

Administration of Estates of Deceased Persons—Section 5

Section 5 which provides for filing petitions against the estates of deceased persons is approved in principle. Some revision in wording, however, is required to make it clear that the section refers to only estates, having insufficient assets to satisfy creditor claims.

INTERIM RECEIVERS

Powers of Interim Receiver—Section 7 (2)

The clarification of the powers of the Interim Receiver contained in Section 7 (2) is approved.

ASSIGNMENTS

Assignments by Corporations Other than for Debts—Section 9 (2)

Sub-paragraphs (b) to (e) of Section 9 (2) deal with grounds other than insolvency or bankruptcy. The power of the Dominion Parliament to legislate respecting assignments on these grounds is questioned in the case of solvent corporations incorporated under Provincial Laws.

Sworn Statement—Section 9 (3)

Section 9 (3) requires that the assignment shall be accompanied by, among other things, "in the case of a corporation also a list of the shareholders showing the number of shares of stock subscribed for by each shareholder and the amount of capital paid up by each such shareholder". It is impractical to require the information mentioned in the time available at this stage, particularly in the case of large corporations. Often this information is not readily available and/or it is voluminous and requires a considerable time for preparation. Lines 30-33 should be repealed.

Effect Thereof, Appointment of Trustee—Section 9 (5)

In conformity with the recommendation under Section 4 (3) the reference to shareholders should be deleted.

Application of Summary Provisions of Act to Assignments—Section (10)

The application, under Section 10, of the summary provisions of the Act to assignments, when a licensed trustee willing to act cannot be found, was approved.

COMPOSITION, EXTENSION OR SCHEME OF ARRANGEMENT

New Features

Sections 11 to 24 deal with Compositions, Extensions and Schemes of Arrangement. They involve the introduction of two important features. Provision is made for Compositions, etc., without bankruptcy and there appears to be an intention to bring under the Bankruptcy Act all forms of insolvencies, reorganizations, liquidations and winding-up proceedings.

Section 19 (6) makes compositions otherwise than under the Bankruptcy Act voidable. The effect of this subsection would be to create such a doubt concerning sales and informal settlements, under which small trading estates are often settled inexpensively and expeditiously, that they would in all likelihood be prevented. There would be the same effect on proceedings under such legislation as The Companies' Creditors Arrangement Act. The Farmers' Creditors Arrangement Act, the various provincial Bulk Sales Acts and Companies' Acts and the Winding-Up Act.