

prior to the making of a receiving order against him, make to an authorised trustee . . . an assignment of all his property for the general benefit of his creditors," the voluntary assignment of the 8th November had priority over the receiving order of the 11th November and rendered the latter ineffective. But an authorised assignment is itself an act of bankruptcy, upon which the Court may, if it see fit, upon the petition of a creditor, declare the debtor bankrupt and make a receiving order: secs. 3 (a) and 4 (1); and the Court may, upon such application, if satisfied that the estate can be best administered under the assignment, dismiss the petition: sec. 4 (6).

Upon the presentation of the petition to the Court, the Court's power is absolute to determine whether or not a receiving order shall be made, notwithstanding any prior authorised assignment. Section 4 (6) cannot apply to a case where the debtor, with the palpable intention of choosing his own trustee, makes an assignment after he has been served with the petition and before the return of the notice of hearing.

It should be understood that insolvent debtors will not be permitted to make a practice of choosing their own trustees after a bankruptcy petition has been served.

The learned Judge made an order declaring that the receiving order of the 11th November had rendered the assignment of the 8th November ineffective, and directing the trusts company forthwith to deliver the debtors' property to the receiver appointed by the receiving order.

This order was subsequently (by agreement) varied by setting aside the receiving order and allowing the estate to be administered under the assignment (sec. 4 (6)); but the only reason for permitting this was that the creditors, including the creditor who presented the petition in bankruptcy, so desired it, and the trusts company had acted in good faith and in the belief that, in claiming to hold possession in spite of the receiving order, they were acting within their legal rights.

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HOLMESTED, REGISTRAR IN BANKRUPTCY. NOVEMBER 29TH, 1920.

RE HODNETT.

*Bankruptcy and Insolvency—Procedure under Bankruptcy Act, 1919—Filing of Authorised Assignment with Registrar—Necessity for—Sec. 11 and Rule 7—Time for Filing—Certified Copy—Affidavits—Filing Fees.*