

THE SENATE

Wednesday, November 2, 1949

The Senate met at 3 p.m., the Speaker in the Chair.

Prayers and routine proceedings.

BANKRUPTCY BILL REPORT OF COMMITTEE

Hon. J. W. de B. Farris presented the report of the Standing Committee on Banking and Commerce on Bill F, an Act respecting bankruptcy.

(The report was read by the Clerk Assistant.)

The Standing Committee on Banking and Commerce to whom was referred the Bill F, intitled "An Act respecting Bankruptcy", have in obedience to the order of reference of October 6, 1949, examined the said Bill and now beg leave to report the same with the following amendments:

1. Page 8, lines 10 and 11: Delete "and the official receivers are entitled to receive as their remuneration the fees of the office".

2. Page 13, line 2: Delete "two years" and substitute "one year".

3. Page 14, line 1: After "forthwith" insert "temporarily".

4. Page 14, line 3: Delete "until sold or disposed of".

5. Page 14, line 3: After "bankrupt," insert "for such amount and against such hazards as he may deem advisable until the inspectors are appointed whereupon the inspectors shall determine the amount for which and the hazards against which the bankrupt's property shall be insured by the trustee."

6. Page 16, lines 14 to 19: Delete paragraph (c) and substitute:

"(c) carry on the business of the bankrupt so far as may be necessary for the beneficial administration of the estate;"

7. Page 43, lines 15 to 29: Delete clause 52 and substitute:

"52. (1) Notwithstanding anything contained in this Act or in any other statute, the author's manuscripts and any copyright or any interest in a copyright in whole or in part assigned to a publisher, printer, firm or person becoming bankrupt or against whom a receiving order has been made shall,

(a) if the work covered by such copyright has not been published and put on the market at the time of the bankruptcy or receiving order and no expense has been incurred in connection therewith thereupon revert and be delivered to the author or his heirs, and any contract or agreement between the author or his heirs and such bankrupt shall then terminate and be null and void;

"(b) if the work covered by such copyright has in whole or in part been put into type and expenses have been incurred by the bankrupt, revert and be delivered to the author on payment of the expenses so incurred and the product of such expenses shall also be delivered to the author or his heirs and any contract or agreement between the author or his heirs and the bankrupt shall then terminate and be null and void: Provided that if the author does not exercise his rights under this paragraph within six months of the date of the bankruptcy, the trustee may carry out the original contract;

(c) if the trustee at the expiration of six months from the date of the bankruptcy decides not to carry out the contract, revert without expense to the author and any contract or agreement between the author or his heirs and such bankrupt shall then terminate and be null and void.

(2) If, at the time of the bankruptcy or receiving order, the work was published and put on the market, the trustee shall be entitled to sell, or authorize the sale or reproduction of, any copies of the published work, or to perform or authorize the performance of the said work, provided that there shall be paid to the author or his heirs such sums by way of royalties or share of the profits as would have been payable by the bankrupt; and the trustee shall not, without the written consent of the author or his heirs, be entitled to assign the copyright or transfer the interest or to grant any interest therein by licence, or otherwise, except upon terms which will guarantee to the author or his heirs payment by way of royalties or share of the profits at a rate not less than that which such bankrupt was liable to pay, and any contract or agreement between the author or his heirs and such bankrupt shall then terminate and be null and void, except as to the disposal, under this subsection, of copies of the said work published and put on the market before the bankruptcy or the receiving order.

(3) The trustee shall offer in writing to the author or his heirs the right to purchase the manufactured or marketable copies of the copyright work comprised in the estate of the bankrupt at such price and upon such terms and conditions as the trustee may deem fair and proper before disposing of such manufactured and marketable copies in the manner prescribed in this section."

8. Page 45, line 33: After "trustee," insert "if the trustee can prove".

9. Page 43, lines 38 and 39: Delete "unless the parties claiming under the settlement can prove".

10. Page 45, line 40: Delete "able" and substitute "unable".

11. Page 45: Add the following as new subclause (3) to clause 60:

"(3) This section shall not extend to any settlement made

(a) before and in consideration of marriage, or

(b) in favour of a purchaser or incumbrancer in good faith and for valuable consideration, or

(c) on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife."

12. Page 47, lines 14 to 36: Delete clause 64 and substitute:

"64. (1) Every conveyance or transfer or property or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any insolvent person in favour of any creditor or of any person in trust for any creditor with a view of giving such creditor a preference over the other creditors shall, if the person making, incurring, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within three months after the date of making, incurring, taking, paying or suffering the same, or if he makes an authorized assignment, within three months after the date of the making, incurring, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy or under the authorized assignment.

(2) If any such conveyance, transfer, payment, obligation or judicial proceeding has the effect of giving any creditor a preference over other creditors, or over any one or more of them, it shall be deemed prima facie to have been made, incurred, taken, paid or suffered with such view as aforesaid whether or not it was made voluntarily or