We feel, therefore, that these proposals are fundamentally unwise, and that the thing desired, namely, rectification and elimination of certain abuses that have occurred in the past, can be accomplished by relatively simple amendments to the Companies' Creditors Arrangement Act.

One of the basic principles of the present Bankruptcy Act is the preservation of the rights of secured creditors, and we believe that principle should be left undisturbed. In our opinion the amendment whereby the rights of secured creditors would be brought for judication under bankruptcy is a dangerous one.

The arguuments that I have summarized here are set out more fully in the brief.

Hon. Mr. HAYDEN: Take a typical case of a company with at least one bond issue outstanding, with preferred and common shareholders and a number of creditors. If you were trying to operate such a company under the proposed new Bankruptcy Act, what would the problems be? Would you just develop that a bit?

Mr. SHEARD: Well, first of all you would have to appoint a trustee, who would have to make an investigation. That in itself would probably mean doing a lot of work that had already been done.

Hon. Mr. HAYDEN: Suppose there has been some default on the bond issue. Then you are going to have a conflict between the trustee for the bondholders and the trustee in bankruptcy?

Mr. SHEARD: You very well might.

Hon. Mr. HAYDEN: There might be conflict and that is not going to solve anything. This bill was designed to deal with the problems of corporate financing and the difficulties that might arise when a company became insolvent?

Mr. SHEARD: Quite so. Section 23, for example, gives the court power to appoint a committee, and the committee power to put forward a plan, and the court power to approve it. An amendment of that kind is entirely contrary to the whole principle of compositions with creditors and shareholders, which is that the compositions should be made by consent and voluntarily. I fancy that that amendment was prepared with the Abitibi case in mind. There was great difficulty in getting agreement in that case. But, after all, hard cases make bad law, and I think that in the vast majority of cases agreements can be reached. Our feeling is that that section, far from facilitating agreement. will probably make agreements more difficult. Indeed, I think that if anybody looks at this Part II carefully from the point of view of how it would operate in the reorganization of a large company with various classes of creditors, I think he is bound to reach the conclusion that it would be extremely difficult, if not utterly impossible to operate.

There are one or two other points. I notice that throughout the act there are minor changes of phraseology, which perhaps are not intended to have much substantial effect. As the members of the committee realize, that sort of thing is very tricky. There are sections that have been in the Act for a good many years, and there is a long chain of judicial decisions on them, and then some slight changes are made in the wording. Well, the presumption is that it was intended to change the meaning, so the question arises in each case: To what extent is the meaning changed, and to what extent are the old decisions good law? I do not want to weary you with illustrations, but there are two that come to mind. One is in connection with section 26, "Stay of Proceedings." Subsection (2) says:—

> Subject to the provisions of sections one hundred and eleven, to one hundred and eighteen inclusive, of this Act *and the preceding subsection,* any secured creditor or person holding security on the property of the *bankrupt* may realize or otherwise deal with his security. . .