issues and the decision of such judge or officer is subject to appeal to a judge in bankruptcy unless the judge is a judge of a superior court or unless the issue shall have been tried by a jury when the appeal shall, subject to section 150, be to the Court of Appeal.

Section 127 and Following—Re: Automatic Discharge of Bankrupt

Another rather radical change is the amendment to the Act relating to the application for discharge of a bankrupt. Under the new procedure the making of a receiving order against, or an assignment for discharge of the bankrupt. This appears in Section 127, and following, in the proposed Act, and thus places on the Trustee the onus and expense of obtaining an appointment for the application for discharge.

It does appear that treating the receiving order or assignment as an automatic application for discharge is somewhat contrary to public policy, having in mind the history and purpose of the Bankruptcy Act. While it is true that there has been from the beginning of Bankruptcy legislation a trend in favour of the debtor, nevertheless, keeping on him the onus of applying for his discharge would appear to have a salutary effect. In other words, it has often been said that the purpose of bankruptcy legislation is to permit an honest but unfortunate debtor to obtain a discharge from his debts subject to reasonable conditions and thus be enabled to make a fresh start, as well as affording creditors an expeditious and inexpensive method of compelling an insolvent debtor to turn over his property to a trustee for rateable distribution amongst his creditors.

It would appear more in keeping with such policy if the onus of obtaining his discharge, after having satisfied the requirements of the Bankruptcy Act, were left with the debtor and in this way giving him the satisfaction as well as the burden of satisfying the Court that he has complied with the Act rather than placing this burden on the bankrupt's estate.

However, it would certainly be in order to retain in the new Act the provision of Section 128 relating to the Trustee's report as to the affairs of the bankrupt and the manner in which he has performed his duties and the many other requirements of that section, so that the information could be on record whenever the bankrupt would apply for his discharge. The argument in favour of automatic discharge is that frequently the bankrupt does not know of his right to make such an application. This might well be cured by requiring the Trustee to notify the bankrupt of his right to make such an application. In the event that the bankrupt does not wish to make such an application surely the duty for such application should not lie with the Trustee nor should the estate have to bear the expense.

Section 155 (7)—Legal Costs

Under the proposed section 155 (7) there is a limitation on the total fees available for legal services which excludes, in computing the amount from which the percentage of 10 per cent is to be taken, the amounts paid to secured creditors.

The difficulty is that frequently the handling of secured creditor's claims causes considerable and often complicated legal work and there would appear to be no justification for deducting this item in computing the maximum of legal fees.

We suggest that this subsection be amended so that in computing the percentage, with respect to the maximum fees, the amounts paid to secured creditors as well as all items be included, and that the section should read as follows: