

Hon. Mr. McGUIRE: When Mr. McEntyre was speaking he referred to section 43, subsection 13, and suggested an amendment to make the trustee carry out the sections of the Income War Tax Act. Section 43, subsection 13, reads:

The trustee shall be required to perform only the duties specifically imposed on him under this Act or the Rules or a court order made thereunder notwithstanding any Act or Statute to the contrary.

If the trustee did not allow a claim the party in question could go to the court and get an order; in other words, the trustee is not excused in any way. Anyone who has any grievance can go to the court and get an order requiring him to acknowledge the claim. This section does not cut anybody out. I think Mr. McEntyre's suggestion was whether this section should be amended to require the trustee specifically to undertake the duties under the Income War Tax Act.

Mr. McENTYRE: That is correct, sir.

Hon. Mr. McGUIRE: Our problem is whether there should be an amendment to subsection 13 of section 43 which will make the trustee carry on under the Income War Tax Act as well as under the Bankruptcy Act.

Mr. McENTYRE: That is correct, sir.

Hon. Mr. McGUIRE: That is the problem before us at the moment.

Mr. REILLEY: But, gentlemen, what the department is interested in is getting its money. That is the purpose of its own legislation. I suggest that we can arrive at that conclusion in an entirely agreeable and amicable way without conflicting legislation and I am willing to submit a means by which it can be done. I have been trying for thirteen years to obtain co-operation along this line, but I have met with no success: Instead of imposing upon the trustee this duty, which I think is *ultra vires*, and which at least is unreasonable, it can be done simply in this way: the department must file its claims under section 93 of the act. I think there should be some co-operation to enable the Crown to achieve its purpose. Originally the trustee was required to make an examination of the books; it need not be an audit, but a casual examination of the books of the debtor to see what the situation was. And if the trustee, who is a reliable person—he must be, because trustees are answerable to me if they do not do their duty—if he finds anything in the books to indicate that income tax was not paid as it should have been, I would consider that he should advise the department, and they themselves could come and set up their own claim by going through the books. There is nothing to prevent their doing so.

Hon. Mr. McGUIRE: Under the bill the government is the same as an ordinary creditor putting in his claim before the trustee; but if we put in the amendments suggested by Mr. McEntyre then the trustee would have a duty under the act to the department, and he would have to go to the department to find out what it is.

Mr. REILLEY: Yes.

Hon. Mr. McGUIRE: It is a transfer of the duty.

Mr. REILLEY: It is a transfer of the obligation. Then, as I say, the conflict again is that the department must file their claim under the act, and section 93 so says. If they do not do so the trustee can disregard it. Here he is on the horns of a dilemma.

Hon. Mr. McGUIRE: All creditors who do not make their claims to the trustee in time are barred by section 93.

The ACTING CHAIRMAN: Are there any more questions of Mr. Reilley? Is there anything further you would like to say, Mr. McEntyre?

Mr. McENTYRE: I should like to say a word about the returns. I think in practice we do actually file proof of debt in bankruptcy. In order to do that we have to be able to assess the tax; we must know the profits. The ordinary