

The ACTING CHAIRMAN: On the other hand, the committee want you to give your opinion and all the reasons for it without any qualification whatever, because we have to form our opinion on that basis.

Mr. REILLEY: Is there anything more we need say about this?

The ACTING CHAIRMAN: Do you want to say anything more?

Mr. REILLEY: No.

The ACTING CHAIRMAN: What is the next question?

Mr. REILLEY: The next question discussed was decentralization.

The ACTING CHAIRMAN: We are going to leave that for a memorandum from you. (See memo. at end of proceedings.) There is nothing complicated about that. You could dictate that later. What is the next important heading?

Mr. REILLEY: In principle the next change I am suggesting is that an application for discharge of a debtor should come up automatically before the courts within a certain time after his bankruptcy.

Hon. Mr. MORAUD: Discharge of the debtor, not of the trustee?

Mr. REILLEY: Yes. In the last twenty-five years I don't suppose that 20 per cent of all those who have gone bankrupt have ever applied for their discharge. There are two reasons for that. In many cases they do not know the situation, and that is accentuated by the fact that the highest courts have held that future assets—which include earnings—may be taken possession of in order to try to pay off the creditors. The result is that in many of these cases the debtor, if he gets a job and is earning more than a bare living, is faced with this proposition, that the trustee can step in and claim through the court a certain amount of his earnings. The debtor then is never in the position of being able to apply for his discharge. While it has often been regarded as important that the creditors should obtain an equitable distribution of the debtor's assets, yet the fundamental principle of bankruptcy is that we have to give the honest unfortunate debtor an opportunity to rehabilitate himself.

Hon. Mr. HAIG: Hear, hear.

Mr. REILLEY: He cannot do that if he is perpetually in bankruptcy.

Hon. Mr. HAIG: That is right.

Mr. REILLEY: My idea is that within a certain period, six months after his bankruptcy, his application for discharge should come up before the courts.

Hon. Mr. COPP: Within a certain time?

Mr. REILLEY: Within a certain time. There are two reasons for that. The first is that the debtor and the creditors are then interested in the bankruptcy, particularly the creditors. Notices of applications for discharge are coming into my office of debtors who went bankrupt twenty years ago. Where is there a creditor to-day to receive notice of that or anything else? Under this provision the matter will be dealt with when the creditors are interested in the debtor's affairs, and they will be alive to the situation and know something about it. Otherwise if the bankruptcy goes on for a few years the creditors just write the debt off their books and count it a dead loss, and never bother about it any more. In the second place, if the application for discharge comes up early the case will be dealt with more properly on its merits. If the debtor has been unfortunate, why, the court will deal with the application on its merits, the interested creditors will be able to make representations, and if they think the debtor can do something better, or that his application should be suspended, the court will deal with it as it sees fit.

Hon. Mr. KINLEY: Are there any necessary preliminary qualifications for discharge, must the debtor pay so much of a percentage of his debts, before he goes to the court?

Mr. REILLEY: No, none at all.