

Bankruptcy Act

As my hon. friend points out we are now saying that this is not to be done if there is a custodian there already. If there is a custodian there it never could be shown to be necessary. This provision seems to me to be flying in the face of common sense. It does seem to me that the House is called upon to say there are some judges so stupid that notwithstanding the fact there is already a court officer appointed for the purpose of looking after the estate they may appoint another one although they have no jurisdiction to make any appointment whatever except in case of necessity. If my hon. friend, as Minister of Justice and the shepherd of the administration of justice in this country, says that such a thing is necessary for our courts why there is an end to it, but it seems to be ridiculous.

Mr. LAPOINTE: It appears that if not necessary it is expedient to have it.

Sir HENRY DRAYTON: Well, I am sorry to know that there is necessity for such expedient.

Section agreed to.

On section 4—Administration of insolvent farmers' estates by provincial government officer.

Mr. COOTE: Before the section carries I should like to ask the minister if he would not make some change in subsection (3) of this section which reads:

In case any such provincial officer is appointed custodian and trustee, he shall not be entitled under this act to be paid any remuneration as custodian or trustee nor any of the costs enumerated as costs of custodian in part 3 of the general rules.

As I understand the subsection the provincial officer who becomes trustee under this act will not be allowed to collect any fees whatever for the work he may have in connection with the administration of that estate. It seems to me that would be putting quite a burden upon the provincial government. We all know that the provincial governments in western Canada are hard up. I think however, they would not object to paying a custodian's expenses in such cases, for instance, as those where the estates were not sufficient to cover these costs; but surely they should be entitled to a fee which would cover their office expenses in connection with these estates which they do administer. I do not think there would be any desire on the part of the provincial government to make any money out of this scheme; but I think there should be provision made here to entitle them to such fees as were necessary

[Sir Henry Drayton.]

to pay for the expenses they must incur in the administration of these estates. I should like to ask the minister if he would not make some amendment which would permit that.

Mr. LAPOINTE: The justification for this amendment is that it is intended to reach a special case where the farmers referred to in the section have not sufficient property to warrant the administration of their estate in the usual way. The argument advanced was that it would not cost anything and that the provincial officer would be paid by the province. The section has been accepted with that understanding. It is exactly what was recommended by the committee on Banking and Commerce last year. It is also what was suggested by the Canadian Council of Agriculture, and, I think, by my hon. friend himself last year.

Mr. COOTE: I have been in consultation with the Attorney General for the province of Alberta regarding this act, and I think he is very pleased with the amendments that are being brought down, with the exception of this one. The reason that many farmers could not take advantage of the Bankruptcy Act was, that when they went to the trustee they were required by him to place in his hands, as a deposit to guarantee his expenses, possibly \$100 and in some cases \$150. This amendment would obviate that difficulty. The provincial officer who acts as trustee under the act would now receive that man's application for bankruptcy without requiring any deposit; but after he has administered the man's affairs, and in some cases incurred considerable office expenses, why should the provincial government be required to pay the whole of that and not collect any fees? That is the only change I should like to see in this section.

Mr. LAPOINTE: I do not think there would be any justification for compelling the appointment of that provincial officer if he is not to charge fees as any other trustee would.

Mr. COOTE: There is no compulsion, is there, under this legislation?

Mr. LAPOINTE: Oh, yes. It is provided that:

--the official receiver shall, in the case of any assignment by a person engaged solely in farming or the tillage of the soil, appoint such officer as custodian.

Of course, if he is not doing his work properly, under another section of the act the creditors may replace him in the ordinary way, or the court may replace him; but from the start the official receiver has no option --he must pay that provincial officer.