

## CHAPTER XI.

## INSOLVENCY LAW AND LAW OF BEQUEST.

DEBTOR AND CREDITOR.—CAUSES OF BANKRUPTCY.—INSOLVENCY COURT.—FIRST-CLASS CERTIFICATE.—DIVIDEND.—DISCHARGE.—SECOND-CLASS CERTIFICATE.—THIRD-CLASS CERTIFICATE.—FRAUDULENT INSOLVENCY PUNISHABLE.—CRUEL OLD LAWS.—PRESENT LAWS VERY MILD.—LAW OF BEQUEST.—MARRIAGE.

THE Insolvency Court has to do with the relations between debtors and creditors. The debtor is one who owes money. The creditor is the one to whom the money is due. When a man finds he has not enough money to pay everyone he declares himself insolvent or bankrupt. He may have been extravagant or foolish, or only unfortunate. If he is an honest man he gives up all the property he has, and shows all his books of accounts. He is then examined by his creditors as to his property and his business before the Commissioner of Insolvency, who is a sort of a judge presiding over this court, and there is some one appointed to go over the accounts and see that there has been no fraud or culpable carelessness.

If the commissioner believes that the insolvent has kept proper accounts, and been perfectly honest in them, and told the truth about his affairs, and not kept back his property, and has been only unfortunate, he gives him what is called a **first-class certificate**. All his property is divided amongst his creditors. This forms a **dividend**, of which each creditor who can prove his debt claims his fair share. For instance, if the insolvent owes £1,000

and has only £500 worth of property to divide, the dividend is called 10s. in the £, and the creditor who claims £50 gets only £25. If he has only £250 to pay them all with, the dividend is only 5s. in the £, and the £50 creditor receives only £12 10s.

The insolvent or bankrupt then receives a **first-class certificate**, and a discharge, so that he cannot be made to pay the rest of the money, even if he should afterwards become rich. He may pay the whole of the money if he is honorable, but he cannot be compelled to pay any more than the dividend which the creditors have accepted and already received.

If the insolvent has not kept proper books of accounts or gone on trading and getting deeper in debt after he knew he was insolvent, or if he has been extravagant, the Insolvency Court gives him a **second-class certificate**, which is a kind of disgrace, and that may be delayed for a year or six months.

If he has been still more blameable—raising money on false pretences, making false entries and figures in his account books, or keeping back property which ought to be given over to his creditors—he may be suspended a long time, and only after all get a **third-class certificate**, which does not relieve him from old debts. He may also be sent to prison for as long as three years as a punishment for fraudulent or dishonest insolvency. The old insolvency laws in England were very severe. Every debtor was treated as if he was a criminal. Many poor creatures were kept in prison for twenty years and more, and died of old age there, because their creditors had the power to keep them there till their debts were paid. Now the debtor appeals to the Insolvency court for a fair inquiry and a discharge.

The insolvency laws are now in England and the colonies too mild; and the fraudulent and the extravagant debtor get off too easily. Sometimes bad harvests, bad health, or a fire or a flood may reduce a man to poverty, and he cannot pay all that he owes.

In most cases, however, industry and thrift would pull him through, and it should be felt to be somewhat of a disgrace as well as a misfortune to have to appeal to the Insolvency court to get out of paying all that one owes.

Another right which citizens in a free country possess is the **right of bequest**—that is to say, the power of settling by **will** who is to have your property after your death. Sometimes disputes arise as to the exact meaning of the words used in making a last **will or testament**, and this dispute may be brought before a court of law to be settled. Anyone dying without a will is said to die **intestate**. His property is divided according to certain fixed rules. In South Australia land and house property are divided among a man's heirs in exactly the same way as movable or personal property. If a man leaves a widow and no children, his widow gets the half of his property and his nearest male heir the other half. If he leaves a widow and children, the widow gets a third part, and the remaining two-thirds is divided equally amongst his children. By making a will, anyone can leave his property exactly as he pleases.

All marriages must be registered at the registrar's office, and it is this **registration** which makes a marriage legal. It is illegal to marry a second wife while the first wife is alive, or a second husband when the first husband is alive, unless a divorce has been obtained. This illegal second marriage is called **bigamy**, and is a criminal offence.

