

*Bankruptcy Act*

the necessity of keeping a fairly substantial staff for the purpose of taking care of that supervision and inspection. For it is not merely supervision, it is inspection as well. This will impose upon estates the burden of paying the expenses of maintaining that staff. More than that, I fear that if in the very unusual event of anything going wrong with an estate whereby money might be lost to the creditors or to the debtor, the existence of this section may lead to demands being made upon the government for reimbursement to the estate of any loss incurred through alleged failure to inspect the estate as often as it should have been inspected. We had an experience of that on a very large scale when the Home Bank failed. The claim was immediately made that because of failure to inspect the property and keep close track of the records of the bank, the government was under an obligation to reimburse those who had lost money by the failure; and a moral liability having been found a little later on, it cost the government a considerable amount of money. I fear that subsection (e) will cause the building up of a large establishment of civil servants—and hon. members who have had experience of the civil service know how easily and how quickly those staffs become increased—with a consequent additional burden on all estates in the country, and in addition a possible liability on the part of the government itself if some person should be of the view that a loss occurring to the estate was occasioned through failure on the part of the superintendent of bankruptcy to make such inspection as was reasonably necessary.

For that reason I should like the minister to consider the deletion of the subsection. I think what is required is sufficiently covered by subsection (g), that is the investigation of any complaint or anything that might be disclosed to the superintendent of bankruptcy as the result of reports filed in his office. If it should be found that that inspection is not sufficient, at a later date it would be very much easier to add to his powers than to give them to him now and so build up a staff that it will be difficult to reduce later. I very earnestly request the minister to make the powers of the superintendent as limited as possible at the present time, and add to them later on as occasion requires.

Mr. HACKETT: The hon. gentleman, as he admits, was absent from the committee when this aspect of the bill was discussed. It is estimated that there will not be more than one hundred trustees throughout Canada, and

[Mr. Turnbull.]

they will be pretty well localized in a few centres. Moreover, the necessity of a staff to carry out this work was gone into and an outside estimate of its cost was made. The committee came to the conclusion that the great weakness of the act was that nobody seemed to be responsible for its administration. The act contained a provision that its administration came under the jurisdiction of the Minister of Justice, and this seemed to be taken by the attorneys general in the different provinces as a sufficient reason for holding aloof from assisting in its enforcement.

My friend from Regina (Mr. Turnbull) has made some reference to a bank failure. The bank was not bonded. The trustee is not only bonded once, he is bonded twice. I doubt if the hazard he refers to exists; the provision making it the duty of the superintendent to investigate of his own initiative without notice and at all times will greatly fortify the administration of the act and make it much more effective. Another weakness of the act, as was pointed out in the evidence, was that so much—too much—was left to the initiative of the individual creditor, who is rather a helpless person; if one must wait until the horse has been stolen before locking the stable, it is too late, the reason for making the investigation will have disappeared.

Mr. TURNBULL: I think the remarks of the hon. member for Stanstead (Mr. Hackett) have, at least in my view, strengthened my argument. If trustees are licensed, and if the superintendent of bankruptcy assumes his proper responsibility in seeing that only properly qualified trustees are appointed, and if those licensed trustees are twice bonded, and if they are compelled to make reports from time to time to the superintendent of bankruptcy in his office here in Ottawa, surely that should be sufficient to enable him to supervise his licensed trustees without the necessity of appointing a staff to go around from time to time and inspect, not the licensed trustees, but the administration of individual estates. It is not a question of inspecting one hundred licensed trustees it is a question of inspecting the administration of hundreds and thousands of estates, with all that imposes on the superintendent of bankruptcy. I would suggest that we try out the act on the basis of the minor authority first, in view of the fact that our licensed trustees are properly appointed, and that they are bonded with respect to their appointment and again with respect to the estate itself. Let us confine ourselves to investigating complaints, which after all involve the removal of any licensed