

Hon. Mr. HUGESSEN: If the registrar feels that a witness is not telling the truth and that he has not sufficient authority to deal firmly with the witness, could the registrar under the ordinary court rules not refer the case to the judge?

Hon. Mr. HAIG: I do not think you would get the registrar to do that.

Hon. Mr. MORAUD: Let the Judge decide the matter.

Hon. Mr. HAIG: Application could be made to the Judge for special leave, as Senator Campbell suggests.

Hon. Mr. LEGER: Subsection (1) of section 121 says that the trustee may examine without an order. I should think that an order could be made for examination before a Judge.

Hon. Mr. HAIG: That may be so.

Hon. Mr. CAMPBELL: But I do not think it is the practice.

Mr. MERRIAM: Section 121 (2) provides for examination after an order, but only for examination "before the registrar or other authorized persons".

Hon. Mr. HUGESSEN: Could the word "judge" not be inserted there before the word "registrar"?

Mr. MERRIAM: Yes, sir, that would cover the point.

Our final submission is in relation to section 142 (1), which provides that the Chief Justice may nominate or assign one or more of the judges of the court to exercise the judicial powers and jurisdiction conferred by this Act. Our submission is that this should be mandatory rather than permissive; in other words, that "shall" should be substituted for "may".

Hon. Mr. LEGER: The Chief Justice always does nominate one of the judges as Judge in Bankruptcy.

Mr. MERRIAM: We would like that requirement to be made mandatory.

Hon. Mr. FOGO: Do you know of any province where it is not done?

Mr. MERRIAM: I do not know of any, sir.

Hon. Mr. HAIG: That is what is usually done, but there is nothing in the Act saying that it has to be done.

Mr. MERRIAM: That is the point, sir.

The CHAIRMAN: The jurisdiction is with the Chief Justice.

Mr. MERRIAM: We do not suggest that the Chief Justice should exercise that jurisdiction himself, for he has too many other things to do. We feel it would be of great assistance to inspectors, trustees and everyone else interested in the administration of estates to know that one judge in the province was an authority on the subject, and that when something out of the ordinary arose they could go to him for direction. That would overcome many difficulties.

The CHAIRMAN: Is it not the practice that the Chief Justice nominates one or two judges to look after bankruptcy work?

Mr. MERRIAM: I think that is usually done, Mr. Chairman.

Hon. Mr. HUGESSEN: Can you cite us any actual case where the Chief Justice of a province has not nominated a judge to act?

Mr. MERRIAM: No, sir, I cannot.

Hon. Mr. HAIG: Mr. Chairman, I think we should not recommend any change in the section unless we can be shown some cases of abuse. In our province of Manitoba one judge is assigned for bankruptcy work, and if he becomes ill or has too much work to do the Chief Justice assigns another man.

Hon. Mr. MORAUD: Has there been any complaint about the present method?

Mr. MERRIAM: No, senator. This is merely a suggestion.

Hon. Mr. MORAUD: I have never heard of any complaint in Quebec.

Hon. Mr. HUGESSEN: Nor have I.

Hon. Mr. MORAUD: I think we should leave well enough alone.