

So the seizing creditor, who has been putting the assets of the debtor into the hands of the court in order to preserve them, is practically without a right. Whether you want to let it go at that or change it is up to you.

The ACTING CHAIRMAN: What would be your suggestion there?

Mr. JUSTICE BOYER: That is section 27, subsections 1, 2, 6, compared with section 28, subsections 3 and 4. As to the discharge of the trustee, there is a provision that his report has got to be approved first by the superintendent. I entirely approve of it, but I see no disposition in the law to let anyone aggrieved by the superintendent to appeal to anyone.

Mr. REILLEY: Yes, that is correct.

Mr. JUSTICE BOYER: Section 39, subsection 5. Section 82, subsection 2.

Section 46 allows the trustee to apply to the judge for directions. I do not approve of this clause at all. But the point is this, the trustee in the first place and the lawyers run up pretty big bills, but they do not want to take responsibility, so they come back to the judge. But this direction is not binding on anyone, so the question can come up again to the judge. If it is a question of management of the estate there might be an application to the Superintendent of Bankruptcy for directions, but I do not believe these directions by the judge should be there. That is section 46.

The next point is the minimum fee to the trustee of \$100. There are a number of cases to my knowledge where no assets at all were available, so this minimum of \$100 to a trustee seems to me to be too high. That is section 90, subsection 2.

Section 93, subsection 4. This is a provision about publishing everything in the *Canada Gazette*. The costs of bankruptcy are too heavy according to the general opinion. Why saddle the estate with the cost of advertising in the *Canada Gazette*, which no one reads? Of course, if you want to preserve that as a means of emolument to the government, I suppose that is all right. But so far as I am concerned, I am certain no creditors read the *Canada Gazette*.

Hon. Mr. HAIG: Nor anybody else.

Hon. Mr. FOSTER: What would you do with it?

Mr. JUSTICE BOYER: Section 126, paragraph (d). That is for the privilege of the employees of the company. It limits the claim to \$500. To my mind it is not clear whether the \$500 applies to all employees or to anyone in particular. I think that should be made quite clear.

The ACTING CHAIRMAN: You mean the \$500 might apply to one employee only?

Mr. JUSTICE BOYER: Or to all employees. I do not know whether it means that the \$500 is for all employees or for any one in particular. That should be cleared up.

Section 160 raises the question of procedure. My idea is that the bankruptcy court should be more of a business court. That is why for my part, although I may not be more qualified than anyone else, I had a lot of difficulties at first in this regard. There was a disposition on the part of the lawyers to make the rules of procedure apply, and they would go on in the same way and carry my decision to the court of appeal. The case came before me a second time, and I gave judgment in the same way, with further reasons, and finally the court of appeal approved my judgment. I think the procedure should be made clear.

There is another feature too. Under the civil code procedure in the province of Quebec you may make any number of exceptions and contestations. You may know how the election of our mayor was contested. He was elected several years ago, he is still in office, and there is no decision yet on the exception to his election. The reason for the delay is the making of exception after exception