

Hon. Mr. HAIG: But he is not appointed because he represents that corporation. True, he happens to represent them, but, as the Chairman says, he represents the personality: the creditors all feel that he can represent them all.

The CHAIRMAN: All right; go ahead.

Mr. MERRIAM: The next submission deals with section 121, subsection 1; and my instructions are to submit this as strongly as I can for your consideration, that this section as presently worded provides for the examination of the bankrupt and certain other persons "before the registrar of the court or other authorized person". Quite often this examination is held before an official stenographer, or even before the registrar, and in many cases it turns out that it is perfunctory and of not great value in the administration of the estate. I have been instructed to submit to you that a provision be inserted whereby the bankrupt may be examined before the judge in bankruptcy himself on the request of the trustee and with the approval of the inspectors; and it is our belief that there are numerous instances in which such an examination would be a great benefit in the administration of the estate and in the protection of the creditors.

Hon. Mr. LEGER: This is not a trial; it is simply to get out the evidence; so anybody who can take the evidence would be competent.

The CHAIRMAN: I feel that the judges entrusted with the administration of the law would not share your views, witness, because at times there are many bankruptcies, and the court is occupied all day with the hearing of trials; and if furthermore the judge had to hear evidence of this type, which we call preliminary evidence, or ex parte evidence, I do not know when he would have time to do it.

Hon. Mr. LEGER: It seems to me that the registrar of the court would be the proper officer before whom to hold these examinations.

Mr. MERRIAM: In most instances that is what would happen, but every so often there would be a case which is just off the beaten track, and in which you are not going to get to the root of the assets owned by the bankrupt except under the most thorough examination; and it is our feeling that thoroughness can be much more effectively accomplished before a judge.

The CHAIRMAN: Is it not your experience that the thoroughness of the examination depends entirely on the lawyer's knowledge as to the case rather than on the presence of the judge?

Mr. MERRIAM: I think they both work hand in hand, Mr. Chairman. I think the presence of a judge adds tremendously to any examination.

Hon. Mr. FOGO: Would you not get more latitude before the registrar than before a judge, in an examination?

Mr. MERRIAM: That could be, sir.

Hon. Mr. CAMPBELL: Mr. Chairman, Mr. Merriam's suggestion may be a good one for cases where it is desirable to test the creditability of the bankrupt or a witness. It seems to me that if the proposed amendment were made we should provide that an examination may be held before the Judge in Bankruptcy only after special leave obtained from the judge upon application to him.

Mr. MERRIAM: That would serve the purpose, sir.

Hon. Mr. CAMPBELL: A person should not be able to obtain an examination before the Judge in Bankruptcy as a matter of right.

Mr. MERRIAM: We do not propose that every case be examined before the judge. I think your suggestion would meet our submission perfectly, sir.