

*Bankruptcy Act Amdt.*

statute such as the Bankruptcy Act before it has been in force for two years would necessarily tend to increase rather than diminish the difficulties. For these reasons I consider it essential that the statute be allowed to remain substantially as it is for the present, with the object to consider its complete revision at the next or subsequent session of Parliament, if it should appear necessary. The amendments I propose therefore will not disturb the scheme of the act and are calculated merely (1) to enact an amendment in one instance where the statute does not afford adequate relief to creditors seeking to prevent the dissipation of insolvent traders' assets (section 2); (2) to dispose of certain doubts that have arisen as to the meaning of certain provisions of the act (sections 3 and 6); (3) to provide for the more expeditious and satisfactory administration of the act by the court, trustees and creditors (sections 4, 5, 7, 8 and 9).

I will explain shortly the amendments proposed to be made by this Bill.

Section 2: It is proposed by these provisions to enable creditors to apply for a receiving order against any debtor who gives notice to any of his creditors that he has suspended or that he is about to suspend payment of his debts, or who ceases to meet his liabilities as they become due. It has been found that a fraudulent debtor may stand off his creditors for a sufficiently long time to enable him to dissipate his assets. It is proposed by these provisions to enable creditors to take possession where the debtor has acknowledged that he suspends payment or ceases to pay his debts as they become due. Provisions similar to these are to be found in the Dominion Insolvency Act of 1875. By this means the delay required to obtain judgment and execution before proceedings can be taken under the Bankruptcy Act will be avoided.

Section 3. This amendment is intended merely to clear up a doubt that has arisen as to the effect of section 30, which provides to avoid general assignments of book debts.

Section 4. This amendment is to provide merely that the trustee when calling the first meeting of creditors shall supply them with a list of creditors and their addresses. A good deal of criticism against the statute depends upon the fact that in some cases the trustee, selected by the debtor, is able to control the situation because the creditors have not got together in advance and decided upon a course of concerted action.

[Mr. Malcolm.]

Section 5. This amendment is to require the trustee to verify the debtor's statement of affairs and make an inventory of his physical assets. Trustees frequently show a disposition to submit to the creditors the statement of affairs and inventory prepared by the debtor and accept no responsibility therefor.

Section 6. This section is intended to dispose of a doubt that exists in section 63 of the statute, which invests the provincial courts with jurisdiction. Under this section as it stands the view has been taken that federal courts are thereby established each of which has original jurisdiction in bankruptcy throughout Canada, consequently that a creditor, say in Manitoba, may apply to a court in Manitoba for a receiving order against a debtor carrying on business in Saskatchewan. By striking out the words which purport to constitute the provincial courts into federal courts the doubt which exists will be cleared away.

Section 7. This amendment is to repeal the provision of the statute which vests in one judge of each provincial court jurisdiction in bankruptcy, that judge being selected by the Minister of Justice. Inconvenience and delay have resulted from this provision and the expenses of proceedings greatly increased and it is proposed to repeal this provision with the result that all judges will have jurisdiction in bankruptcy as in any other matter, civil or criminal. At the same time, it might be desirable that the Chief Justice of each province assign especially, but not exclusively, to one or more judges of the said court, the administration of the Bankruptcy Act.

Section 8. Is simply to require registrars and other officers of the courts to account to the provincial authorities for fees collected by them under the Bankruptcy Act.

Section 9. Is to impose a penalty upon trustees for failure, without reasonable excuse, to observe and comply with the provisions of the act. It has been found in some cases that trustees have neglected to observe the provisions of the act, and section 96 is inadequate as it stands to compel such compliance since the penalties thereunder may be imposed only in case of fraud of the trustee. It is proposed to extend this penalty provision to cases where the trustee fails to comply with the act without reasonable excuse.

Motion agreed to and bill read the first time.