

1. That a salaried public officer, as assignee or administrator, should be appointed by Government for each bankruptcy district, and that all estates should vest in such public officer immediately upon the filing of a declaration of insolvency or the granting of an adjudication: That creditors should have the power to appoint a trustee or trustees of their own, to act as a board of advice with such public officer; and that the creditors should arrange among themselves for the payment out of the estate of remuneration to such trustee or trustees as they may so appoint: That the control of the debtor over any portion of his estate should cease absolutely immediately on his filing a declaration of insolvency, or on the granting of an adjudication, as before mentioned: That the said public officer should be a competent man of good position, possessing a knowledge of the usages of trade, and that he should receive a liberal salary: That, in consideration of the payment of such salary by Government, a commission by a sliding scale of percentage should be charged on the assets realized, and that such commission on any total not exceeding £1,000 should not exceed 5 per cent.; on the second £1,000, 2½ per cent.; and on all above £2,000, 1 per cent.: That the said public officer should find adequate security, and should, in respect of each estate, pay all funds realized into a separate banking account, at one bank; and that he should keep the affairs of each estate, with vouchers, entirely distinct, and open to the inspection of any proved creditor at any time: That such public officer should, at intervals of not less than six months, prepare a statement of each estate, and submit the same to the creditors: That it should be the duty of such public officer to investigate the circumstances that have led to the insolvency of the debtor, and to report to the Judge in Bankruptcy any default on the part of, or complaint against, the bankrupt.

In making recommendations under this head, the Conference has not overlooked the strong arguments that could be advanced from one point of view in favour of the creditors having complete control of the estate and of the debtor's affairs, and the probability that in some instances a more economical and satisfactory realization of assets could be made by a creditor's trustee or trustees acting alone, without the intervention of a public officer. But the Conference has concluded that there is another consideration which, from a legislative point of view, should receive even as much prominence as the payment of the largest possible dividend out of the estate: namely, the policy in the interest of the community generally of making the operation of the law deterrent. Creditors, for social reasons or want of time, and almost always because the process affects their own pockets, refrain from taking any steps to expose or punish fraudulent or reckless bankrupts; and in this way, while the administration of the estate is left entirely in the hands of the creditors, gross cases of fraud and recklessness on the part of the debtor are passed over, and such encouragement consequently given to unprincipled men as to induce them to make a trade of bankruptcy, because it pays. Insolvencies of the worst kind are doubtless greatly multiplied by the apathy of creditors in the matter of inquiring into the history and position of the debtor's business, and by their readiness to effect any compromise on being offered a reasonable dividend. An independent salaried officer, whose special duty it would be to investigate and report to the Judge upon the conduct of the debtor, would therefore seem to be a necessity in the public interest.

2. That there should be four bankruptcy districts—namely, Auckland, Wellington, Dunedin, and Christchurch, and that there should be a public officer or assignee appointed for each.

3. That there should be two Judges in Bankruptcy appointed for the colony, whose status should be equal to that of Judges of the Supreme Court, and who should make a special study of commercial and trade usages (see section 72, English Act, 1869): That such Judges in Bankruptcy should hold periodical sittings in the districts within their respective circuits.

4. That any of the following acts or circumstances should disentitle a bankrupt to his discharge—namely: that, being a trader, he has failed to keep proper books of account; destroying or falsifying books of account; reckless or fraudulent disposal of property; that he has failed to keep a proper record of his receipts and expenditure; that he has failed to keep an account in his ledger showing what proportion of his income has been devoted to trade expenses and what to personal expenditure; that he has failed to prepare a balance-sheet at least once every year, embracing such details as are customary in the trade or profession of the bankrupt: That default in any of these cases shall be deemed an offence under the Act: That a debtor should also be disentitled to his discharge if he should fail to pay a dividend of not less than ten shillings in the pound, unless he can prove to the satisfaction of the Judge that his failure to pay such dividend has arisen from circumstances beyond his own control.

Under this head the Conference would transcribe and indorse the following extract from the reply of Mr. Justice Williams (page 3, *Replies on Bankruptcy*, 1880):—"Under any state of the law there must be hardship on one side or the other, and it is far better in my opinion that on rare occasions an honest debtor should have to suffer by the refusal of his discharge than that encouragement should be given by the law to the fraudulent and the reckless. In England bankruptcy is still thought a disgrace. Here it appears to be considered by many more in the light of a good joke. Our present system is thoroughly demoralizing; it encourages rascality, it places the honest trader at a disadvantage, and causes enormous pecuniary loss to the community."

5. That a fraudulent or culpable bankrupt should be prosecuted by the Crown Prosecutor, instructed by the public officer or assignee, and at the public expense, and in the same manner as other indictable offences. There would seem to be no valid reason why offenders against the Bankruptcy Acts should not be prosecuted in the same manner and at the cost of the same fund as persons offending against other statutes (see Reply from Mr. District Judge Ward, page 4, and Mr. District Judge Broad, page 7, *Replies on Bankruptcy*, 1880).

6. The Conference is of opinion that no debtor should receive his discharge except after examination in open Court, but that such examination should not necessarily entitle him to his discharge: That the assignee or any creditor should be entitled in person, or by his solicitor, to oppose the application for discharge without notice (see "Insolvent Act, 1860," South Australia, Division 4).