Protection without imprisonment for all embarrassed debtors: why not?

H W. Weston
PROTECTION

WITHOUT IMPRISONMENT

FOR ALL

EMBARRASSED DEBTORS.

WHY NOT?

BY H. W. WESTON,

47, Moorgate Street, Bank,

LATE SECRETARY TO THE CHANCERY REFORM ASSOCIATION.

DEDICATED BY PERMISSION TO

CHARLES DICKENS, ESQ.,

LONDON:

WILLIAM FREEMAN, 3, QUEEN'S HEAD PASSAGE, PATERNOSTER ROW.

1858.

Price Sixpence.
TO EMBARRASSED DEBTORS.

There are thousands of persons who have long struggled against the force of misfortune, but few are aware that, under recent Protection and Arrangement Acts, Debtors owing any amount, large or small, in town or country, clergymen, farmers, merchants, private and professional gentlemen (the latter for any amount and without any publicity), can be entirely raised from their difficulties at small expense and without imprisonment or bankruptcy. All such Mr. Wells, Solicitor since 1845, or Mr. Weston, beg will apply to them, at No. 47, Moorgate-street, Bank.

N.B.—Debtors sued on Bills of Exchange and by County Courts should come instantly.

Divorce cases attended. Money advanced on all good securities. Debts bought and collected.

"Unlikely wonders, how these vain weak nails
May tear a passage thro' the flinty ribs
Of this hard world, my ragged prison walls."

Richard II.

Blackstone, and all commentators on the law, all our legislators and judges, have always told us, and even now tell us, that our laws are equal and just—that there is not one law for the rich and another law for the poor, but that all bear equally alike on all classes of our community. What a mockery!—what a delusion! The essence of our constitution, the founders of our laws and our institutions, our good king Alfred, our noble barons who wrested Magna Charta from the treacherous grip of king John, our glorious Oliver Cromwell, to memory ever dear,—all, no doubt, intended it should have been so. But, alas! how corruptible are all the institutions of men and law-makers; how good institutions and good intentions are perverted; yet even now we ought to be grateful that we are blessed with such an elastic constitution as we are, with all its corruptions; for if it did not frequently adjust itself to its inherent principles, as base a despotism would soon be framed upon its ruin as ever cursed a nation or afflicted a people.

These observations provoke some comments on what has been done of late years to bring back to our people equal laws, if not just ones. Look to the Corn Laws; were ever laws so passed and upheld for the benefit of the rich and the starving of the poor, as the laws which, a few years ago, existed on this subject? The daily bread which we pray for withheld by the rich to make
themselves the richer. But they are gone, and now we are content with the equal pressure of the reformed laws, and their common operation upon all classes of society.

Slavery, that canker-worm and curse of the United States of America, once similarly affecting our own dear native land, what was it but an institution upheld by the rich? and their dealing in the body, sinews, blood, bones, and even souls of their brothers and sisters before God, for what, we ask, but the enriching of the rich, and the withering, destroying, and cursing of the veriest poor, the debased, the ignorant, and the most pitiable beings of God’s creation? But, thank God, now we have washed our hands of these blood-stains of iniquity. They now only prominently mark the blood-red stripes of the American flag; not the Union Jack of old England, which shall brave yet another thousand years the battle and the breeze.

Chancery: who would believe it was ever a luxury; such a precious one, too, that the rich only could enter the portals of its hell-born court, to enrich themselves, and their rich lawyers, and to enthrall and rob the weaker and the poor; now it is cheap, and the delicious luxury of the abominable cheat called equity may be enjoyed by a man of moderate means. But, my countrymen, away from it—shun it—evoke the temptations to enter it as you would the crater of Vesuvius in its devouring eruption—curse it—hate it—never rest till you wipe’ such an abominable delusion, called an institution and a court, out of the remembrance or knowledge of our children who are to come after us, and who will assuredly laugh at the boasted wisdom of their ancestors, for having submitted to uphold a system created to protect men and property, but perverted and made to eat up, destroy; and rob them of it, for the benefit of the legal harpies that fatten on such a system.

It may be said, that to call the Court of Chancery “Hell-born,” will grate on ears polite. But read Lord Brougham’s opinion:

“There is the slumber of the Court of Chancery to be encountered, and the maddening feeling which fires the brain of him who expects justice to be done where injustice is inflicted; and who expects to receive right where wrong is sanctioned—

A thousand monsters guard the gates of Hell;
There foul Revenge and pining Sorrow dwell,
Distress and Fear, and Famine’s lawless rage,
And fell Disease, and slow repining Age;
Terrible forms! the ghastly portal keep,
With Pain, Toil, Death, and Death’s own emblem—Sleep.
Here joys embittered by remorse appear,
Daughters of guilt! there storms destructive War;
Mad Discord there her snaky treasons tore,
There, stretched on iron beds, the Furies rear.

“These horrors are thickly studded on the threshold, before the unhappy suitor enters the Hell of Chancery.”—Lord Brougham’s Speech, March 28, 1859.

It is astonishing with what tenacity our legislators hold on to old institutions when they have become corrupted. How chary were the peers, the bishops, both Houses of Parliament, and the clergy, over the Divorce Laws. How they wished and upheld until this our day, the sacred tie of marriage, as they called it, so as to keep it pure, if possible, as a boon for and a mark of distinction of the rich. For centuries have they held the principle that the marriage tie was indissoluble only by the rich, for the rich, and by costly Acts of Parliament on adultery proved before the House of Lords, yet denied it to all other classes. Oh no! it would not do for the common people—they would become demoralised. What fulsome, canting hypocrisy! Are we not all of the same flesh and blood?—all alike

“If you prick us do we not bleed? If you tickle us do we not laugh? If you poison us do we not die?”

Alas! what misery, what heart-burnings, what troubles in families, what woe, what curses, did the upholding of these false notions for so many years superinduce. How was it that the wisdom of our law-makers would not interfere with Divorce? They were afraid of our venerable constitution—were they? What twaddle! In 1857, a sensible law was passed, opening the Divorce Court to all classes; and in 1858 it is proved that the costermonger may be as good a Christian and a moralist as the peer; may be as well entrusted with Divorce and a new wife as a millionaire: the expense of law proceedings sinks from hundreds of pounds, in comparison, to single pounds; all parties are content; the bugbear that the common people ought not to be divorced explodes, and we have again equal law on this subject for all classes of the community, in accordance with the principles of our original constitution.
The foregoing observations now bring us to our subject, one of the most crying evils and abominations in our system of jurisprudence, one of the most cursed and infamous oppressions that man can inflict upon his brother man; for what can be worse than to give one man the power over another's body, so as to deprive him of his liberty, to drag him justly or unjustly from his business, his family, and his home; because, forsooth, he cannot pay a debt. What an opening for revenge! for vindictiveness! for the wrestling of right from the victim, to please the wrong-doer! what injustice and terror to fix a man behind stone walls and iron gratings because he cannot pay,—all men alike subject to this inhuman law, the honest as well as the rogue.

"Man's inhumanity to man
Makes countless thousands mourn."

but never more so than in this case, where men are made "Shylocks" because the law allows them to tyrannize over their debtors, where they will have their bond.—

"Their pound of flesh, merely
To bait fish withal."

so that they will have their revenge. The Spanish Inquisition never inflicted more misery on the human race than the accrued system of imprisonment for debt on our country, and to prove the inconsistency of the law, and the administration thereof by the Commissioners, the writer of this pamphlet begs to call the attention of his readers to the following letter, written by him, and appearing in the Morning Chronicle and Morning News, and other newspapers, on the 19th of March last, and addressed to the editor of the Morning Chronicle:

"Sir,—I cannot but express my surprise at the apathy of the imprisoned debtors and small traders, in making any movement to support their old friend and champion, Lord Brougham's present bill before the House of Lords, to abolish imprisonment for debt. Why, there ought to be petitions from every town, every prison, and every poor locked-up debtor in the kingdom in support of it, praying that it shall at once pass into a law, especially when Mr. Commissioner Phillips proclaimed the other day in open court—'Be it known that there is no such thing as imprisonment for debt.'

"See the report of the following case on the 9th inst. —

"* * * BE R. W. BURTON.

"Mr. Commissioner Phillips said he hoped the public would be set right on the subject of imprisonment for debt. There had been a great outcry on the hardship of imprisonment for debt. That was a gross misrepresentation; but no doubt those who made the statement believed it. It had been virtually abolished since the Protection Act. To an honest man there was no imprisonment for debt. Be it known that there was no such thing as imprisonment for debt. Any person, except a trader, owing more than £300 could petition without one hour's imprisonment. The only exception was as to traders, and that could be extended to £500. Besides, the Court of Bankruptcy was open to them."

"And see the contrast in the following case, heard before Mr. Commissioner Murphy two days afterwards:

"INSOLVENT DEBTORS' COURT, MARCH 10.

"[Before Mr. Commissioner Murphy.]

"IN RE. REV. CORNELIUS GRIFFIN.

"This case, which was yesterday mentioned, again came on to-day before Mr. Commissioner Murphy. The insolvent had been in Norwich Castle two years and three months. He had filed three petitions under the Prison Act, and had been heard before Mr. Dinsdale, the judge, all of which petitions had been dismissed. The present application was to file a "fourth" petition, and it was urged that his case showed the absolute necessity of an appeal to this Court, as the insolvent might be kept in prison for life.

"Mr. Commissioner Murphy said the matter had on one occasion been before the Chief Commissioner, but he saw no objection to giving leave at once to file another petition. It did seem to him a most extraordinary proceeding that, in a case where there was property alleged to be available, the judge on three occasions had destroyed the power to dispose of the same by dismissing the petition. It was the clearest case of cutting off the nose to be avenged of the face he had ever seen.

"Mr. Reed, who was for the insolvent, said there was no remedy. If the judge went on dismissing the petitions as he had done, the insolvent would be kept in prison for his life.

"Mr. Commissioner Murphy hoped it would reach the judge that his respectful suggestion was, that he would preserve the next petition, and deal with the case. After two years and more he did not see what there was to keep the insolvent in prison, but that of course was for the judge to consider.

"Leave was then given to file "another" petition.

"In the Court of Bankruptcy there is an appeal to the Lords Justices, but there is no appeal from the omnipotent Insolvent Debtors' Court, where the boasted liberty of the subject is both tampered with and abused. How can Mr. Commissioner Phillips impose upon the country by proclaiming there is no imprisonment for debt, while there is not a day that he sits without some poor trembling imprisoned debtor being brought up before him to be discharged! No imprisonment for debt, indeed! Let any one go to Whitecross-street, or any of the other debtors' prisons, and see the hundreds lying there who cannot avail themselves of the Protection Acts or the Court of Bankruptcy.

"The Protection Acts as they now are, are as unjust as they are delusive; if a trader owes less than £300 he can get protection in two days; a non-trader, also, for any amount. If a trader owes £301 he cannot get protection, but must go to prison. His case would be too small for the Court of Bankruptcy, as, to enable him to make himself a bankrupt, he must swear he has assets worth £50, and must actually bring that amount into court before he can get his certificate; and so small
a case would be kicked out of court, if possible, by Mr. Official Assignee, if there was no chance of assets to pay his commission.

"Why should this distinction stop at £200? Is that small debtor more privileged than another who owes £300, or £600, or any amount? Why are the latter to be incarcerated more than those under the special £300? Is this the equal justice Englishmen boast of? I deny it.

"I have passed more protection cases than any other individual, and I proclaim from my own knowledge that their operation has been most beneficial—that thousands of men have been able to keep on in business, and pay their just debts afterwards, because they could get such protection; whereas, if they had been imprisoned for debt, they would have been morally degraded, their wives and families thrown upon the mercy and bounty of friends, or have had to seek the bitter refuge of the union poor-house.

"No imprisonment for debt, indeed! One would think the Commissioners preferred their salaries to pensions, now there is a threat of the Insolvent Debtors’ Court being abolished, and which it ought to have been long ago as a needless and useless court, the purposes whereof have passed away, and as there are other more decent and respectable courts which ought to take up the business.

"In fact, why should there be a distinction?—why call some men insolvents and some bankrupts, when the sin of debt is the same, the difference being only in the amount that makes it respectable for bankrupts, but degrading for insolvents?

"The Protection Acts began to be administered in the Court of Bankruptcy, and the protection was granted instanter. The Commissioners of the Insolvent Court made a rule over-riding the Act of Parliament, and will not grant protection till the day, or even two or three days (if the Commissioners are not sitting), after filing the petition, whereby many creditors get a preference by taking the debtor’s goods, or take his body off to gaol in the interim. The Commissioners of Bankruptcy got, and now get, £500 per annum for attending to this business, although they do not attend to it; but these cases were afterwards turned over to the Insolvent Debtors’ Court, where they have been misconstrued, misunderstood, and rendered all but a nullity; nevertheless the Commissioners stick to their extra £500 per annum.

"As provided for by Lord Brougham’s Bill, let all debtors be allowed to petition the Court of Bankruptcy and the County Courts. Means will be found to punish the fraudulent—Jews, usurers, and cost-loving lawyers will be frustrated—trade will revive—honest men will rally their fortunes—imprisonment for debt, like other abominations, will pass away, and Englishmen will only wonder why such a diabolical and useless system was upheld by our mistaken legislators up to this, the fullest time of our boasted civilization and enlightenment, 1858.

"H. W. WESTON,
"Late Secretary to the Chancery Reform Association.

"47, Moorgate-street, Bank, March 12th, 1858."

The above letter will give some idea of the administration of the law at the present time; for could it be believed that a commissioner like Mr. Phillips, of Old Bailey celebrity, could now give out to the world that no such thing as imprisonment for debt exists? Did he make such a proclamation to taunt the poor prisoners, or to delude himself into the blessed idea that there was no such thing as a sheriff’s officer or an imprisoned victim of the infamous law—not of the creditor; for it is the law that allows the creditor to be oppressive and tyrannical, and that law ought not to exist. Or did he intend to delude the public, and stop the agitation to abolish such a system, by stating such a thing did not exist? However, he has said it, and never taken the trouble to explain or contradict to the public why he did so; therefore let such an emanation of his wisdom stick to him, fast as the lock that grates upon the ears of the hundreds of debtors, dragged from their homes and families, perishing in manhood, in hope, festering, rankling, worrying, dying in despair, under a system of imprisonment which he, Mr. Commissioner Phillips, with cool effrontery, says does not exist.

"Satan finds some mischief still
For idle hands to do."

and will there not—has there not always—been the greatest misery and mischief arising from the herding together in idleness of hundreds of men even for days, much more for weeks, months, and years together, staring, gazing at each other with bated breath and folded hands, and working up their worst of all the passions that can usurp proud reason’s seat to wickedness. No man ever went into even a debtor’s prison for a night, a single night, without being demoralised, if not in any other way, in his own self-esteem, and a blank was thrown upon that heart which will come back to memory even in the hour of death.

It would be difficult to obtain statistics as to the cases of lunacy engendered by imprisonment for debt, but there must have been hundreds and hundreds in the years gone by, and we now give a report of a recent case, as taken from the newspapers of the day:—

"INSOLVENT DEBTORS’ COURT.

"IMPRISONMENT OF A LUNATIC—IN RE WILLIAM ARMSEY.

"This was an application for the discharge of the insolvent, who was confined in Ockham gaol, on a certificate that he had become insane since his imprisonment. The insolvent was a toll-gate keeper, and arrested some time ago, on which he went to prison. From something that transpired, the keeper of the prison called in a justice of the peace, who gave a certificate that the prisoner was of unsound mind whereupon a friend filed a petition for the liberation of the unfortunate man. There was no schedule filed, and notice had been given that the present application would
be made for his discharge. Mr. Reed supported the application, and said he believed all the notices required had been served. The officer of the court asked whether any creditor attended to oppose the application. No answer was given, on which the discharge was ordered, and the poor man will be given over to be placed in a proper asylum. It appears that the lunatic was arrested on the 6th March, and the Society for the Relief of poor Debtors took up his case, he being in custody at the suit of the Stamford and Kettering Turnpike trusts, and after he had issued some documents to petition in an ordinary manner, he became insane, and hence the present proceedings in the court in London, otherwise the insolvent would have been heard by the county court in the country. He was accordingly discharged.

The effects upon health have been fatal and awful indeed. "He shall rot in prison," the common promise of the creditor; and "I will rot in prison before I pay," the common promise of the obstinate debtor. These expressions have had ample exemplification enough; the effect on morals must remain untold; the effect on religion unknown. Alas! it makes one doubt the existence of Christianity in a land where such a cursed system endures. How is the quality of mercy here displayed?—that quality which is

"Not strained:
Upon the place beneath. It is twice blessed;
It blesseth him that gives and him that takes;
It becomes the monarch better than his throne;
The mightiest in the mightiest.
It is an attribute of God himself,
And earthly power doth then show liket God's
When mercy seasons justice."

Another case, also before Mr. Commissioner Phillips, the other day, one of excelling infamy, is the following, which also most strongly exemplifies the infernal system. Stop, gentle reader; peruse, and inwardly digest it:—

"INSOLVENT DEBTORS' COURT, JUNE 7TH, 1858.

[Before Mr. Commissioner Phillips.]

"IN THE MATTER OF WILLIAM LAIT—SEVEN YEARS' IMPRISONMENT.

"This insolvent, who had been in Whitecross-street Prison seven years at the suit of the Hon. Granley Berkeley, appeared for hearing under the Protection Act. The case was before the Court on a former occasion, when the insolvent asked for his discharge, but it could not be granted, as he was not in execution for a debt. It appeared that the only debt on the schedule was 33l., due for costs to the Hon. Granley Berkeley, in an action the insolvent had brought against him for the seduction of his daughter, and which action had been non prosect, and he was now in prison for the costs of the same. He had been arrested in July, 1851, and consequently had been nearly seven years in confinement. He at length petitioned for his liberty."

"Mr. Commissioner Phillips, looking at his schedule, remarked that the insolvent only owed 33l.

"The registrar called the attention of the learned commissioner to the circumstances of the case.

"Mr. Commissioner Phillips said the Insolvent was not opposed, and he should not stand in the way of the poor man being discharged.

"The registrar said the final order would be appointed for the 28th instant, and then the discharge would be granted.

"His Honour remarked that, as the debt was for costs, it must be so. He would be discharged as soon as the law allowed it.

"The day was named for the final order."

Pause, and take breath, or indignation will overwhelm you! This is the climax of a system which thus shelters a Honourable aristocrat, who is accused of seducing the poor man's daughter; the poor man seeks redress by our law; by our law the rich man beats him, or trips him up, and then locks him up in a debtors' gaol for seven long years, under a system which it seems does thus still exist. Out upon such a damnable law and system! It is enough to bring down the vengeance of heaven upon us as a nation.

See also the following recent report of a meeting of the Lanarkshire prison board:—

IMPRISONMENT FOR DEBT.

"At the meeting of the Lanarkshire prison board on Wednesday, Sir Andrew Orr said he was surprised at the increased number of civil prisoners. Many of these cases had arisen out of the late crisis, but many of them from the ill-nature of the creditors. It was a most demoralizing system, neither proving beneficial in the recovery of bad debts nor of benefit to the individual, whom imprisonment made more sullen. Everyone visiting the prison must be satisfied that some other mode should be adopted than imprisonment for debt.

Mr. Commissioner Phillips is quite fortunate in giving us cases to shew that there is such a thing as imprisonment for Debt. Read the following case heard by him on the 26th June, 1858. What further need have we of cases to prove the infamy of the distinction between the two systems of Bankruptcy and Insolvency? It would be well if the Commissioner could find a short road to mercy as well as to injustice.

"INSOLVENT DEBTORS' COURT, 2ND JULY, 1858.

"BANKRUPTCY AND INSOLVENCY.—IN THE MATTER OF JAMES HORWOOD.

"This insolvent, who had been in Whitecross-street prison since November, applied to be discharged through the assistance of the Society for the Relief of Debtors. The insolvent had been a paper-banker in Castle-street, Leicester-square,
and a coffee-house keeper.—Mr. Commissioner Phillips, looking at the proceedings, found that the insolvent was a bankrupt in the year 1823, and had not obtained his certificate. It appeared that there had been no application for a certificate, and he had now no means to apply to the Court of Bankruptcy.—Mr. Commissioner Phillips said, an application must be made to the other court.—On the part of the insolvent, it was urged that he had, not the means to apply.—The case was brought before this court by the committee of the Thatched-house society.—Mr. Commissioner Phillips could not help it. All he knew was that an application must be made to the Court of Bankruptcy, and if the commission refused the certificate, then the debts must be inserted in the present schedule, although they were barred by the statute of limitation.—The attorney’s clerk ventured to suggest that the bankruptcy was “thirty years” ago.—Mr. Commissioner Phillips thought that had nothing to do with the matter.—The clerk asked if a list of the creditors was obtained and served, whether it would be sufficient.—Mr. Commissioner Phillips: There may be a short read to injustice, but I’ll not do it. Either get the certificate or insert the creditors.—The case was adjourned and the insolvent was remanded to prison to get his certificate or to insert the creditors.

The recent alterations in the Whitecross Street prison, the largest debtor’s gaol in the kingdom, we hope is to be the last dying kick of the system, or the penal tyranny of its reform will raise a more violent outcry than ever against it. The once famed noisy radical City Solicitor, it is said is at the bottom of these improvements, making it a prison indeed, with its military Captain Hicks for governor, and its turnkeys dressed up in uniform, something between that of an artilleryman and a parish beadle. Well, Mr. City Solicitor, thou art not the only noisy radical whose mouth has been stopped by the plume of office; but forget not thy old ideas of liberty, equality, and fraternity!

How can such a system be in accordance with His whose whole teaching was of brotherly love, brotherly kindness, the forgiving your debtors, not once, not seven times, but even seventy times seven; who taught us our daily prayer, to forgive our trespasses as we forgive them that trespass against us? Oh! blessed Spirit, blest Essence of what He intended his system to be, come down, come soon, and teach men to be Christians in deed and in truth; not Pharisees, hypocrites and tyrants.

In the above letter, allusion is made to the difference of systems in bankruptcy and insolvency, and only a few days ago, before Mr. Commissioner Paine, (whose opinions are always respected,) in re Paul, in the Court of Bankruptcy, is reported:—

“Mr. Bagley thought the bankrupt should have gone to another court.”

“The Commissioner: If I was him I should not; for the other court does not give a full release from the debts.—this does. I should like to see the law of insolvency altered.”

In the opening of this Session of Parliament, Lord Brougham brought in a Bill to abolish Imprisonment for Debt, and the Insolvent Debtors’ Court, and to allow all Debtors to petition for protection to the Courts of Bankruptcy, and the County Courts, but which he withdrew upon the undertaking of the Palmerston Government to bring in a measure of the same purport and effect, and which it is understood they were preparing to do, and pass this session. May it be so! It will be something indeed, should the House of Commons pass even one good Act this Session.

The absurd distinction between Insolvents and Bankrupts must cease; Imprisonment for Debt must die. Look for one moment at the machinery of the Insolvency Court,—of course never doubting the wisdom of its lawmakers, or the misery of the debtors, let us look at the interests of creditors. The official person having care of their interests under the prison acts is called the Provisional Assignee, and in this capacity has the care, poor man!—aged, infirm, and deaf as he is,—of nearly 70,000 debtors’ estates. Under the protection acts he is called the Official Assignee, and has the care of just upon 10,000 estates. Can he attend to all this? We merely say it is not only impossible but infamous that such a share of the public business should be entrusted to one man; for no one man could possibly attend to it.

Besides there must be an enormous fund of unclaimed Dividends, Fees, &c., in this Court, all under the care of this one man and his clerks; several millions no doubt. Yet nobody ever enquires, nobody knows aught about it, or where the money is, or where it goes to. Dividends are seldom made. The following letter of the doings of the Official Assignees in Bankruptcy will, however, well prove that these Gentlemen want well looking after in both Courts.

“DEPACTATIONS OF OFFICIAL ASSIGNNEES, 10TH JULY, 1853.

“It appears, from a Parliamentary return issued yesterday, that since the 11th of January, 1853, five official assignees in bankruptcy have been declared defaulters. The total deficiencies of Mr. Peter Harris Abbot, who stands first on the list, amounted to £82,190 19s. 8d. The loss sustained by the default of Mr. James Clark was
£9,000; the amount recovered from his property and sureties was £3,386 4s. 8d.

The deficiency of Messrs. Freeman amounted to £5,784 12s. 11d.; one of his sureties
died pending an action at law, and the other was compounded for £500. The
 deficiencies of Mr. R. S. Mackenzie, of the Manchester Court, amounted to
£855 18s. 11d.; but the whole amount was repaid by his sureties. The total
deficiencies of Mr. Thomas Rennie Hutton, of the Bristol Court, amount to
£12,014 2s. 2d.; £3,000 has been paid by one of his sureties, and a suit is now
pending against the other for the recovery of a like amount."

These fearful losses fell upon the poor creditors, and although
there is an enormous fund in the Court of Bankruptcy, also
several millions, the Government would never order these
robberies to be replaced out of that fund, and they are still
unpaid to the creditors on the several estates.

The Author made that nice man and protect of Lord
Brougham’s, Peter Harris Abbott, a Bankrupt in his own Court,
before his own Commissioner; but he never appeared, and was
outlawed on his last Examination. He fled to Brussels, where he
set up as a Banker, but all was kept dark and quiet in the
Court about him,—no restitution of his plunder,—no prosecution,
no public stir or examination,—no Dividend under his
Estate: all was hushed, still as the grave, and all because he was
an Officer of the Court forsooth.

It must be a jolly fund to allow such a pull as these
Gentlemen took out of it. Let us try our own Cock; and see
if it will add up—

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only £103,851 9 8

Gentle and dear reader, open your eyes and look at this,—these
are figures. Is there not something rotten in the state of
Denmark. These robberies are what we do know of, not what
we do not. We shall be glad to see the returns of the present
funds of both Courts. Do we not need reform? Circumlocution
does its work also in the Law Courts. Have we a Government at
all, to allow such a state of things to exist and go on?

Let us hope some Member of the House of Commons will
be zealous enough to get us further returns, which ought to be
obtained at once; and lists of all the unclaimed Dividends on
all the Estates, with the names of all Creditors who have proved,
ought to be published, by which thousands would get their
Dividends paid, who now cannot possibly get the slightest
information on the subject, much less their money.

There is another glaring and cruel evil of the Insolvency
Court, which is, that, although the Acts of Parliament do not
allow it, the Court has made a rule not to sit during the long
vacation; so that from about the 1st of August to the 1st of
November, yearly, the poor debtor remains in prison whilst the
Commissioners and officers of the Court are taking their pleasure.
Not so in the Court of Bankruptcy, where the Court by law must
sit every day in the year to transact business for the protected
debtor, excepting Easter Monday and Tuesday, the only vacation
of that court; and, besides, the hardship alluded to only falls on
the London imprisoned Debtors; the Country ones can be heard
at the County Courts once a month. Still writs and executions
can be issued, and the sheriff’s officers can go on filling the
London prisons to plethora, but there is no discharging of the
poor prisoners, until the commissioners and officers of the
court return from enjoying the sea breezes— alas poor prisoners.
What more than this is required to show the disgraceful
difference between the two systems,—the respectable one of
Bankruptcy, and the penal and degrading one of Insolvency.
Shame on our government if this be not altered without the
least possible delay!

Again: on this subject the legislature has been playing the
game of seesaw for some years past. First, it abolishes arrest
under £20. Then why stop here?—why imprison the man who
owes £21 more than the other that owes £20? Then they make
matters worse, by allowing the arrest of the poor County Court
debtors; inverting the order of things, as usual, making the
poorer man the greater criminal and victim to harsh and unjust
regulations. And these poor men are treated differently from
those over £20, even as criminals; their friends cannot get to
see them, they are kept on the county allowance and skilled, viz.,
beasty bad water gruel, and in some places have their hair cut off
and their pates nearly shaved. Better cut their heads off at once,
and put them out of their misery: it would be more merciful.
There was engraved on one of the tables in Whitecross
Street, the case of a man under the County Court oppression, whose debt was originally about 3s. 6d., for which he had endured, by several commitments, nearly 150 days’ imprisonment, and then the debt was not only unsatisfied, but increased to full £5. 3s. 6d., and for which the vindictive creditor would still go on asking commitments, and the merciful judge (?) perhaps granting them, to gratify such vindictiveness.

Surely enough has now been argued to prove the abomination of the accursed system of imprisonment for debt, the necessity of abolishing the distinction between Bankruptcy and Insolvency, one giving a discharge by the certificate, the other not doing so, and we trust that this effort of ours may in some manner urge on the contemplated new measures in this respect, that petitions may be sent in from all the prisons, and active exertions made to agitate the public mind on the subject, so as to bring about a better and more enlightened state of things. Out of the thirty-three United States of America, thirty of them have abolished the evil, and the other three States will soon follow in their wake.

We say, then, assimilate the law of bankruptcy and insolvency; abolish the Insolvent Debtors’ Court; let equal laws prevail; let all debtors be allowed to petition for protection; let none be imprisoned for debt but proved rogues; simplify and codify the law, so that he that runs may read: then will many a valuable citizen be saved in everything; many broken-hearted wives be saved from misery, the union workhouse, and starvation; many children saved from ruin and destruction for want of a father’s care; many a sneer at our institutions be saved from other nations; we shall be saved from the right of the strong to wrongfully oppress the weak, and saved the expense of the useless Court of Insolvency and its prisons, a better state of things between debtors and creditors, and the giving of credit will arise, and Old England will again have another rebound in the right direction, urging on her present glorious mission of progress to the still greater glory and happiness which shall yet await her in the generations to come.

Before concluding, we would give to our debtor readers some useful hints how to proceed, if possible, but cannot in this pamphlet; for if they think to find out their way through the following Acts of Parliament, relating to both systems, they will be most wonderfully puzzled:—In Bankruptcy, the Consolidated Act, 12 & 13 Vict. c. 106. Also, 1 & 2 Wm. IV. c. 56; 1 & 2 Vict. c. 110; 2 Vict. c. 11; 5 & 6 Vict. c. 122; 7 & 8 Vict. c. 96; 8 & 9 Vict. c. 48; 11 & 12 Vict. c. 102. Protection and Private Arrangement Act, 7 & 8 Vict. c. 70. Insolvency Prison Act, 1 & 2 Vict. c. 110.—Protection Act, 5 & 6 Vict. c. 106; 7 & 8 Vict. c. 96; 1 & 2 Vict. c. 110; 10 & 11 Vict. c. 102.

Lord Brougham intended that any man might petition for protection without employing an attorney; but the profession were too strong, and even overruled the Acts of Parliament by making a rule of Court that to employ attorneys was required, and by such rule petitioners are now bound.

We have given our opinion above, that the Insolvent Debtors’ Court ought to be abolished, that there should be but one class of Debtors, so that the distinction between Bankrupts and Insolvents should cease. And we hope under the new law this will be accomplished; so that all Debtors, traders and non-traders, on finding themselves unable to meet their engagements, may present a petition for protection to the Courts of Bankruptcy or the County Courts; and so that if a Debtor has acted honestly, he may be saved from imprisonment; but if he has acted the rogue, he shall be penal punishment, after conviction thereof by a jury of his countrymen.

The Courts of Bankruptcy have cost the country a large sum of money to found, and, in our opinion, they ought to be made much more efficient and useful than they now are. Their buildings, as Courts, are some of the best Law Courts in the kingdom; their working machinery, clerks, officers, &c., are a most efficient staff of men. But their proceedings are too costly, and ought to be curtailed full one-half at least. When the writer of this pamphlet ten years ago published a similar one, called Chancery Infamy, exposing the cruel abominations of the Court of In equity—miscalled the Court of Equity—Lord Erskine and other leading reformers rallied round the author, and the Chancery Reform Association obtained from the Legislature such a measure of reform as we are at present obliged to be content with, but which we hope is only the wedge got in which shall shiver such a cursed legalised system of plunder to atoms and annihilation. At the time, the
lawyers were fearfully alarmed: they raised the cry of "Great is our Diana of the Ephesians!" the fat plunder of costs would be gone, and they would be ruined. However, they now admit that they are much benefited by the change, as they can now better get through their business, and, what is much more sweet to them, they can the sooner nail and pocket their still enormous costs out of the "Estates," and as the lawyers are, as ever, a crafty and a wary race, few of them like to institute a suit in Chancery unless they can see their way clear to get their costs out of the Estate. Owing to the Chancery Reform Association, the Lords Justices and numbers of others got their seats and appointments; the lawyers can now get on with their cases, and also get paid their costs; the suitors and the public are much benefited by the new and speedier mode of proceeding; —all are benefited by it but poor Pil Garlick, the author of the pamphlet, who gave up years of time to it, and lost hundreds of money and his business by it; but all the thanks he ever got from the Lord Chancellors or the generous public, or from any other quarter, for all his trouble, was utter forgetfulness of his services.

We have digressed thus far to throw out the suggestion that the Courts of Bankruptcy, being spread over all the principal towns in the kingdom, ought to be made much more efficient for general purposes than they now are. Owing to the reform in Chancery, the business is now so much increased that all the smaller cases ought to be dealt with for the present in the district Courts of Bankruptcy —say local cases, and those where the property in question is under £1,000 in amount.

Since writing the above, after all the promises to immediately alter the law of Bankruptcy and Insolvency, and abolish Imprisonment for Debt, the Lord Chancellor announces that he will bring in his Bill on the subject, but that it must go over till next session. So poor Debtors imprisoned, and Debtors in fear of being so, justice is further delayed, and ye must still pine and suffer. The men that you are enabled to return to the House of Commons, to pass laws to govern you, have not time to attend to your interests: the liberty of the subject to them is a thing of nought.

Lord Brougham brought in his Bill at the opening of the present session —wise, sensible, and efficient for all purposes.

The Palmerston Government said, "Oh, don't go on with yours, my lord; we have a much better measure!" and the Bill was withdrawn.

Then Lord John Russell brought in his Bill, the leading features of which are as follows:—

**LORD JOHN RUSSELL'S BANKRUPTCY BILL.**—This Bill covers 158 pages of paper, and contains 461 clauses. The following are the principal alterations proposed:—

1. The distinction between traders and non-traders is to be done away with.
2. The County Court Judges are to have the powers of Commissioners in Bankruptcy, but their duties are not defined.
3. The messengers and brokers are to be done away with, and their duties performed by the official assignees and ushers.
4. The official assignee is to be paid by salary for all such duties as he performs in that capacity, but he may be appointed Creditors' assignee if the Creditors so mind.
5. The Creditors are to appoint an assignee of their own, and fix his remuneration, and they are also to appoint three inspectors to look over and advise him.
6. The distinction in classification of certificates is abolished; but the Commissioner is still to retain the power to deprive a Debtor of a certificate, to suspend it, or to annul conditions to it.
7. Estates may still be wound up under deeds of arrangement; but this mode seems only applicable where all the Creditors reside in Great Britain.
8. Bankrupts, for certain offences, are liable to Imprisonment, and the Commissioner has the power of a magistrate to enable him to commit them for trial.

The Derby Government then says, "Oh, my Lord John, pray don't you go on; we have a much better measure." So that Bill was also shelved.

The present Lord Chancellor is then asked what is to be done, and he says, "Oh, we have a much better measure yet; we will bring it in; but it must go over till next session." It must go over; it must go with the other slaughtered innocents—not on the table, but under it. So much, my fellow-countrymen, for your wise and humane legislators! It serves you right to be thus humbugged by legislators who by their bungling make panics—vide the years 1837, 1847, 1857 and other fatal years—make Bankrupts and Insolvents, drive hundreds to fester in Debtors' Gaols, but yet have not time to alter such laws, either for prevention or cure. It serves you right to be thus humbugged about this, as you are about Reform from year to year; no matter what you suffer, until you insist on that reform which, by giving you manhood suffrage, vote by ballot, and other similar proper reforms which will enable you to send right men into right places in the House of Commons, who can attend, and will attend, to the public business, and who shall legislate for us, the people, and not for place, party, aristocracy, or unequal laws.
We now offer a few suggestions on the courses at present open for embarrassed Debtors in both the Courts of Bankruptcy or Insolvency.

**BANKRUPTCY.**

A Trader Debtor owing any one Creditor £50 may be made a Bankrupt by such Creditor.

A Trader Debtor may make himself a Bankrupt, and obtain immediate private Protection; but he must have assets of the clear value of £150.

A Trader Debtor may present a petition for arrangement with his Creditors, and obtain immediate protection; but to enable him to do this, he must have £150 available assets to bring into Court.

All Non-trader Debtors, private and professional gentlemen, clergymen, farmers, and others, may obtain private Protection without showing such assets; but they must make a reasonable proposal for payment. These need not have the £150 assets as above.

There are two other modes in Bankruptcy of getting discharged from Debts,—by certain numbers of the Creditors of the Debtor concurring in arrangement for composition or time.

**INSOLVENCY.**

All Imprisoned Debtors may petition for discharge immediately they are arrested, and can get out on bail in about ten days.

Imprisoned Trader Debtors under £300 can petition for Protection, and get discharged, on giving two clear days' notice.

Imprisoned Non-trader Debtors for any amount can do the like.

And all Trader Debtors owing under £300 can obtain immediate Protection on applying to an attorney who well knows the practice. All Non-trader Debtors can obtain immediate Protection, however large may be their debts.

H. W. WESTON,

Late Secretary to the Chancery Reform Association.

47, Moorgate Street, Bank,
July, 1868.