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THE STAMP ACTS.

The decision in *Falardeau* v. *Smith*, reported in the present issue, is of importance, inasmuch as it decides by judicial authority one of the doubtful points which, strange to say, occur in so apparently simple an operation as properly stamping a promissory note. In this case the stamps were placed on the note at the time it was made, but were not cancelled by the maker. The plaintiff, the payee, moved, in the course of the suit, to be permitted to validate the note by affixing double stamps, and permission was granted. The case of *Delbar* v. *Landa*, 22 L. C. J. 46, in which Judge Torrance held that it is not essential that the maker should cancel the stamps, was cited and approved. It may be remarked that the latter decision was also followed in *Gnaedinger* v. *McLean* (S. C. Montreal, 31st Oct., 1878), in which Judge Jetté held that the note was validly stamped where the stamps were properly effaced by the payee's clerk on the day the note was made. The tenor of all the late decisions on this subject is that where there has been no intention to defraud the revenue, the note will either be held valid, or may be validated by double stamping.

The learned Judge referred to the number and complication of the Acts relating to the stamping of promissory notes. It is much to be regretted that such complication should exist, for if the law is so involved and obscure as to puzzle lawyers, how are the public generally to feel confident that they have discovered its true interpretation? A bill has been passed, during the late session at Ottawa, to consolidate the Stamp Acts, and it is to be hoped that this measure will simplify the law on this subject.

THE INSOLVENT ACT.

By the narrow majority of four in the Senate, the country has been subjected to the evils of the Insolvent Act for another year, although the Commons by a vote of nearly two to one had pronounced for its repeal. This decision of the Senate has been viewed with anything but satisfaction by the majority of the people. If the vote in favor of repeal in the Commons had been a narrow one, or if the vote had been surrounded by any circumstances which could have raised a suspicion that it was not the deliberate opinion of the House, the action of the Senate might have had something to rest upon. But the facts are precisely the other way. Nor can the Senate claim to be exercising a conservative influence in preserving the Act, for the Act itself was an innovation and an experiment, and being proved a gigantic evil, it might have been supposed that the Senate would have been the first to revert to the old order of things. However, repeal, or an Act of limited scope for the equitable distribution of insolvent estates, is now only a question of time.

ACCOMMODATION ENDORSERS.

The question which arose in *Craig* v. *Quintal* (p. 163) is important, and as the learned Judge observed, was probably presented for the first time in our Courts. Quintal, the defendant, had endorsed paper for the accommodation of a firm which had become insolvent and assigned to the plaintiff. None of the notes were paid before maturity. The assignee sued the accommodation endorser, who was not a creditor of the insolvents, and the question was whether he was liable. The Court held that Quintal, being an endorser for accommodation merely, and not having benefitted in any way by the endorsement, no action could be maintained against him by the assignee to the insolvents.

THE SUPREME COURT.

A bill was introduced during the session which has just closed for the repeal of the Acts respecting the Supreme Court, and although the measure, as a matter of course, was rejected, yet the discussion to which it gave rise revealed very distinctly that the Court has few admirers, and that however necessary such a tribunal may be under our new federation, the early history of the Court created to fill the want has not inspired much satisfaction. This is saying nothing new to lawyers in this Province, for it has long been evident that some of them, as well as their clients, are unwilling to take any

case to Ottawa which can possibly be carried to England. The reason for this state of things is to be found in the dissimilarity of the law in the different Provinces from which the judges have been taken, and the fact that the cases from this Province are generally supposed to be left chiefly to the two members who were appointed from the Bench and Bar of Quebec.

NOTES OF CASES.

SUPERIOR COURT.

Montreal, May 10, 1879.

JOHNSON, J.

FALARDEAU v. SMITH et al.

Stamp on promissory note not duly cancelled—Payee may validate note by double stamping.

JOHNSON, J. The plaintiff's action is to recover from the defendants the amount of their promissory note, payable to the plaintiff's order at his office here. Smith alone has pleaded: 1st, He pleads there is no right of action, the stamps having been cancelled by the plaintiff himself, who by law was not entitled to cancel them except by paying double duty at the time; and secondly he pleads that even if the note be considered as legally stamped, the plaintiff and all the defendants, together with a gentleman named Sanderson, were associated for the purpose of making a tender to the Government for the lease of a railway, and that a deposit of $1,000 was required to be made with their tender, and they were to contribute $200 apiece; but the one of them now pleading to the action, not having the ready money, gave the note now sued on to represent his share; that the thousand dollars were deposited with the Government, and were to be returned if the parties making the tender did not get the contract. That they all agreed among themselves that any of them might retire from the scheme before the acceptance of their tender. That the tender was not accepted, and the whole of the money has been returned by the Government. He further says that he formally retired from the scheme in July.

We must first look at the question as to the stamps. The plaintiff moves, after notice and on affidavit, to be permitted to affix double stamps. This subject appears at first rather complicated from the number of statutes upon it (no less than six) that have been passed since 1864, but they have been noticed so often that I will not go into them again now. The point now before the Court was in part decided in this Court as late as November, 1877, in the case of *Delbar* v. *Landa* (22 Jurist, p. 46), in which it was held that the stamp need not be apposed by the maker of the note. The important thing is to have the duty paid at the time of the making of the note. Here the stamp was put on by the plaintiff to the proper amount, and at the proper time; but was not duly cancelled, which is a very different thing, and the point now is whether the plaintiff can validate the note by putting on double stamps. I think he can. Sec. 12 of the 33 Vict. c. 13, and sec. 2 of 41 Vict. c. 10 give a holder a right at any time to affix double stamps to remedy any defect that has arisen from error or inadvertence, and without any intention to violate the law. Therefore, the plaintiff's motion is granted. The effect of this will be that he must pay the costs up to the time of the filing of the plea, for, though the note is validated by the legal stamp, all costs made before its validation, and which were incurred by the defendant, must be paid by the other party.

Under the second plea, it is evident that there was an association for a certain purpose, and that the accountability of that association to any one of its members, or the liability of each member to the association, are things quite distinct from the individual liability of Smith to the individual person who lent him this money for which the note was given. It so happens that the plaintiff was made secretary of their association by all these gentlemen, and in that capacity he got the money back from the Government, that is the association got it, and remains liable to Smith for what he put into their funds, subject to deduction on account of its expenditure; but that is not to prevent the plaintiff, who in his own individual behalf lent the money on this note, of his recourse against those who contracted individually with him. The note was not the note of the association; if it had been it would have been signed on their behalf by their secretary; it was the note of each person individually, and must be paid, saving the recourse of Smith to get back from the association anything they may owe him. He resigned and is out of the concern, but remains liable up to the time of his

resignation, for his share of the expenses if there have been any. Judgment for the plaintiff as prayed, saving recourse of defendant for any moneys due by the association.

DeLorimier & Co., for the plaintiff.

Davidson & Cushing, for the defendant.

GAUTHIER v. PICARD.

Promissory Note—Action to have portion of Endorsement struck out.

JOHNSON, J. The present action is brought to have the defendant held personally liable as endorser on a promissory note, and to have the words "without recourse" struck from his endorsement. It is averred that the defendant requested the plaintiff to lend him a sum of $86, promising to pay him back $100 at the end of a month, and to give him the note of one St. Denis payable to the defendant's order, and which he would endorse. That the plaintiff consented to lend the money on the terms offered, and the note was drawn and given to the defendant to procure St. Denis' signature, which he did, and brought back the note again to the plaintiff, and while the money was being counted, the defendant, who had taken the note again, to endorse it, as the plaintiff supposed, gave it back to him, and it was put away under the supposition that it really was endorsed; but as soon as the plaintiff found it was not, he sent word to the defendant, who came in answer to his message, and took the note again from the plaintiff's hands to endorse it; but fraudulently wrote the words "without recourse against me" above his signature. The defendant pretends that he merely sold St. Denis' note without recourse against himself, but the plaintiff has completely proved every circumstance of his case. The evidence of St. Denis alone, whom the defendant called as his witness, is enough to condemn him. He proves that the defendant, when he asked him to sign the note, promised himself to take it up. Judgment for plaintiff.

Duhamel, Pagnuelo, & Rainville for plaintiff.

Coursol, Girouard, Wurtele, & Sexton for defendant.

CRAIG es qual. v. QUINTAL.

Insolvent Act—Accommodation Note—Liability of endorser for accommodation to assignee of the maker.

JOHNSON, J. The plaintiff is assignee of the insolvent estate of Quintal & Croteau, a firm composed of Chas. Quintal and Geo. Croteau, and the action is to recover $10,000 from Narcisse Quintal, the defendant, who endorsed paper for the accommodation of the firm to the extent of $10,000 in September and October, 1877. On the 21st February, 1878, an attachment issued against the firm of Quintal & Croteau, and, on the 8th March, 1878, the plaintiff was made assignee. The firm is alleged to have been insolvent more than three months previous to the issuing of the attachment and to the knowledge of the endorser. The notes that were endorsed all fell due between the 8th and 24th January, except two which matured—one on the 11th, and the last on the 19th February, 1878. The defendant pleads a demurrer to the declaration, and a *défense en fait*, and both issues are before me by consent of the parties. There is no averment in this declaration that the defendant was a creditor of the firm. On the contrary, it is expressly stated that he endorsed for the accommodation of the firm, which received the proceeds in discounts from the banks. There is no necessity, however, to decide the naked question, whether an action of this nature could never be maintained, under any circumstances, against any one but a creditor, as the parties have gone into the facts; and it is abundantly clear from the evidence that, creditor or no creditor, the defendant was not aware of the insolvency of the firm, though it was deemed necessary to aver that he was aware of it in the declaration. In point of fact, however, the defendant was the surety and not the creditor, and none of these notes were paid before maturity. He was a benefactor of this estate, and got no benefit at all, unless barely escaping liability as an endorser can be considered a benefit, for he got no commission or other consideration whatever from the makers of the notes. As to the demurrer, then, I shall not concern myself with it; strictly I ought not to look at it, as there is a consent for proof before the right of action is considered, which must mean, if it means anything, that I should judge the merits on the facts proved. In any other view of the matter, the consent would be extremely illogical, for if the right of action can be judged without proof of the facts, the demurrer should have been disposed of in the Practice Court,

and I should merely have to do here what the Judge ought to have done there, and if it cannot be decided without proof, then I am judging the merits and nothing else. I think this is a very inconvenient course, and in most, if not in all cases, absolutely unreasonable and illogical; for it amounts to saying that proof can make a bad declaration good, or *vice versa*, as if the demurrer did not admit the truth of everything that is alleged. From what I have already said, it will have been perceived that in my opinion this action cannot be maintained in this country. The question, however, is a very important one, and is now, I believe, presented for the first time in this Court. The law of France and of the United States makes provision for the particular case of the endorser; ours does not. In France the law of May, 1838, article 449, which is a new disposition, not to be found in the *code de commerce*, provides for a recourse against the first endorser of a note paid after the *cessation de paiement*, provided it be proved "*que celui à qui on demande le rapport avait connaissance de la cessation de paiement à l'époque de l'émission du titre.*" There, in France, the *cessation de paiement* constitutes the *faillite* or insolvency for the outside world, though, of course, the insolvency itself is independent of the public recognition of it; For as Renouard says, vol. 1, on article 8: "La faillite est un fait qui existe par lui-meme, un fait que le jugement déclaratif constate, mais ne crée pas." Again he says, article 4; "J'ai dit que pour constater l'état de faillite, la cessation doit porter non sur quelques paiements; mais sur leur généralité." This last principle is also the principle of our law (see Clarke's Insolvent Act of 1875, page 27), and without referring to precedents, it is sufficient to mention that a debtor on whom a demand of assignment is made, on the ground that he has ceased to meet his engagements generally as they become due, may set aside such a demand on petition, by showing that he was merely suffering temporary embarrassment. Therefore there must evidently be (1st) a general cessation of payments; and (2nd) it must be due to real inability to pay in full. In the French system the payment must be made after the general and open cessation in order to give a right of action against a first endorser; and more than that, the defendant must be shown to have known of the insolvency of the debtor at the time he took the note. Under all systems of insolvency such knowledge is presumed where the note is paid before maturity, or otherwise than in money or its equivalent; but all payments of debts due, and made in the course of business in cash, are presumed received by the creditor in good faith, and it is against the policy of the law to disturb such payments. A different policy would destroy all security in commercial transactions. (See art. 446, 447, 448, 449 of the French *loi de faillite.*) 1st. Renouard on art. 446 explains clearly this principle, and the same thing will be found in any other commentator. Our own law makes the same distinction, (See sec. 133 and 134. In the case of Sauvageau and Lariviere, decided in appeal under the Act of 1864, which was in that respect similar to the laws of 1869 and 1875, it was held that a payment made on the day of an assignment, under the constraint of a *capias*, could not be annulled, nor the creditor made to reimburse, because the assignee, Sauvageau, did not prove that Lariviere was aware of the insolvency of St. Laurent, the insolvent, and the payment was made in money. But the French law goes much further than that, and requires the creditor's knowledge of the insolvency at the time of the making of the note: "*A l'époque de l'émission du titre.*" Renouard on the art. 449 quotes the report of the commissioners of the House of Deputies in France on this subject, giving the reasons for the adoption of this principle there; and it is evident that fraud is what was intended to be defeated, and nothing else. Let me put the case thus: A being openly insolvent, having ceased to meet his engagements (according to the terms of our statute) meets B, a creditor aware of this. B says, give me your note and I will get money on it, and transfer it to a third party: in the mean time you will keep on until you pay this note somehow or other, and thereby I will be paid in full through an innocent third party. The note is made at short date and taken up by the maker. There are evidently here all the elements of a fraud. The first endorser has been paid his debt in full at a time when he could not take payment: it was an undue preference made to B, the creditor, who had knowledge of the insolvency. But if B, instead of being a creditor who is trying to get an undue advantage, indorses for accommodation only, what advantage is there for him in that? We could not suppose that he was aware

of the insolvency, because if he was, he would have been mad to endorse; he had simply to abstain from endorsing and he was safe. It is, therefore, evident that when the first endorser is an endorser for accommodation merely, he cannot be troubled, because he was not aware of the insolvency of the maker. The case I have supposed would be just the case against which Article 449 of the French law is directed —the case of a note given to *a creditor at the time*, he getting value for it from a third party who is subsequently paid by the insolvent. The moment, then, that the plaintiff admits, as he does here, that the defendant was endorser for accommodation only, his action is gone. The law of the United States, sec. 34, has a provision similar to the French law against the person receiving such payment, and *who is benefited thereby*, and *has reasonable cause* to believe such person to be insolvent. Our own statute has not adopted the provision of the French law, or that of the American law. It confines itself to the case of a creditor receiving payment from an insolvent debtor, knowing or having reason to believe him insolvent, § 134. On general principles, how can an endorser for accommodation be considered a creditor? He is a surety and nothing else. He can only become a creditor by paying the debt; he cannot even rank on the insolvent's estate till he has paid it. Quintal & Croteau borrowed from the banks, who would not lend to them without the defendant's endorsement. He endorses for them—becomes their security to the bank. Three months later, when the notes are due and are paid by Quintal & Croteau, they return to their direct creditor, the bank they borrowed from, the money that was lent. The surety knows nothing about it. Did Quintal & Croteau pay the surety's debt or their own? The question need not be answered. The very reverse is proved. The defendant then was not a creditor. He had no knowledge of the insolvency of this firm; he was only a surety who benefitted the concern by furnishing them with means at his own risk.

Action dismissed.

Kerr & Carter, for plaintiff.

Duhamel, Pagnuelo & Rainville, for defendant.

GOODBODY et ux. v. MCGRATH et vir.

Particular legacies—Time when payable—Compensation.

JOHNSON, J. The plaintiff and his wife sue the defendant and her husband to get the amount of two legacies left by the will of their mother, Martha Lillis, to the plaintiff and the plaintiff's sister; the latter being since dead, and having bequeathed her legacy to the plaintiff. The legacy to the plaintiff was $100, and that to her sister Charlotte $300. Both were payable twelve months after the testatrix's property should have been freed from any incumbrances existing at the time of her death. By the same will the mother appointed George McGrath her universal residuary legatee, after payment of her debts and legacies. Martha Lillis, the mother, died, and her son, George McGrath, took possession of her estate; afterwards, on the 24th December, 1870, George McGrath sold to his sister Rebecca, the defendant, a lot of land belonging to the succession of their mother for $2,500, getting $1,800 down, and out of the balance she undertook to pay these two particular legacies of $100 and $300, and this indication of payment was accepted subsequently by the plaintiff, and notice was given of her acceptation of it. To this action the defendant has pleaded three exceptions, and a *défense en fait*.

1st. The existence of the two hypothecs;

2nd. That she expended so much money on the education of two of Charlotte's children that she has been unable to pay off the incumbrances.

3rd. In answer to that part of the action that regards the legacy of $300, she pleads a payment by Geo. McGrath of $65, and that the balance is compensated by the price of the maintenance and education of these children during the years 1874, 1875 and 1876.

As regards the first plea, it is answered that George McGrath, the universal legatee, could not profit by his legacy otherwise than according to the terms of the will, *i.e.*, after payment of all the debts and particular legacies. That by the sale from McGrath to defendant for $2,500, of which he pocketed $1,800, he charged her without delay to pay the mortgages and these legacies, and she herself got by the same transaction the whole amount of her own legacy under the will, and that she is without

interest to invoke this provision of the will which was not made for her, and that she is liable purely and simply in virtue of her undertaking to pay by her deed of acquisition, and the plaintiff's acceptance of that undertaking. I cannot regard these pleas as serious; the 2nd and 3rd are obviously untenable. It can hardly be argued that a debt due to the plaintiff, and which the defendant undertook to pay, is to be compensated by debts due by other persons—even if it had been proved (which it has not) that anything was due at all for keeping these children. The first plea is no better. A universal legatee cannot be permitted, for his own profit, to delay the payment of hypothecs for the purpose of making particular legatees wait for their money. Besides, it is evident that the hypothec of Lemoine is extinct for want of re-registration. This defendant undertook, with the universal legatee, to pay these legacies at once. That promise has been accepted by the plaintiff; and there is, really, no defence to the action.

Prevost & Co. for plaintiff.

Sarrasin for defendant.

Montreal, May 13, 1879.

SICOTTE, J.

MARLER et al. v. THE MOLSONS BANK.

Check—Demand Note—Compensation.

The action was brought by the plaintiff against the Molsons Bank for the amount of a check, about $700, signed by one Parker, which the Bank refused to pay.

The defendant pleaded among other pleas, that there was no privity of contract, and further that Parker had no funds in the Bank, the amount which nominally appeared on the books being compensated by his note for a larger amount, payable on demand, held by the Bank.

SICOTTE, J. Two questions of importance have been raised in this case. 1st. Does a depositor in a bank transfer his rights to the bearer of his check on the funds to his credit in the Bank, so as to confer on him the same rights which the depositor himself possesses? 2nd. Can the Bank refuse to pay, if the depositor really has funds at his credit, when by paying the Bank will be exposed to loss?

The check is a transfer by the depositor to a person named, or to bearer. Presentation alone constitutes signification. Article 2350 of the Civil Code says that "checks are payable on presentment, without days of grace." After signification by this presentment, the transferee, called the bearer, is considered to be the proprietor of the claim transferred. The *lien de droit* between the transferor and the debtor is perfected by the signification.

The universal practice of banks to pay checks on presentment, with the funds of the drawer, would constitute a law based on custom. This usage has been established in the interest and at the request of the banks. There would be fewer deposits if depositors were under the necessity of presenting themselves in person to obtain the payment of moneys deposited. Few would accept checks if this appearance in person were necessary. There are manifold inconveniences in the system advocated in the plea of the Bank, in which the absence of *lien de droit* is opposed to the bearer, and the Bank has no interest to oppose such want of privity. The action by the bearer is the same as that which the depositor might have brought.

The question remains, whether the Bank was entitled to refuse payment.

A check differs both in law and usage from a bill of exchange. It is from this difference that the right of the bearer to proceed directly against the Bank necessarily flows.

It has never been doubted that payment to bearer is a good payment to the drawer, the same as though payment had been made to himself. That shows that the bearer can give a discharge, because by the transfer he is really the creditor.

Article 2351 of the Civil Code entirely confirms the principle stated. After providing that the holder of a check is not bound to present it for acceptance apart from payment, it is added, "nevertheless, if it be accepted, he has a direct action against the Bank or banker, without prejudice to his claim against the drawer." This is simply the application of the principles and rules which govern sales of debts and rights of action.—Articles 1570 and 1571, Civil Code. This is shown by Article 1573.

When the debtor accepts the transfer and becomes liable to the transferor or the bearer, he can no longer refuse payment by reason of claims which he may have against the trans-

feror, but he retains his recourse against the transferor.

Now, as to the second question. A check implies, what is essential to every transfer, that there are funds belonging to the drawer, consequently a debt due by the Bank to the latter.

In the present case the drawer had no funds; the Bank owed him nothing; on the contrary, the drawer was indebted to the Bank in a considerable sum.

Parker, who is the drawer, having a quantity of Indian corn for sale, obtained a discount for $2,000 on the security of this produce by transferring it according to law and custom to the Bank. The Bank authorized him as their agent to sell the produce on their account. At the same time Parker gave his note for $2,000, payable on demand, to show the debt contracted by him to the Bank. And it is proved that Parker was previously largely indebted to the Bank. Parker sold part of the grain, and remitted $1,278 to the Bank. When the check was presented, the Bank refused to pay, on the ground that Parker had no funds. The $1,278 remitted were not the full value of the grain which he was commissioned to sell for the Bank. The Bank was justly alarmed, because Parker had not been seen at its counter, and it was suspected that he had fled. The note payable on demand and at the Bank's counter was exigible without presentation elsewhere than at the Bank. The Bank was not obliged to make other advances or payments to Parker in the matter, he being their debtor in a considerable sum. Parker ceded only his own rights to the bearers, who are the plaintiffs. The Bank owed Parker nothing; the latter had no funds in the Bank. The entries made in the Bank books of the discount were only to explain the transaction and put it in the ordinary form.

The Bank, not being indebted to the drawer, was justified in refusing payment, and the action is therefore dismissed.

Hutchinson & Walker for the plaintiffs.

Abbott, Tait, Wotherspoon & Abbott for the defendants.

The Court of Queen's Bench, Appeal Side, sat in Montreal on the 15th inst., for the purpose of giving judgments. Ten cases were disposed of, in all of which the judgment of the lower court was unanimously affirmed. Twenty-eight cases remain under consideration.

CURRENT EVENTS.

CANADA.

THE INSOLVENT ACT.—The evils which developed themselves under the Insolvent Act having reached intolerable proportions, a very general demand was made for the repeal of the Act. A Committee endeavored during the recent session to consolidate and amend the existing legislation so as to obviate the evils complained of. The result was a bill making important changes in the system of administering estates, and depriving the insolvent of the power of getting back his estate. But so strong was the feeling of the House of Commons in favor of unconditional repeal, that on the 27th of April, the bill was thrown out on the second reading by 99 to 75. Mr. Bechard's bill to repeal the insolvency laws was then carried by 117 to 60. The bill went up to the Senate and on the 9th May, the six months' hoist was carried by 31 to 27.

The following memorandum accompanied the bill submitted to Parliament:—

In most commercial countries the opinion prevails, that in the interest of commerce, remedies, beyond those of the common law, should be provided in favor of the creditors of a trader:—

1. To place the assets of the debtor in the hands of a trustworthy custodian *at the earliest possible moment* after his insolvency appears.

2. To discover and set aside all payments or settlements giving any creditor a preference over other creditors, and for this purpose to give power to examine the debtor and others.

3. To discover the debtors of the insolvent and to recover the amounts they owe him, and for that and other purposes to obtain possession of his books.

4. To provide a convenient mode of realizing the assets of the estate for the common benefit of the creditors.

5. To obtain the appointment of a proper person to carry out the liquidation of the estate.

And, on the other hand, that a trader debtor should have some mode of relief from his indebtedness, if he has been honest in the conduct of his business and in surrendering his assets.

All Insolvency and Bankruptcy Acts rest on these principles, and their efficiency depends upon the success with which the results sought for, and others incidental to them, are attained.

The Insolvency Acts of 1864, 1869 and 1875 contain, practically, the same provisions on all these points, and experience has shown that, while the remedies they afford to the creditor for obtaining possession of the assets of the estate, and information as to its condition, and for checking fraudulent preference, are efficient, the relief they offer to the debtor, and the facility with which he can recover back his estate, offer too great temptations to speculative insolvency; and that the absence of supervision over assignees has led to the grossest extravagance, or worse, in the management of estates. These evils have reached such proportions that a very general demand is made for the repeal of the entire Acts, though in reality the creditor's remedies for obtaining possession of the estate are in the main satisfactory; and it is in fact the *mis*management of estates, and the *abuse* by insolvents of the privileges granted by the Act in their favor, that require to be prevented.

In attempting the solution of the difficulty thus presented, these leading objects have been kept in view in consolidation and amendment of the existing law, namely:—

1. To preserve all the provisions for the remedial purposes already described that have been found effective, arranging and simplifying them as much as possible.

2. To improve the administration of the estate while in the hands of the assignee, and to reduce its cost.

3. To diminish the facilities now possessed by a debtor for obtaining his discharge.

4. To deprive him altogether of the power of getting back his estate, leaving it to be divided among the creditors.

5. To provide additional supervision over the insolvent and the assignee.

For these purposes the three Acts now in force have been consolidated. Every section has been scrutinized, simplified where possible, redundancies of language removed, and difficulties of construction and ambiguities corrected.

With regard to the administration of the estate; the official assignees have been abolished; provision has been made for appointing custodians of the estate while the meeting is being called to appoint the permanent trustee; these custodians make no disbursements, exercise no discretionary power, and are incapable of being made trustees, or of taking part directly or indirectly in the winding up of the estate. And a moderate tariff of fees is prepared for their remuneration, which they cannot exceed.

The duties of the trustee are better defined, and security by him is better provided for. His remuneration is fixed, his disbursements restricted, his dealings with the funds of the estate are regulated, and their more effectual safe-keeping provided for. Severe penalties are inflicted for the retention of funds, for overcharges and other misconduct, and the jurisdiction of the judge over him is made more simple, summary and complete.

The debtor can only get his discharge, by the consent of four-fifths in number and value of his creditors, exclusive of his relatives.

The deed of composition and discharge, and the sale *en bloc*, which have proved such fertile sources of fraud and imposition, are done away with.

The grounds of opposition to discharge, and the precautions for ascertaining the conduct of the insolvent are increased and expanded.

The provisions respecting leases, have been simplified and rendered more equitable: and the proceedings for the sale of real estate in the Province of Quebec, and for the protection of mortgage creditors, are improved in many important particulars.

The effect of the discharge is limited, and provisions are made for the protection of farmers, and of the poorer class of creditors, and of non-traders generally.

As to supervision, the appointment of a judge in insolvency has been provided for in the more important centres of trade.

These are the leading features of the amendments to the existing law, and they are so framed as to preserve what is good and well understood in the present law; to supplement it where it has been found defective, and to deal trenchantly and severely with the numerous and extensive abuses which have crept into its administration. And while it attains these objects, the Bill submitted is still about forty sections shorter than the Act of 1875, and its amendments.