

Hon. Mr. MORAUD: Don't you think it would be unfair in many cases to tie up the trustee with the debtor? Oftentimes the debtor cannot get his discharge right away, it may be years after when the creditors are more inclined towards leniency, yet all this time the trustee would be tied up to the debtor.

Mr. Justice URQUHART: Yes, that is so, but the difficulty of the present practice is this. Your trustee dies or he moves away, or in some cases he has gone into bankruptcy himself—I recall one instance where he went to jail. It is very difficult after a number of years for a debtor to get his discharge. As I recall, there is no provision in the Act for his discharge without the intervention of the trustee. I am afraid I have broken the law occasionally by allowing the bankrupt to make an affidavit himself, for I took the view that necessity makes the law.

Section 146 shifts the onus of making the application for discharge from the debtor to the trustee. This is taken apparently from the American Bankruptcy Act. Two or three years ago I had some correspondence with Mr. Henry Chandler, when he asked me to advise him as to some way in which the practice of automatic discharge could be improved. I am speaking from recollection now, but, as I recall, the procedure in the States was found not to be satisfactory and was to be amended. I understand there is at present before Congress an amended Bankruptcy Bill. If I had had more time I would have been able to run that down, but it can be easily ascertained.

Hon. Mr. HAYDEN: We will do that.

Mr. Justice URQUHART: The American Act is different from ours in that it has no provision for making after-acquired property of the bankrupt available for distribution among his creditors, except that "all property which vests in the bankrupt within six months after bankruptcy by bequest, devise, or inheritance, shall vest in the trustee." Under our Act all property which may devolve upon or be acquired by a bankrupt before his discharge becomes the property of the trustee.

Another difference in the bankruptcy law of the two countries is that the American Act does not provide for conditional discharge as we have it under section 143.

Under our procedure the bankrupt makes a special application for his discharge, and this places the responsibility on him of satisfying the court as to his conduct and that he is entitled to his discharge. This has always been the practice under our Act. I am afraid that under section 146 (1) if the bankrupt does not wish to apply for his discharge he will not notify the trustee. While I think the present system has its disadvantages, I consider it is preferable to that which is now proposed.

Hon. Mr. HAYDEN: What do you think of a statutory limitation?

Mr. Justice URQUHART: That would not be feasible because some estates may take years to wind up, others may be distributed very speedily.

Hon. Mr. HAYDEN: You do not need the debtor to complete the winding up. The trustee just takes over the estate.

Mr. Justice URQUHART: Yes. The debtor has to satisfy the court that the bankruptcy was due to circumstances over which he had no control.

Hon. Mr. HAYDEN: That should be done within a year, should it not?

Mr. Justice URQUHART: It might be.

Hon. Mr. HAYDEN: I should like to see the bankruptcy shortened and more concentrated; get the job done without delay.

Mr. Justice URQUHART: That is up to the trustee and the creditors. It is a businessmen's act, and they do their work very efficiently.