

PART III.—COMMERCIAL FAILURES

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 passed by the Federal Parliament in 1869, and applied to the four original provinces. This Act was renewed by c. 46 of the Statutes of 1874. In 1875 a new Insolvency Act (38 Vict., c. 16) applicable to the whole Dominion was passed, but was repealed in 1880.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 federal 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 two commercial agencies, R. G. Dun and Company and the Bradstreet Company. Statistics of commercial failures dealt with under the Dominion Bankruptcy Act of 1919 have been compiled and published by the Dominion Bureau of Statistics since 1920. (See pp. 895-896.)

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

Statistics of industrial and commercial failures in Canada, given in Section 1, are compiled by Dun and Bradstreet, Incorporated. This mercantile agency is interested primarily in credit information, and it is not to be expected that their figures would be compiled on the same basis as those of the Dominion Bureau of Statistics or the Superintendent of Bankruptcy. These statistics include 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 the statistics do not include assignments of farmers (under the Farmers' Creditors Arrangement Act) or of wage-earners, so that, as a general rule, the totals run lower than those in Section 2. As pointed out, between 1875 and 1919 the agencies, now Dun and Bradstreet, Incorporated, 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). Dun and Bradstreet, Incorporated, have ceased to publish statistics of assets since 1940.

Section 2, on the other hand, is limited to bankruptcies and insolvencies made under federal 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 federal legislation. The Dominion Bureau of Statistics figures include failures of individuals such as wage-earners and farmers.

A word should be added about the value to be placed upon figures of assets and liabilities. Such values are estimates made by the debtor and, unfortunately, are not made uniformly. The human equation enters into them to a considerable degree and they must be accepted with this qualification.

Section 3 is limited to the administration of bankrupt estates by the Superintendent of Bankruptcy, under the Bankruptcy Act (including the Farmers' Creditors Arrangement Act). This Section, however, gives definite information on the amounts realized from the assets as established by debtors and indicates that values actually paid to creditors are invariably very much lower than such estimates alone would imply. It can, therefore, be assumed that this applies in even greater degree to the more extended fields covered in Sections 1 and 2.