

Bankruptcy. After reading more of the bill I find there is provision for an appeal, in section 91, subsection 8.

One thing I forgot is the provision that the trustee may carry on the business of the bankrupt. That is section 47, subsection 1, paragraph (b). I find the provision is somewhat abused, and I would suggest that a limited period be stated for the carrying on of business by a trustee, except by leave of the court.

Hon. Mr. FOSTER: Then he could apply for an extension?

Mr. JUSTICE BOYER: Yes.

Hon. Mr. FOSTER: And give his reasons?

Mr. JUSTICE BOYER: Yes. I will give you an example. A company in Montreal has been under the Bankruptcy Act for eight, if not ten, years. The trustees have been carrying on the business all that time, and not only the business of that company, but they went into the manufacturing of hardwood flooring, they opened a coal and wood yard and so on; and during that time there has never been a dividend paid.

Hon. Mr. FOSTER: Whom are they working for?

Mr. JUSTICE BOYER: Creditors who are supplying materials are often appointed as inspectors and they want to keep the business going. The trustees can always get credit from the bank, and the creditors have no objection to the business being carried on, because they know they are secure. The assets may not be sufficient to pay the debts in full, but they are sufficient to pay for whatever is sold by the inspectors.

Hon. Mr. EULER: The Abitibi Company was in the receiver's hands for ten years.

The Deputy CHAIRMAN: Longer than that, I think.

Mr. JUSTICE BOYER: Section 123 deals with restricted creditors. Nowadays a large number of commercial ventures are made in the guise of companies: that is, one man incorporates a company and he is really the sole owner. There have to be three persons interested in a company before a charter can be obtained, but the real owner gets a couple of members of his family or employees to join him. If the company is running into difficulty, the man who has the main interest advances money to the concern, which is practically his own, and when there is a bankruptcy you find he is the largest creditor.

When there is a bankruptcy you find he is the largest creditor. I think his claim should be restricted and put in the same class as the others. There may be a question of deciding what is the actual situation. It is not always a one-man company, but it may be controlled by one man with more than two or three shares.

Hon. Mr. HAIG: A family corporation.

Mr. JUSTICE BOYER: Yes. It might be worded to mention relatives, employees and others associated with the principal shareholders.

Hon. Mr. KINLEY: Who can be preferred creditors under the Bankruptcy Act?

Mr. JUSTICE BOYER: There is a list of them. I am glad to say that has been clarified in the bill. Formerly there was a lot of litigation as to what the purpose would be between federal and provincial governments, municipalities, and so on. Now the law provides clearly for the whole thing.

Hon. Mr. KINLEY: How about the banks?

Mr. JUSTICE BOYER: They stand like everyone else.

Hon. Mr. KINLEY: They are usually preferred.

Mr. JUSTICE BOYER: The banks have their liens under the Bank Act. But so far as their lien is concerned, they are in the same position as the other parties