

## DISCHARGE OF BANKRUPT

*Bankruptcy to Operate as Application for Discharge—Section 146 (1)*

*Appointment to be Obtained by Trustees—Section 146 (2)*

Section 146 (1) and (2) introduces what might be termed an automatic discharge principle and places on the trustee the onus of obtaining an appointment for hearing the application for discharge within six months of the bankruptcy. It is understood that a similar provision is in United States bankruptcy legislation and that there is dissatisfaction with its operation. In any event, the six months' time limit is impractical as so often the trustee will be unable to complete and submit the required report by that time. Also the estate should not bear the cost of the application. Section 146 should be eliminated and the Act left in its present state wherein the bankrupt is responsible for applying for his discharge.

*Notice to Creditors—Section 146 (4)*

Section 146 (4) requires the trustee to give notice of the application for discharge to every creditor of whom he has knowledge, whether or not his debt has been proven. The notice should only be required to be given creditors who have proven as it is a deep-seated principle of bankruptcy that creditors who have not proven have no status.

*Procedure When Trustee Not Available—Section 146 (5)*

Section 146 (5) empowers the Court to authorize some other person to act in applying for the bankrupt's discharge when the trustee is not available. It is difficult to understand how this proposal can operate satisfactorily as if the trustee is not available necessary records will not be either. Also, the clause regarding creditors reporting adverse facts would result in an accumulation of unreliable statements which would require too much work to check.

*Evidence at Hearing—Section 147 (9)*

*Rights of Bankrupt to Oppose Statements in Report—Section 147 (11)*

Section 147 (9) and (11) are impractical. The bankrupt is not given any right to dispute the Superintendent's report, and if he were it would not be feasible for the Superintendent to appear for evidence and examination whenever a bankrupt opposed his report.

## COURTS AND PROCEDURE

*Courts Vested with Jurisdiction—Section 159 (1) (a)*

Section 159 (1) (a) states that the jurisdiction of the Bankruptcy Court is "to hear and determine all matters in dispute arising out of the administration of an estate or in which any interest of the estate is involved or to which the trustee is a party, or in which the trustee is a claimant against any other person."

The wording is so wide that it would bring into the Bankruptcy Court matters other than those purely bankruptcy matters which the Bankruptcy Court was set up to handle. The subsection should be revised to limit the Bankruptcy Court to proper bankruptcy matters.

*Establishment of Judicial Districts of Courts for Bankruptcy Purposes—  
Section 160*

So far as Ontario is concerned, Section 160 would split up the Bankruptcy Court, now centralized at Toronto, into 47 Bankruptcy Courts in the Registry Offices of the Supreme Court of Ontario. This is most undesirable as it would result in dispersion of bankruptcy records and lack of uniformity of practice.