the existing laws, for the sole purpose of defining and punishing fraud and giving to the *cession de biens* its proper and necessary effects. Let the Legislature, by rigorous enactments, endeavour to banish fraud; and in order to do so, let it introduce the presumptions of fraud consecrated by the code of the commercial nations of Europe; let it require from each trader the keeping of regular books of account and authorize the seizure of the same, let it strike without mercy at *séparations de biens* and fraudulent commercial partnerships—the two great plagues of our trade; let it force the *marchande publique* to carry on business under her own name and not under that of her husband, &c."

To a considerable extent we must concur in the foregoing remarks. The Insolvent Act does not appear to have fulfilled the expectations that were formed of it, and a growing dissatisfaction exists in the mercantile community. It will be curious hereafter to observe what dividends have been paid by estates that have fallen into the hands of official assignees. Cases have been brought under our notice where the insolvent would gladly have compounded for 2s. 6d. or more, and yet no dividend has ever been declared by the official assignee. Some of the defects have been remedied by the Bill passed last Session, and the expense of advertising has been materially diminished. Nevertheless we think very important amendments must yet be made, otherwise the day can not be far distant when the expediency of entirely abolishing the Act will be discussed in our Boards of Trade, and in our Legislature.

#### ADMINISTRATION OF JUSTICE.

This is the title of an anonymous letter which appeared in the *Minerve* on the 21st September last, over the signature "*Quelques Avocats Courageux*." As this communication attracted considerable attention at the time of its appearance, it may call for a passing notice in a journal devoted to legal subjects, however the propriety of publishing such letter may be questioned. The point which the writer of the letter ap-