

Mr. Justice URQUHART: It would be made by the Registrar, if unopposed, but by the Judge if opposed.

Hon. Mr. HAYDEN: But he is an officer of the Court.

Mr. Justice URQUHART: Yes.

Hon. Mr. HAYDEN: Then the proceedings are conducted in the Bankruptcy Court?

Mr. Justice URQUHART: Yes. They are conducted in the locality of the debtor as a rule.

Hon. Mr. HAYDEN: Why should the court not be the one to discharge the debtor?

Mr. Justice URQUHART: That is my point exactly, Senator. I do not think there should be a change. If I read the Bill rightly, the trustee has no right of appeal if the Superintendent refuses the discharge, unless a creditor has opposed the discharge.

Section 82 provides that the trustee's accounts shall be passed and approved by the Superintendent instead of by the Court. This would have to be done from the remote parts of Canada by correspondence, I assume, because most estates would hardly pay the expense of sending a trustee to Ottawa to justify his accounts. My submission is that the trustee's accounts should be passed by the Court. It always has been the practice for the Court to pass the accounts of trustees, liquidators, receivers, executors and so on.

There are other sections which seem to divest the Court of its jurisdiction. I have referred to these in my memorandum, which I shall leave with the committee. Unless there are some questions, I do not wish to take up any more time, as there are others waiting to be heard.

The CHAIRMAN: I am pleased to know that we may have this memorandum for our own use.

Mr. Justice URQUHART: In the memorandum I have referred to a number of other matters that I thought ought not to be changed. The reference to various sections and points are indexed.

Hon. Mr. EULER: Have you any suggestions to make as to what, if anything, should be added to the Act?

Mr. Justice URQUHART: I am afraid I am a stand-patter on the Act. It has worked very smoothly. I have to thank the former Judges of Ontario and the other provinces for the spade-work that they did when the Act was first passed: their work has made my duties as a Bankruptcy Judge a very pleasant and comparatively easy one.

The CHAIRMAN: Would you not consider it dangerous to change many things in the Act since we have behind us only five years of jurisprudence?

Mr. Justice URQUHART: Yes, that is my point largely. The chief objection I have to any change indeed is to this section 159.

The CHAIRMAN: In your experience would not even a small change give rise to new interpretations of the law?

Mr. Justice URQUHART: Yes.

The chairman has just reminded me of one other matter that I intended to deal with, that is, the discharge of the bankrupt. There is a provision in this bill for what is called the automatic discharge of the bankrupt. My opinion is, and I have so expressed it in two or three judgments, that the trustee and the bankrupt should be discharged together; that is, the trustee should not have his discharge before the bankrupt has his, and vice versa. I am not in favour of the present proposal, to provide for the automatic discharge of the bankrupt.