

MINUTES OF EVIDENCE

THE SENATE,

OTTAWA, Thursday, June 20, 1946.

The Standing Committee on Banking and Commerce, to whom was referred Bill A-5, an Act respecting Bankruptcy, met this day at 10.30 a.m.

Hon. Mr. BEAUREGARD in the Chair.

The CHAIRMAN: Gentlemen, the Honourable Mr. Justice Urquhart, of the Supreme Court of Ontario, has been good enough to come here to give us the benefit of his experience with and study of the Bankruptcy Act, the proposed amendments to which, in Bill A5, have been referred to this committee.

HON. Mr. JUSTICE GEORGE A. URQUHART, of the Supreme Court of Ontario: Honourable senators, I come here to-day to speak, not on the whole Act but on several phases of it which interest me as a Bankruptcy Judge and to which I think I may say generally that I take exception. I appreciate that as a revision of the Statutes of Canada is due in about 1947, the consolidation of acts is a good thing. Yet, speaking generally, it seems to me that the Bankruptcy Act in its present form is one that, with a few minor exceptions, needs little change. I say that because in the various provinces, after an administration of nearly thirty years, a very considerable body of law has been built up, and the course of the law has been pretty well charted by the efforts of the great Judges who have gone before which make the work of present Judges in Bankruptcy, like myself, comparatively easy. Our Bankruptcy Act, as you all know, is to a large extent based on the Bankruptcy Act of England; and in that country too there has been built up a considerable body of law, which is of great interest to us and to which we look for guidance. So I look rather askance at the somewhat drastic changes that have been proposed in this bill.

I have prepared a memorandum which I would be happy to file if that meets with your approval. (*See Appendix A.*) But there are three phases of the bill that I wanted particularly to discuss with you. I will begin with the third, because it is the one of the greatest interest to the High Court in Ontario and to me as the present Bankruptcy Judge of that Court. I have been sole Bankruptcy Judge of the province now for about eight and a half years. I refer to the putting of twenty-one bankruptcy offences mentioned in section 200 into the exclusive jurisdiction of the High Court, I presume without a jury. It will be noted that section 149 (1) (f) which is one of the new clauses, gives the court plenary power and jurisdiction:—

to arraign, admit to bail, try and punish offenders for offences committed under this act.

The bill does not say that this is to be done without a jury, but I would assume the intention of the draftsman was that a Judge of the highest trial court shall try without a jury persons charged with what I should think are comparatively minor offences, for which the penalty is not more than two years. All of these are indictable offences.

Hon. Mr. HAYDEN: May I ask a question here?

The CHAIRMAN: Yes.