

## ACTS OF BANKRUPTCY

*Other Conveyance or Transfer—Section 3 (d)*

Section 3 (d) is changed and makes the following an act of bankruptcy:—

If in Canada or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would have the effect of defrauding, delaying or defeating his creditors or any of them.

This subsection in its present form seems so broad that it would cast a cloud over legitimate transactions. It should receive careful legal scrutiny and not be enacted in a form which would have such effect.

*Bulk Sale—Section 3 (i)*

Section 3 (i) is new and makes the following an act of bankruptcy:—

If he makes any bulk sale of his goods *under* the provisions of any Bulk Sales Act applicable to such goods in force in the province within which he carries on business or within which such goods are at the time of such bulk sale wherein the sale price will not be sufficient to pay his creditors in full.

Sales of departments by solvent firms are not taken into account. Also the subsection would prevent the present frequent practice of creditors effecting a quick and inexpensive liquidation through a bulk sale. The Bankruptcy Act should be left as at present wherein bulk sales only become an act of bankruptcy when they are carried out "without complying with" a provincial Bulk Sales Act.

*Ceasing to Meet Liabilities—Section 3 (L)*

Section 3 (L) is changed and makes the following an act of bankruptcy:—

If he ceases to meet his liabilities generally as they become due *or fails to pay any particular debt or debts after repeated demands for payment.*

The italicized words are new fail to recognize disputed claims or set-offs. Their effect is to found an act of bankruptcy on an unproven claim. They should be deleted. Failure to pay a particular debt should not be made an act of bankruptcy.

## PETITION AND RECEIVING ORDER

*Petition by Shareholder—Section 4 (3)*

Section 4 (3), which enables a shareholder of a corporation to file a petition against the corporation, should be deleted. Sub-paragraphs (b) to (f) refer to grounds other than insolvency, and the constitutional power of the Dominion Parliament to legislate concerning petitions on these grounds is questioned respecting solvent corporations incorporated under provincial laws. While sub-paragraph (a) is based on insolvency or an act of bankruptcy, such a clause would expose corporations to serious embarrassment at the hands of one or more disgruntled shareholders. Whether or not a shareholder succeeded on a petition, the mere charge of insolvency and publicity therefrom would gravely impair the credit of a corporation.

*Appointment of Trustee—Section 4 (11)*

The effect of Section 4 (11) is to eliminate the custodian. This change is approved as it will avoid delay, save expense and encourage the trustee to proceed with administration as soon as possible. Reference to shareholders should be deleted from this subsection and also Section 4 (15).