

Mr. Justice URQUHART: They are new under the Bankruptcy Bill, but we have those powers now.

The CHAIRMAN: I take it that you do not approve of the practice under this law to have a judge of the Supreme Court review these cases?

Mr. Justice URQUHART: Personally I think it is not the proper court.

Hon. Mr. LEGER: The court is not organized for that purpose.

Mr. Justice URQUHART: It is organized to try any criminal cases, but by section 583 of the Code we try only the major criminal cases, which keep us busy enough.

Hon. Mr. EULER: Mr. Chairman, not being a lawyer I hesitate to intervene in this discussion. It seems to me the point you have raised is an important one. These cases may not be referred to as trivial, but they are not as important as others, and in many places such as Kitchener, where there are only two sittings of the High Court a year, if these cases are left to the Supreme Court there would be no means provided for speedy adjudication; whereas if they were tried by the County Judges they could be dealt with almost immediately. It seems to me the matter of delay is an important one.

Mr. Justice URQUHART: I think so.

Hon. Mr. EULER: It should be made clear that it is not the exclusive jurisdiction of your court.

Mr. Justice URQUHART: If it is decided to include section 159 my fear is that the change in practice would give rise to innumerable irresponsible prosecutions. The launching of prosecutions should be closely supervised by the court. Section 206 (2) (3) seems to leave this matter in the hands of the court. It is my belief that in all cases the responsibility for the prosecution of any indictable offence, including these 21 bankruptcy offences, should be the responsibility of the Crown Attorney of the county. Prosecution should not be left in the hands of a trustee's solicitor, who might have an axe to grind. He may, but not in many cases, carry on the prosecution in a way that is suggested as being objectionable by the Court of Appeal in our province in the case of *Rex vs. Charmandy*, reported in 1934 Ontario Reports at page 208. If the matter is left to the discretion of ordinary solicitors, many men who are inexperienced in quasi criminal matters will be handling these prosecutions.

Under section 206 (4) if the prosecution is under the Criminal Code the Crown Attorney must be consulted and the charge laid by him. The practice in Ontario, and it has worked satisfactorily as far as I am concerned, has been to come before the Bankruptcy Judge in Toronto and place all the facts before him. If in his opinion a proper case is justified on the facts, supported by documents and affidavits, the trustee is authorized to lay a charge on the advice of the Crown Attorney. That is the responsibility of the Crown Attorney, who is the officer appointed by law in our province to handle indictable offences. In that way you have an officer who understands the procedure in these cases, who is impartial and has no axe to grind and who will conduct the prosecution, I have no doubt, to the best of his ability. I was a Crown Attorney many years ago for a period of five years and I handled a number of these cases. I know that they are very difficult. It is sometimes a problem to demonstrate to magistrates and others the guilt of the accused.

May I come again to the question of court sittings in the county towns. In most instances we have only one week in these towns and have enough work to consume all the time allotted before passing on to another town. If additional prosecutions are put upon us it would certainly very seriously interfere with our work. It has been suggested by Senator Euler that the County Judges are located in the towns, they are used to handling indictable offences of this sort