

CHAPTER XXIV.—COMMERCIAL FAILURES.

CONSPECTUS.

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According to Sect. 91 of the British North America Act, "the exclusive legislative authority of the Parliament of Canada" extends to bankruptcy and insolvency legislation, and an Insolvency Act (32-33 Vict., c. 16) was actually passed by the Dominion Parliament in 1869, applying to the four original provinces. This Act was in force for four years and was renewed by c. 46 of the Statutes of 1874, while in 1875 a new Insolvency Act (38 Vict., c. 16) applicable to the whole Dominion was passed, but was repealed in 1880. After this there was no Dominion legislation on the subject of bankruptcy until 1919. During the interval of nearly 40 years commercial failures were handled under provincial legislation, and the statistics relating to such failures during this period were compiled and published by Dun's and Bradstreet's commercial agencies. In 1919 a general Dominion Bankruptcy Act was passed (9-10 Geo. V, c. 36). Statistics of commercial failures dealt with under this Act since it came into force in 1920 have been compiled and published by the Dominion Bureau of Statistics. (See pp. 960-962.)

The three Sections of this chapter, although closely related so far as subject matter is concerned, cover different aspects of the same field and the statistics presented in each Section are not comparable with those in the others.

Statistics of industrial and commercial failures in Canada, given in Section 1, are compiled by Dun and Bradstreet, Inc. This concern is a mercantile agency interested primarily in credit information, and it is not to be expected that their data will be compiled on the same basis as figures of the Dominion Bureau of Statistics or the Superintendent of Bankruptcy. Their statistics are established on a broader basis than those of Section 2, inasmuch as they include, as well as bankruptcies in general, insolvencies under provincial companies' Acts and such proceedings as bulk sales, bailiffs' sales, landlords' seizures, etc., when loss to creditors results. On the other hand, they do not include assignments of farmers (under the Farmers' Creditors Arrangement Act) or of wage-earners, so that as a general rule their totals run lower than those in Section 2. As pointed out, between 1875 and 1919 Dun and Bradstreet were the only source of figures of commercial failures, and their statistics have an added value because they present an unbroken historical series, though not on a comparable basis since 1934 (see text preceding Table 1).

Section 2, on the other hand, is limited to bankruptcies and insolvencies made under Dominion legislation, such as the Bankruptcy Act (including the Farmers' Creditors Arrangement Act), the Winding-Up Act, and the Companies' Creditors Arrangement Act, but not failures, sales, or seizures carried out apart from such Dominion legislation. In the field covered, however, Section 2 is broader than Section 1, inasmuch as the Dominion Bureau of Statistics figures include failures of individuals such as wage-earners and farmers.