

*Bankruptcy Act*

has not had experience, who is not trustworthy, and who should not be given control of the estate pending its winding up. It strikes me that there are some weaknesses in the present act. Probably the most serious trouble has occurred in the province of Quebec. Undoubtedly too many trustees have been appointed, and apparently the trustees have not been of such a calibre that they should be entrusted with the administering of estates.

There is a provision in the act which permits debtors going into bankruptcy when they should not do so at all, debtors who are involved, perhaps, yet solvent, and who would eventually pull through. I refer to section 3, subsection (j) of chapter 8 of the statutes of 1922. This section uses the expression, "If he ceases to meet his liabilities as they become due." In other words, if one of these unscrupulous trustees, who appear to be so plentiful in the province of Quebec, comes across a man who may not be able to meet one particular debt, he can persuade that man to go into bankruptcy, and it is pretty difficult to combat the right of the debtor to do so. There is one debt he cannot meet; perhaps he cannot meet a good many; but he is not a man who should be permitted to go into bankruptcy. This section should be so amended as to provide that only those who are unable to meet their general liabilities may go into bankruptcy.

Sir LOMER GOUIN: We intend to amend that section along those lines.

Mr. CLARK: Then that point is met. But I am very serious when I say that throughout Canada, these estates should be administered by authorized trustees. I do not believe that in Ontario or in the western provinces any serious difficulties have been encountered in connection with the authorized trustees. It all comes back to the man who is appointed. Perhaps the number of authorized trustees should be limited, and the appointees should be men experienced in the winding up of estates. I am prepared to agree that the creditors should have the power at the outset that the minister thinks they should have, provided that it is an authorized trustee who is appointed, a responsible man. That will bring about a condition of security and will make it certain that the estate will be administered in an honest manner. But in the present act there is a provision under which the creditors appoint a committee of inspectors representing all the creditors—not any particular creditor—and this committee of inspectors control the ad-

[Mr. Clark.]

ministration of the estate; the trustee cannot make a move without their authority. Therefore I think we have in the act now a provision which gives the creditors the control from the outset that the minister has laid down as essential.

There is another feature that has not been touched upon, and a very important one, with which I had to deal last summer. A responsible firm in Vancouver was in serious financial difficulty. They did not want to go into bankruptcy, and under the provisions of section 13 they made a proposal for a composition, which meant that eventually they would pay their debts in full. That composition was accepted by the creditors. As the act is proposed to be amended, that company could not make a composition with its creditors without going into bankruptcy; the good will of the business would have been gone and its credit lost; in fact, the business would have been destroyed. On the other hand, by being able to submit that composition to its creditors, the business of the company was continued, its credit in England and throughout this country was preserved, and to-day it is carrying on successfully. The minister might well consider leaving the act as it is so that a firm can make a composition without the necessity of going into bankruptcy. If the amendment as proposed goes through it will be a very serious matter for the business of the country. I say again that I hope the minister will give serious consideration, before these amendments are passed to the suggestions made by the hon. member for West York (Sir Henry Drayton), which, I think, are essentially sound. I do not mind the creditors having control so long as we are assured that we are not to have further complications. The minister will find within a year, I think, if this proposal regarding custodians is adopted, that great protest will be made by the business interests of the country. I do not see how anything can be gained by having these custodians. If it is necessary to have a custodian, by all means let him be one of the authorized trustees. Do not let an interested person have control of the estate, even for ever so short a time because the best business men will look after their own interests.

Section agreed to.

On section 2—"Authorized assignment."

The CHAIRMAN: It is suggested by the minister that (yy) should read as follows:

"Official Receiver" means the person having authority—