

## APPENDIX "P"

IN THE MATTER OF BILL N, AN ACT RESPECTING BANKRUPTCY

MEMORANDUM SUBMITTED TO THE STANDING COMMITTEE ON  
BANKING AND COMMERCE OF THE SENATE OF CANADA  
BY THE NATIONAL COMMITTEE OF CANADIAN  
COMMERCIAL TRAVELLERS

The National Committee of Canadian Commercial Travellers was formed in May, 1942, to provide an agency whereby its six member associations might speak with one voice. The member associations are as follows:—

Commercial Travellers Association of Canada, Toronto,  
Dominion Commercial Travellers Association, Montreal,  
Ontario Commercial Travellers Association, London,  
Maritime Commercial Travellers Association, Halifax,  
North West Commercial Travellers Association of Canada, Winnipeg,  
and  
Associated Canadian Travellers, Calgary.

The six member associations comprise between them today some forty thousand (40,000) Commercial Travellers.

*The Problem*

The problem concerns the effect of Section 95(d) of the Act on travelling salesmen on commission.

No complaint is made of the degree of priority which such employees are given by this Section and no change is suggested in the text except with respect to the limit of \$500 to which we shall refer later.

Claims by salesmen on commission for a priority in the event of bankruptcy have been fairly, if not liberally, dealt with by the Courts in the few cases where an appeal has been taken from the trustee's disallowance in the past. The difficulty has not been with the text of the law but in making this protection available to those it was designed to protect. Clerks, servants, travelling salesmen, labourers and workmen have ordinarily no income beyond their wages or commissions and when their employer goes bankrupt, even that disappears. Consequently, they can rarely avail themselves of the recourse to the Courts which the Act provides from a trustee's disallowance of their claim to a priority and which disallowance very often means that their whole claim in effect is denied because there will be nothing for the unsecured creditor.

An unsuccessful appeal to the Court from a trustee's disallowance of such a claim could, in this Committee's experience, easily cost \$150 in taxable Court costs payable to the trustee. In addition, the employee would have to pay his own solicitor, making the total costs anywhere from \$200 to \$300. These costs are prohibitive and have resulted, in the experience of this Committee and its members, in many just claims being abandoned after an unfavourable decision from a trustee. The trustee makes a quick ex parte decision in these matters without hearing the creditor. His natural tendency is to disallow doubtful claims to a priority, leaving it to the creditor to appeal to the Courts where the matter can be properly heard and properly decided. That practice works no great hardship with respect to creditors other than employees. In their case, what is needed in our submission is a cheap summary and final review of the trustee's disposition of a claim to a priority under Section 95(d).