rise to an interpretation that subsection 3 would cover any secret transaction prior to the bankruptcy. That might even be alleged to affect ordinary banking transactions between a bank and its customer as these are necessarily secret by implication of law.

Section 68 (5)—"admissibility of evidence of intent in disputed transactions"

This makes it clear that the effect of a transaction is to be the test regardless of intent. The proof of intent is still an essential factor under the criminal law. Should a man have the taint of fraud cast upon him if his intentions were honest? This proposed provision would constitute complete reversal of the present law and goes much further than seems necessary to resolve any confusion in existing decisions, a solution which might better be left to the mature consideration of the Supreme Court of Canada.

Section 69 (1)—"protected transactions"

It is submitted that this provision goes far beyond a simplified redraft of present section 65. The proviso to the present section 65 will protect certain transactions from avoidance if made (*a*) in good faith, (*b*) before the date of the receiving order or authorized assignment, and (*c*) without notice of any available act of bankruptcy. The proposed new provision would add the following requirements:—

(*d*) that the valuable consideration be adequate

(*e*) that there be no knowledge of the insolvency or commission of an act of bankruptcy

(*f*) that there be no reason to suspect insolvency or commission of an act of bankruptcy.

Moreover, the new provision may have left a gap between the filing of a petition of bankruptcy and the date of the receiving order or authorized assignment. Section 27 (4) of the Bill relates the bankruptcy back to the date of the filing of the petition. The new provision covers transactions before the bankruptcy and therefore could not save the validity of a transaction taking place between the filing of the petition and the date of the order.

Section 69(2)—"onus of proof"

The shifting of the onus in the manner proposed is so serious that it would be almost impossible to bring a transaction under the protection of the section. Every transaction would have to be carefully studied from the point of view of actual notice, available knowledge or reasons for suspicion, and unless a bank could be sure that it could positively establish that these were lacking and that good faith was therefore established, it could not afford to enter into the transaction.

In addition the question of adequacy of valuable consideration would arise, particularly with regard to security given either on goods or by way of additional or collateral security of any kind. It would be difficult to establish, for instance, that there was adequate consideration within the definition of section 2(*b*) for additional security given for a debt already incurred. In consequence a bank might refrain from taking additional security at a time when experience had indicated the desirability of such a course. It would follow that bank losses could be more serious than would otherwise be the case and the safety of the banking system would to some extent be jeopardized, all because the taking of additional security sanctioned by Parliament under the Bank Act for the purpose of protecting the depositors and the bank was made practically impossible by the provisions of bankruptcy legislation.

With all respect to the Superintendent of Bankruptcy, his knowledge and draftsmanship, it would seem that sections 68 and 69 should be replaced by the corresponding provisions of the present statute.