

Comments on Sections Which May Remain—Proceedings by Debtor, Documents to be Filed—Section 11(2)(d)

Section 11(2)(d) requires at the commencement of proceedings the filing of a verified, correct statement showing the financial position of the debtor at the date of the proposal. Such a requirement is impractical at this stage, especially in the case of large corporations and often time would not be available for compliance. It is proposed that the subsection provide for a "statement showing as closely as is reasonably possible the financial position of the debtor at the date of the proposal".

Proposals Not to be Withdrawn—Section 11 (3)

The subsection provides for only two days' notice of variations in proposals to sureties. This time is inadequate and should be at least seven days.

Documents to be Sent to Shareholders, Bondholders, etc.—Section 12 (2)

Under Section 12 (2) the trustee is required to send, on request, to each shareholder, bondholder and debenture holder a list of share, bond and debenture holders showing in the case of shareholders the number of shares of stock subscribed for by each shareholder with the unpaid balance, if any, due therein, and in the case of bond or debenture holders the serial number of the bonds or debentures held by each of them with the amount of principal and interest to be shown separately due thereon.

This proposal is too drastic. It will involve trustees in much unnecessary work and estates in heavy costs for the preparation and mailing of this material, particularly in the case of large corporations where it would be voluminous. Moreover, it would not be possible to comply effectively in the case of holders of bearer bonds and share warrants. It would be sufficient to publish notice of a time and place where these records can be inspected.

When Proposal Deemed to be Accepted—Section 15

The wording of Section 15 should be clarified to place the basis of acceptance of proposals on a majority in number of all the creditors holding proven claims of \$25.00 and over present in person or by proxy and voting and 75 per cent in amount of those present in person or by proxy and voting.

Creditors May Provide for Supervision of Debtors' Affairs—Section 16

The provision in Section 16 for including in proposals terms respecting supervision of the affairs of the debtor during the composition, extension or scheme is approved.

Companies' Creditors Arrangement Act

The Companies' Creditors Arrangement Act was passed to enable the reorganization of corporations where classes of securities are involved. It has proved a valuable instrument for realization by investors and it is most important that it be retained for that purpose.

However, the provisions of the Companies' Creditors Arrangement Act were wide enough to permit ordinary trading compositions, extensions and schemes of arrangement under it and, in the years before the war, when insolvencies were more numerous than now, certain defects, principally of a procedural character, did become apparent from the point of view of unsecured creditors in proceedings taken by purely trading debtors under that Act.

It is necessary that the Act be amended to guard against a recurrence of these defects and prevent its use for all practical purposes where trade creditors' interests are primarily involved. It is understood secured creditor interests are preparing suggested amendments to accomplish this purpose.