

Bankruptcy Act
BANKRUPTCY ACT

GENERAL REVISION AND CONSOLIDATION—
VARIOUS AMENDMENTS

Hon. Stuart S. Garson (Minister of Justice) moved the second reading of Bill No. 149, respecting bankruptcy.

He said: Mr. Speaker, this is a bill which was prepared about a year ago and introduced in the Senate in the last session of the preceding parliament. It was passed there and then died on our order paper when the house was dissolved. The bill was introduced again in the Senate during the present session, has been passed by that body, and comes to us as a Senate bill.

I have suggested to the leader of the opposition (Mr. Drew), the leader of one of the other two parties, one of the lieutenants of the other leader, and one or two other private members of the house who are particularly interested in the measure, that we may make better progress if we give second reading to the bill without too much discussion, and then, on the report of the standing committee on banking and commerce, which will consider the measure, have any debate in which it might be the desire of hon. members to participate. I may say that all those to whom I spoke were agreed that was the proper course.

I think, however, I should say a few words about the bill. The purpose of it is to revise and consolidate the Bankruptcy Act. It is a matter of putting it into somewhat better drafting form, and consolidating various amendments.

The bill arises out of the invocation by this parliament of its jurisdiction under category 21 of section 91 of the British North America Act, which turns over to federal jurisdiction the subject of bankruptcy and insolvency. The first dominion act was passed in 1869, being entitled An Act Respecting Insolvency. It covered voluntary and compulsory bankruptcies, provided for compositions, and applied only to traders.

In 1875 the law was revised and consolidated in a new act, the Insolvent Act of 1875, which was made applicable to the new as well as the original provinces. This act did not work out satisfactorily, and it was repealed in 1880, following which there was, for a period of some forty years, no general bankruptcy law in force throughout the whole of Canada, and the field was left to such legislation as it was competent for the provincial legislatures to provide. In 1919, however, parliament passed the Bankruptcy Act, modelled on the English statute of 1914. Some amendments have since been made in the Bankruptcy Act to remedy defects that have

[Mr. Fraser.]

appeared in practice from time to time. The act now in force is chapter 11 of the Revised Statutes of 1927 as it has from time to time been amended.

In addition I think special attention should be called to the fact that important amendments were made by chapter 39 of the acts of 1932, which established the position of superintendent of bankruptcy and provided for the licensing of trustees by the minister.

It is for the purpose of revising and consolidating chapter 11 of the Revised Statutes of 1927 that the present bill is before us. The main improvements or changes that are being effected by the bill can be listed as follows:

1. The bill provides a system of "summary" administration for small estates, whereby the formalities and expenses are reduced below those considered necessary to safeguard the administration of larger estates.
2. The bill permits a debtor to offer and the creditors to accept a proposal without the debtor going into or being put into bankruptcy. This, in a proper case, is more convenient and cheaper and obviously more desirable for the debtor than the previous situation when the composition had to be preceded by bankruptcy before it could go forward.
3. The bill makes an effort to clarify at least to some extent the vexed question of the priorities to be accorded different classes of claims when distributing the debtor's assets.
4. The bill increases "creditor control" over an estate by vesting directly in the creditors and the inspectors a number of responsibilities and obligations in respect of which they were previously required to resort to the court.
5. The bill is an improvement in respect of drafting and arrangement of sections over the present act, as one would of course expect in the case of any consolidation if it is properly handled.

Mr. J. G. Diefenbaker (Lake Centre): Mr. Speaker, I do not rise to oppose the suggestion of the Minister of Justice (Mr. Garson), but rather to support it. This is a long, complex, and technical bill. The minister has set out carefully the five major improvements that will result from its adoption, and I am sure every hon. member of the house will agree as to the necessity of the five improvements to which he has referred. The bill, when it is submitted to the standing committee on banking and commerce, will be revised there in such further detail as the members of the committee may consider necessary. Certainly to endeavour