

PART III.—BANKRUPTCIES AND COMMERCIAL FAILURES

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

Section 1 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 2 and 3.

Section 2, on the other hand, is limited to bankruptcies and insolvencies made under federal legislation (the Bankruptcy Act and the Winding-Up 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. For recent years, separate data are shown for insolvencies by wage-earners as distinct from industrial and commercial mortalities. The figures of assets and liabilities are estimates made by the debtor and, unfortunately, are not made uniformly. The human element enters into them to a considerable degree and they should, therefore, be accepted with reservations.

The statistics given in Section 3 are compiled by Dun and Bradstreet, Incorporated. This mercantile agency is interested primarily in credit information and their statistics include bankruptcies in general, insolvencies under provincial companies' Acts and such proceedings as bulk sales, bailiffs' sales, landlord's seizures, etc., when loss to creditors results. On the other hand, the statistics do not include assignments of individuals, so that, as a rule, the totals run lower than those in Section 2. Since between the years 1875 and 1919 the agencies, now Dun and Bradstreet, Incorporated, were the only source of figures of commercial failures, their statistics have an added value because they present a historical series back to 1915 though the basis of classification was changed after 1933 (*see* text preceding Table 8).

Section 1.—Administration of Bankrupt Estates*

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 the Statutes of 1874, c. 46. In 1875, a new Insolvency Act (38 Vict., c. 16) applicable to the whole of Canada was passed, but was repealed in 1880. After this there was no federal legislation on the subject of bankruptcy until the Bankruptcy Act, 1919, except that under the Winding-Up Act insolvency was one of the grounds upon which a company could be wound up. In addition to regulating bankruptcy proceedings, the Bankruptcy Act, 1919, contained a provision which enabled an insolvent person, prior to bankruptcy, to make a proposal to his creditors. This provision was abrogated in 1923 but was subsequently restored, in part, by the Companies' Creditors Arrangement Act, 1933, which, however, restricted its operations to incorporated companies. Somewhat similar legislation was made available to farmers under the Farmers' Creditors Arrangement Act, 1934, subsequently

* Prepared by the Superintendent of Bankruptcy, Ottawa.