OF THE

SUPERINTENDENT

OF

BANKRUPTCY

FOR THE CALENDAR YEAR 1935

Published by Authority of Hon. Charles A. Dunning, M.P.,
Minister of Finance

CANADA

OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
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22899—1

The Honourable CHARLES A. DUNNING, M.P.,

Minister of Finance,

Ottawa.

SIR,—I have the honour to submit my third Annual Report on the administration of the Bankruptcy Act during the year ending December 31, 1935.

I have endeavoured to make this report as informative as possible in the hope that it may continue to serve not only as a record but also as material for the study of an important aspect of our economic activities. With this in view the tables comprising the Appendix have been revised and rearranged to some extent and a number of new tables, dealing with different phases of bankruptcy administration with regard to which authoritative information has not hitherto been available, have been added.

Yours very truly,

W. J. REILLEY,
Superintendent of Bankruptcy.

OTTAWA, June 24, 1936

CONTENTS

22899—1½

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For an outline of the background of the legislation introducing *The Bankruptcy Act Amendment Act, 1932*, which by proclamation came into effect on December 1, 1932, readers of this report are referred to the Annual Report for the Calendar Year 1934. The report for 1934 also contains brief accounts of the methods adopted for the bonding of trustees, for the progressive supervision of estates and other relevant subjects not dealt with in the present report.

1. APPOINTMENTS UNDER THE BANKRUPTCY ACT

(*a*) Official Receivers

Donald F. MacLaren, Esq., Barrister, Barrie, appointed Official Receiver for Bankruptcy Division No. 3, Ontario, *vice* John McKay, resigned. (P.C. 719. March 25, 1935.)

Frederick James Albro Hall, Esq., Local Registrar of the Supreme Court, Peterborough, appointed Official Receiver for Bankruptcy Division No. 10, Ontario, *vice* George J. Sherry, deceased. (P.C. 1223. May 9, 1935.)

Charles-Emile Bachand, Esq., Prothonotary of the Superior Court, Sherbrooke, Division No. 4 (St. François-Bedford) Quebec, *vice* Leonard and Bachand, Mr. John Leonard having died 1st May, 1935. (P.C. 1258. May 15, 1935.)

Albert Desilets, Esq., K.C., Sherbrooke, appointed Official Receiver for Bankruptcy Division No. 4 (St. François-Bedford) Quebec, to act with Charles-Emile Bachand under the firm name of Bachand and Desilets. (P.C. 1746. June 26, 1935.)

Alexander Douglas Muggah, Esq., Prothonotary of the Supreme Court, Sydney, appointed Official Receiver for Bankruptcy Division No. 3, Nova Scotia, *vice* Henry F. Muggah, resigned. (P.C. 1997. July 16, 1935.)

James Kenneth MacLennan, Esq., Barrister, Sudbury, appointed Official Receiver for Bankruptcy Division No. 2, Ontario, vice Alexander H. Beath, resigned. (P.C. 2881. September 14, 1935).

(*b*) Registrar in Bankruptcy and Taxing Officer

Alexander Douglas Muggah, Esq., Prothonotary of the Supreme Court, Sydney, appointed by the Honourable Chief Justice of the Supreme Court of Nova Scotia to be Registrar in Bankruptcy for the Counties of Cape Breton, Richmond, Inverness and Victoria, August 15, 1935, in the place and stead of Henry F. Muggah, resigned; also to be Taxing Officer under the Bankruptcy Act.

2. LICENSING AND SUPERVISORY ACTIVITIES

(i) Licensing of Trustees

(a) *Licences granted for 1935.*

Renewal certificates for 1935 were issued to 301 of the 344 trustees whose licences expired on December 31, 1934. In addition, 19 new licences were granted during the year 1935, bringing the total number of licences in force in 1935 to 320.

(b) *Licences cancelled in 1935.*

Three licences were cancelled during the year, owing to the deaths of two trustees and the withdrawal from practice of another.

(c) *Renewal of Licences for 1936.*

Of the 317 trustees whose licences expired on December 31, 1935, 293 applied for certificates of renewal for 1936. 292 applications for renewal have been granted.

(d) *Distribution of Licences.*

The following table shows the distribution by provinces of the 292 licences renewed for 1936. In this table trustees licensed to operate in two or more provinces are shown only in the province in which their head offices are situated:—

Nova Scotia.....	12	Quebec	134	Saskatchewan . . .	5
New Brunswick..	7	Ontario	99	Alberta	7
Prince Ed. Island.	2	Manitoba	8	British Columbia.	18

A more accurate picture of the situation is given by the table below, which shows the number of trustees actually licensed to operate in each of the provinces. In this table trustees licensed to operate in two or more provinces are included in the total for each province in which they operate:

Nova Scotia.....	17	Quebec	144	Saskatchewan . . .	16
New Brunswick..	12	Ontario	110	Alberta	18
Prince Ed. Island.	4	Manitoba	16	British Columbia.	24

Northwest Territories 1.

The figures given above, when compared with those for the years 1933 and 1934, indicate the reduction that is gradually being made in the number of licensed trustees in accordance with the policy that has been adopted in this respect and to which a reference was made in my report for the year 1934. The number of licences issued for 1933 was 364. This was reduced to 351 in 1934, and to 320 in 1935. These reductions have come about mainly through the voluntary withdrawal from practice of licencees who found that the amount of bankruptcy work they received was not sufficient to warrant the renewal of their licences and qualifying bonds. In many cases licencees received no appointments as trustees at all. While the number of licencees has been reduced to more reasonable proportions (292 at the end of 1935) it is felt that the number of trustees licensed to operate in the larger centres, notably in Montreal and Toronto, is still out of proportion to the amount of bankruptcy work to be done in these centres.

(ii) Bankruptcies Reported and Estates Administered

New Estates—	
Carried over from 1934 to 1935 (administration not completed in 1934)	1,545
Reported during 1935	1,263
Total new estates under administration in 1935	2,808
Old Estates—(in existence prior to 1st December, 1932):	
Carried over from 1934 to 1935 (administration not completed in 1934)	1,477
Reported during 1935	343
Total old estates under administration in 1935	1,820
Total of all estates under administration in 1935	4,628
The 1,198 new estates closed in 1935 represented:	
Total liabilities estimated (by debtors) at	$19,402,471
Total assets valued (by debtors) at	14,039,847
which realized	2,797,009
Distributed as follows:	
Payments to creditors	2,020,868
Payments to debtors in lieu of exemptions	12,524
Administrative costs	763,617
Average percentage cost of administration per estate, 27·3 per cent.	
The 428 old estates closed in 1935 represented:	
A total realization of	$ 2,684,505
Total administrative costs of	731,512
Average percentage cost of administration per estate, 27·2 per cent.	

Detailed information regarding the number of bankruptcies by provinces, size of estates, realization of assets, administrative costs, etc., will be found in the tables forming the Appendix to this report. A special effort has been made to make these tables as informative as possible and with this in view a number of new tables are published in this report for the first time. These deal with such matters as comparative costs for the years 1933, 1934 and 1935 (Table X): percentage costs of administration by districts (Table XIV): the number of bankruptcies settled by proposals of composition (Table XVI): applications of debtors for their discharge from bankruptcy (Table XVII), and an occupational classification of debtors (Table XVIII).

There were 1,263 bankruptcies reported in 1935 compared with 1,411 reported in 1934, a decrease of 148 in 1935. Comparative figures for all provinces for the years 1933, 1934 and 1935 are as follows:

—	N.S.	N.B.	P.E.I.	Que.	Mont.	Ont.	Tor.	Man.	Sask.	Alta.	B.C.	Total
*1933.....	68	57	12	740	652	573	180	76	73	102	71	2,604
1934.....	42	34	8	365	429	269	95	54	31	31	53	1,411
1935.....	36	35	4	303	490	203	82	31	23	22	34	1,263

* These figures cover the thirteen-month period from 1st December, 1932 (when the Bankruptcy Act Amendment Act, 1932, came into effect) to 31st December, 1933.

These figures indicate a gradual decrease in the number of bankruptcies reported during the three year period for all provinces. It will be noted, however, that the metropolitan area of Montreal shows a substantial increase in 1935 compared with 1934. Owing to the importance of Montreal and Toronto as industrial and commercial centres it has been found desirable to maintain separate records for each of these cities.

The numbers of assignments (voluntary proceedings) and receiving orders (forced bankruptcies) in 1935 were 1,066 and 197 respectively, as compared with 1,228 and 183 in 1934. In 1935 the percentage of receiving orders was 15·6 per cent of the total number of bankruptcies reported; in 1934 it was 13 per cent of the total. These figures effectively dispel the popular impression that the majority of debtors are forced into bankruptcy by their creditors.

(iii) Cost of Administration of Estates

The analytical statements forming Part II of the Appendix furnish important information regarding the cost of the administration of the 1,198 estates closed in 1935. The information contained in Part III, in which is set forth the cost of administration according to the size of the estates administered, is also of value in this regard. A brief comment on these tables may not be out of place here.

It will be noted that the average cost of administering an estate depends largely upon the size of the estates administered. Certain necessary and unavoidable costs, such as the costs of the assignment or receiving order, disbursements incurred in the conservation and disposal of assets, costs of preparing and mailing notices and statements, and court fees on trustee's discharge, do not increase in proportion to the value of the assets. These costs fall proportionately heavier on small estates than on large, and in very small estates they may absorb most, if not all, of the proceeds. The assets of bankrupt estates have in the past four or five years fallen off appreciably to produce a resulting lower average in the size of the estates, a fact that cannot be overlooked when average costs are considered.

The comparative statement of average administrative costs for the years 1933, 1934 and 1935 (Table X) would appear to indicate that these costs have increased considerably over this period. However, this is not actually the case. The figures for 1933 represent 850 estates only of the 2,604 estates which came into existence in that year, the administration of the remaining 1,754 estates being carried over into 1934. Similarly, 1,620 only of the 3,165 estates under administration in 1934 were closed in that year, the balance of 1,545 being carried over into 1935. Of the 2,808 estates under administration in 1935, 1,610 have been carried over into 1936. In other words, the estates closed in 1935 included a proportion of those which came into existence in 1933 and 1934, and the cost of administering estates must also depend to some extent upon the length of time during which the estates are under administration. The delay in the winding-up of estates is due in many cases to the difficulties encountered in realizing upon the assets, particularly in cases in which the assets to be disposed of consist of real property.

A brief statement of the principal items entering into the cost of administering bankrupt estates was published in the report for the year 1934, and this phase of the administration of estates has continued to receive special attention. Care has been taken to see that the provisions of *The Bankruptcy Act* regulating or limiting the remuneration, fees and costs of custodians, trustees, inspectors, solicitors and court officials have been more closely observed, and that all such disbursements from estate funds have been properly authorized. Lack of uniformity in the interpretation and application of the provisions of the Act dealing with these matters has been mainly responsible for differences in bankruptcy costs found to occur in different bankruptcy districts, and it has consequently been necessary, in dealing with these matters, to distinguish between cases in which costs are generally above the average and those cases of individual estates in which, for some reason, the administrative costs are higher than usual. In the first category of cases—those occurring in bankruptcy districts in which the costs allowed are generally higher than elsewhere—the situation has been discussed with the judges and the officials of the courts with a view to obtaining a greater degree of uniformity in the interpretation and application of these special provisions of the Act. These discussions have already resulted in an appreciable improvement in the direction of reduced costs, and it is hoped that with the co-operation of the court officials a still greater degree of uniformity may be obtained. In the second class of cases—particular cases in which the administrative costs seem unusually high—the administration of these estates has been examined very carefully to determine the reason therefor and particularly whether or not the various provisions of the Act have been properly observed. General instructions and comment on individual cases are given to trustees on these matters, and it is gratifying to observe that in the majority of cases they have been carefully noted and put into effect. The detailed examination of administrative costs will necessarily continue to be an important phase of supervision to ensure compliance with the provisions of the Act governing these matters.

The systematic examination of the administration of individual estates occasionally reveals the existence of practices contrary to the principles governing the administration of trust funds. In one case where the trustee had assisted the debtors to prepare and file the assignment it was found that a solicitor's bill for costs on an assignment was paid by the trustee although the solicitor had rendered no services whatever. On investigating the matter I have been informed that it is not unusual in that district to enter the name of a solicitor on the deed of assignment and for the solicitor to receive payment for services stated to have been rendered to the debtor in the preparation and filing of the assignment although, as a matter of fact, the solicitor may have rendered no services and may have had nothing to do with the assignment. The attention of those concerned having been called to the impropriety of this practice it is expected that it will not be continued.

Instances have also been noted of payment of charges obviously in excess of the limitations placed thereon by the Act. In some of these cases the trustees had not been present when the bills were taxed, and these were paid, without further formality, on presentation. In some cases the bills had not even been taxed. Each of these cases has been carefully examined and the attention of the trustees directed to the importance of the proper observance of the provisions of the Act governing the employment of solicitors and agents and regulating the amount of the costs that may be paid. Appreciable progress has been made in this direction and it is hoped that the continuance of these efforts will result in a better understanding of the economy of the Act and in corresponding benefits to the estates.

Care has been taken to ensure the return to estates of funds rightfully repayable to them. An example of the services rendered to estates in this way is that found in the repayment to estates during the past two years of the unexpired portions of bond of indemnity premiums, which in many cases had not been reclaimed. By promptly notifying the bonding companies of the termination of the liability the trustees now obtain the refund of the unexpired portion of the premiums. Refunds have also been obtained in many cases in which the premiums had been in excess of the rates fixed by the tariff of the Canadian Casualty Underwriters Association. While the amount of the refund to the individual estate may not be great, yet the aggregate amount of these refunds reaches a substantial figure for all estates in the course of a year.

(iv) Observations on the Administration of Estates

As in previous years close contact has been maintained with all trustees and with the progress made in the administration of each estate. Trustees have been advised on problems of procedure and have been aided, wherever possible, to overcome the difficulties preventing the prompt winding-up of estates. In many cases, particularly in the rural districts, the administration of estates had been left in suspense because of some technical difficulty which the trustees had themselves been unable to solve and with regard to which they were unable, owing to lack of funds, to obtain legal advice. Much success has been attained in having the administration of many of these estates completed during the year. With regard to the comparatively large number of estates in which the bankruptcies took place prior to the coming into effect of *The Bankruptcy Act Amendment Act, 1932*, and in which the administration has not yet been completed, I have again to express my appreciation of the continued co-operation of trustees, court officials and the officers of the bonding companies who have furnished their assistance in order that these matters may be disposed of as soon as possible.

One important cause of delay in the winding-up of estates of which trustees frequently complain arises from the difficulty in getting solicitors who have acted for the trustee to have their bills of costs taxed and submitted. Cases have been noted in which the taxation of bills of costs has been continually put off, and the trustees' repeated requests for the bills to be taxed ignored. There is very little excuse for these delays in most cases, and reasonable promptitude on the part of solicitors in proceeding to the taxation of their costs would materially assist the trustees and enable them to close the administration of estates without unnecessary delay on this account.

Many delays have been encountered in the administration of estates, particularly in the last five or six years, which are almost entirely unavoidable due to the very pronounced decrease in the values of assets during this period, more particularly with respect to real estate. In many cases, it is found that no matter what the reasonable present value may be it is not saleable at any price. Inspectors and creditors are naturally reluctant to allow such assets to be sold at the low prices obtainable, and the administration of the estates is continued in the hope of a recovery in values taking place or of a more reasonable offer

being received in the meantime. In such circumstances there is little that can be done, but in cases in which the completion of the administration is likely to be postponed for any considerable length of time the trustees are advised to make an interim distribution and proceed to a partial discharge when this can be done, in order that the creditors may be fully informed of the progress made and of the cause of the delay in completing the administration.

The continued operation of the debtor's business by the trustee, in the hope of selling to better advantage, has been found to result in many cases in heavy losses to estates, and notwithstanding the experience that has been gained in this regard there remains a strong tendency to engage in these operations. In many of these ventures the operations have had eventually to be abandoned owing to lack of funds and the remaining assets sold at auction. Cases have been noted in which immediate realization would have provided for the payment of a small dividend, and in which through operation losses nothing whatever has been left for the creditors. I have consistently advised trustees not to recommend the continuance of the business of a debtor unless there is a reasonable assurance of an early sale being made or that the business will not have to be operated at a loss. However, the prospect of ultimately disposing of the estate as a going concern is often sufficient to induce the creditors to take these risks without due consideration having been given to the elementary principles just mentioned.

An appreciable variation is noted in the length of time taken in different parts of the Dominion to wind up an estate. This is due, apparently, not only to different economic conditions but also, at least in part, to a different conception of credit values. Accounts receivable which would ordinarily be abandoned in Montreal or Toronto in a year or two appear to be regarded as collectable in the western provinces at the end of four or five years, and the estates are kept open as long as there is a possibility of further collections being made. In other words, there seems to be a greater desire in the central and eastern provinces to have the assets of the debtor promptly liquidated and disposed of, and for all concerned to begin over again.

The attention of trustees has been particularly directed to the necessity of a strict observance of the provisions of the Act with respect to the handling of estate funds. Section 50, which provides that "*the trustee shall deposit in a chartered bank the proceeds of the sale of the property of the estate . . . and all other moneys realized on account of any trust estate which he is administering under the Act. . . . . .*", clearly indicates the intention that a separate trust account shall be maintained in a chartered bank for each bankrupt estate, and that the maintenance of a "general" trust account, in which the funds of a number of estates are pooled, is not a proper compliance with these provisions. It was found during the past year that the general instructions given to trustees in this regard in May, 1933 (Circular Memorandum No. 1) had not been observed in all cases and corrective action had to be taken in those instances which came under observation.

The present supervisory system is designed to follow the progress of each estate from the time the assignment or receiving order is made through the various stages of the administration, to the final winding-up and discharge of the trustee and of the debtor. It is instrumental in securing in a reasonably prompt and business-like way the realization of the goods of the debtor and the distribution of the proceeds thereof among the creditors and, when this has been accomplished, a proper accounting by the trustee of his charge. The fulfilment of this latter duty—that of rendering to the court, to the creditors and to the debtor an account of their stewardship—was probably that most frequently omitted before the amendments of 1932 came into effect. In a fairly large number of estates, many trustees omitted to have their accounts examined by the court or to make application for their discharge. All that was done was to mail a final statement to the creditors but often this formality was also overlooked. In many such

cases the trustees were entirely inexperienced. In some of the larger centres, however, these same duties were being ignored by trustees who were well aware of their existence. Occasionally it would happen that, although the estate had been honestly administered, the trustee was left without the necessary funds with which to procure his discharge, but there were also cases in which the trustee did not dare present his accounts to the examination of a court official. Many gradations and degrees of negligence or dishonesty lay between these two extremes. In a few centres an abuse had arisen which had for its special field assignments in bankruptcy by wage-earners and salaried persons. In these cases a fee was collected from the assignor, the assignment was filed and gazetted, and the proceedings went no further. The debtor gained a brief respite, often illusory, the trustee gained his fee, and the creditors, to institute or continue an action, were put to the expense of obtaining the permission of the bankruptcy court.

Every effort has been made to curtail these practices since *The Bankruptcy Act Amendment, 1932*, came into effect. Trustees are now expected to carry forward the administration of their estates with due diligence, to pay interim dividends whenever possible, to complete the administration of estates with reasonable despatch and to proceed promptly to their discharge in all estates. To prevent undue delay in carrying out the duties imposed upon them by the Act, and to prevent personal losses on their part, I have consistently advised them not to accept appointments to estates in which there are no visible assets or in which the assets are insufficient to meet the bankruptcy costs, unless these are paid in advance or guaranteed by a responsible party. I am pleased to report that I have received the active and almost entire co-operation of the trustees in these matters.

One of the phases of bankruptcy administration to receive special attention during the year was that dealing with the applications of debtors for their discharge from bankruptcy, with regard to which a serious lack of uniformity was found to exist in various bankruptcy districts throughout the Dominion. Although not directly related to the actual administration of estates, the divergency from the prescribed procedure was found to be sufficiently serious to make it incumbent upon me to inquire into the matter. In some provinces the Registrar, in Bankruptcy, heard and disposed of all unopposed applications of debtors for a discharge, notwithstanding the provisions of bankruptcy rule 157(1) by which certain applications are deemed to be opposed applications within the meaning of section 159(1)(*c*), and accordingly could only be heard by a judge. As the error in procedure had arisen merely through a misconception of these provisions it has been found necessary, in order to correct the situation, only to bring the matter to the attention of the officials concerned. It may, however, be a matter of very serious concern to the large number of debtors who believe that they have been discharged but legally are still bankrupts.

It was also noted that in many bankruptcies settled by the debtors submitting proposals of composition, extension or scheme of arrangement, it had been assumed that the debtors were fully discharged without further formality, when the proposal had been accepted by the creditors and approved by the court and the terms thereof fulfilled. In each of these cases the trustees have been advised that approval and payment of the composition does not discharge the debtor and that in such cases, unless the composition order annuls the bankruptcy or authorized assignment in accordance with the provisions of section 19(5) it would be necessary that the debtor make an application to the court for his discharge in the usual way.

In some cases, also, the trustees believed themselves to be discharged from all further duties and obligations with respect to the estate on the approval by the court of a proposal of composition and fulfilment of the terms thereof. The trustees in these cases have been advised that such is not the case, and that it

is necessary for them to make application for their discharge in each estate in which they have acted as trustee, notice of the application having duly been given to each creditor and to the debtor as required.

(v) Complaints from Creditors and Others

During the year eighty-six complaints were received as compared with 105 received in 1934 and 134 received during the thirteen-month period ending December 31, 1933. Of the eighty-six complaints received in 1935 sixty-three related to estates under the administration of licensed trustees, and twenty-three to the administration by unlicensed trustees of estates in existence prior to December 1, 1932. These complaints, however, do not include the innumerable matters dealt with in the day to day routine of the office.

Most of the complaints received in 1935 deal with delays in the winding-up of estates and in the payment of claims. Few have been of a serious character, many were of minor importance or were found on investigation to be without real grounds. Creditors whose claims rank in priority to those of ordinary creditors often feel that they are entitled to payment no matter what the circumstances of the case may be, and it is difficult for them to understand that there are other claims which rank in priority to theirs. Numerous complaints of this kind are received from wage-earner creditors, many of whom are unemployed and who naturally feel that they should receive special consideration in the distribution of the proceeds of the estates. Unfortunately, so many secured and preferred claims are by statute allocated before the claims of wage-earners that the latter are frequently disappointed. It is only fair to say, however, that in many cases other preferred creditors such as municipal corporations and the provincial and Dominion authorities are willing to forego part of the amount of their claims in order that the wage-earner creditors may share in the distribution. The trustees of the estates invariably endeavour to bring about adjustments of this kind wherever possible.

Of the few serious complaints received one had reference to an estate in the hands of a trustee whose licence expired at the end of 1934 and which was then being definitely wound up. In the two other serious cases the trustees' licences were not renewed for 1936. As in previous years a number of letters were received from debtors complaining of unfair treatment and each of these cases was carefully investigated.

(vi) Investigations

Seven personal investigations were made by members of the staff during the year following the receipt of complaints from creditors and others. In one case the administration of an estate had become involved through the continued operation of the business by a former director under the supervision of the trustee. The intervention of this office resulted in the appointment of a new trustee who has taken the estate in hand with a view to its being wound up as soon as possible. Another investigation revealed the existence of very unsatisfactory conditions in the administration of an estate for which the trustee, whose licence has not been renewed, was found to be responsible. A third investigation disclosed certain irregularities in the collection of proofs of debt and proxies. These were reported to the Crown authorities and a prosecution resulted. An investigation was also made into the validity of certain administrative and legal costs in an estate. A reference to this matter has already been made on page 8. The three remaining investigations covered (1) an examination of the records and accounts of a trustee whose licence expired on December 31, 1934; (2) an inquiry into the relationship of a trustee with a company in liquidation, in connection with which he had been appointed liquidator, and (3) a preliminary inquiry into the delay in the winding up of a certain estate.

A number of miscellaneous matters of a general character were also investigated by the Superintendent or by members of his staff while on business outside of Ottawa. These were of lesser importance than the special investigations referred to above and need not be dealt with particularly. I would again express my appreciation of the assistance rendered by the officers and personnel of the Royal Canadian Mounted Police in the more important of these matters.

3. PROSECUTIONS IN BANKRUPTCY MATTERS

In the section of my report for 1934 on this subject fifty-three cases of offences in bankruptcy matters were discussed, all but eleven of which had then been closed. Forty-three additional cases, in most of which there are reasonable grounds for believing that offences have been committed and in all of which an investigation of some sort has been made, have since been reported. Thirty-three of these fifty-four cases have now been closed. In the remaining twenty-one proceedings are pending or contemplated, or the investigations are being continued.

The accused were brought to trial in seventeen of the thirty-three cases that have been closed. In two the criminal proceeedings were dropped on restitution or a satisfactory settlement being made. In nine the investigations were not proceeded with for various reasons, principally because of insufficient evidence, lack of funds and reluctance of creditors to go to further expense. In five the accused escaped prosecution, temporarily at least, by absconding.

Convictions were obtained in ten of the seventeen cases brought to trial. In the remaining seven the accused were acquitted or the complaints were dismissed. In six of the cases in which convictions were obtained the accused were sentenced to terms of imprisonment varying from two months to one year (in four of these cases fines varying from two hundred to five hundred dollars were also imposed); in two the sentence of the court was suspended on partial restitution being made; fines were imposed in the two remaining cases. Appeals were entered against four of the above convictions but in each case the conviction was confirmed. No appeal against sentence was entered in any of the cases reported.

The difficulties encountered in bankruptcy prosecutions have been the subject of a special study during the year, the results of which have been summarized and published by a member of the staff in a paper entitled "Criminal Prosecutions in Bankruptcy Matters" which appeared in the April, 1936, number of the Canadian Bar Review. The proposed remedies therein considered are (1) the establishment and maintenance by the various trade associations of a central bureau for the investigation of bankruptcy offences and the prosecution of offenders; (2) the investigation and prosecution of bankruptcy offences by the proposed Director of Public Prosecutions to be appointed under *The Trade and Industry Commission Act, 1935*: (3) the extension of the duties of the Superintendent of Bankruptcy to include the investigation and prosecution of bankruptcy offences. In view of the interest taken in this subject by Boards of Trade, Chambers of Commerce, trade associations and other creditor organizations, all of whom appear to be unanimous in their opinion that the present method of dealing with bankruptcy offences is not satisfactory, consideration of this subject is entitled to serious study to find a remedy therefor.

4. THE FARMERS' CREDITORS ARRANGEMENT ACT, 1934

Sixty-one assignments were made by farmers under this Act during the period September 31-December 31, 1934, and two hundred and eighty-five were made during 1935, bringing the total number of assignments for the sixteen month period ending December 31, 1935, to 346. In addition, two receiving orders were made against farmers in 1935. Assignments were made only in those cases in which the farmers were hopelessly insolvent and in many cases

the assignments followed the rejection of proposals submitted to the creditors. Receiving orders are made only in cases in which the farmers have failed to fulfil the terms of their proposals as accepted by the creditors and approved by the court.

These 348 estates represented liabilities and assets as estimated by the farmers of $3,062,787 and $1,581,505 respectively. Of the 348 farmers who assigned or were adjudged bankrupt 102 had made application for their discharges from bankruptcy by the end of December, 1935. Eighty of these applications were granted unconditionally, one was denied, one was suspended for a period of one year, two were granted on condition that certain payments be made to unsecured creditors, and eighteen had not been disposed of at the close of the period. Two prosecutions were instituted against farmers who had failed to disclose all of their assets. In the first case the charges were dismissed as there was some doubt that the accused understood the questions put to him by the Official Receiver. In the second case the accused was convicted and fined in the sum of $25.00 and costs or two months' imprisonment. In both cases the assets which had not been disclosed were brought into the estates.

Of the 348 estates under administration during this period ninety-four were completely administered and the trustees released by December 31, 1935. The total liabilities and assets for these ninety-four cases, as estimated by the farmers on their statements of affairs, amounted to $729,202.51 and $352,029.75 respectively. In all but a few cases the land was repossessed by the mortgagees or other secured creditors. In many cases all the available chattels, over and above the farmers' statutory exemptions, were also turned over to secured creditors. Receipts from the sale of assets over and above the statutory exemptions of the farmers amounted to $20,041.17 of which the sum of $18,-311.91 was paid to creditors on account of their claims. Secured and preferred creditors received $15,560.16; ordinary creditors received $2,751.75. The balance of $1,729.26 is accounted for as follows: trustees' disbursements, $1,606.43; levy, $87.73; refunds and undistributed assets, $35.10. In quite a number of these estates in which there were no assets and consequently no realization the trustees' disbursements were paid by the Department. These additional costs came to $689.13, bringing the total of the trustees' disbursements for these ninety-four estates to $2,295.56 or an average of $24.42 for all estates. It should be noted that this sum of $2,295.56 represents merely the actual disbursements incurred by the trustees in the administration of the estates, such as court fees, postage on notices, fees of inspectors, and travelling expenses. To these relatively small and incidental disbursements must be added the portion of the salaries of the official receiver-trustees for the time spent by them on these assignments, as well as the cost of their office accommodation, stenographic assistance and stationery, all of which was paid by the Department to the end of December, 1935, from the appropriation provided for the administration of the Farmers' Creditors Arrangement Act.

These figures have no reference to the large number of proposals made by farmers under the Act during this period of which the documents in 14,429 cases have been received and recorded as required by the Act. By close co-operation these files have been made available to the official of the department immediately in charge of the administration of the Act for all necessary purposes.

5. REVENUE AND EXPENDITURES

Detailed statements of the monthly revenues and of expenditures during 1935 are given below.

There has been a substantial decrease in the amount of the levy received in 1935 compared with the receipts from the same source which in 1934 amounted to $26,728.73. This has been due principally to the fact that a considerable proportion of the levy in 1934 was received from estates in existence prior to

December 1, 1932, a large number of which were closed in 1934; it is also due to the smaller number of estates closed in 1935 as well as to the relatively smaller realization during this year from the assets of estates. The moderate net deficit resulting from this year's operations is fully covered by the surpluses accrued in 1933 and 1934.

STATEMENT OF REVENUE—CALENDAR YEAR 1935

1935	Licence Fees	Levy	Totals
	$ cts.	$ cts.	$ cts.
January	347 50	1,350 61	1,698 11
February	95 00	1,748 03	1,843 03
March	25 00	1,171 61	1,196 61
April	35 00	1,735 19	1,770 19
May	115 00	1,104 55	1,219 55
June	15 00	1,738 07	1,753 07
July	150 00	1,990 50	2,140 50
August	25 00	828 53	853 53
September	Nil	973 01	973 01
October	1,150 00	1,458 31	2,608 31
November	4,560 00	1,232 77	5,792 77
December	382 50	999 84	1,382 34
	6,900 00	16,331 02	23,231 02

STATEMENT OF EXPENDITURE—CALENDAR YEAR 1935

Salaries	$ 23,460 36
Printing and Stationery	821 86
Travelling	351 93
Rent and Maintenance	1,929 35
Sundries	440 83
Total	$ 27,004 33

APPENDIX

INDEX OF TABLES

PART I.—BANKRUPTCIES REPORTED IN 1935

PART II.—ESTATES COMPLETELY ADMINISTERED IN 1935

PART III.—COMPARATIVE COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATES

PART IV.—OLD ESTATES CLOSED IN 1935

PART V.—MISCELLANEOUS INFORMATION

PART I

BANKRUPTCIES REPORTED IN 1935

TABLE I.—NEW BANKRUPTCIES REPORTED

N.S.	N.B.	P.E.I.	Que.	M'tl.	Ont.	Tor.	Man.	Sask.	Alta.	B.C.	Total
36	35	4	303	490	203	82	31	23	22	34	1,263

BANKRUPTCIES IN EXISTENCE PRIOR TO 1ST DECEMBER, 1932 (OLD ESTATES) REPORTED

N.S.	N.B.	P.E.I.	Que.	M'tl.	Ont.	Tor.	Man.	Sask.	Alta.	B.C.	Total
16	4	0	71	71	53	21	4	25	63	15	343

TOTAL OF ALL BANKRUPTCIES REPORTED

N.S.	N.B.	P.E.I.	Que.	M'tl.	Ont.	Tor.	Man.	Sask.	Alta.	B.C.	Total
52	39	4	374	561	256	103	35	48	85	49	1,606

TABLE II.—NEW BANKRUPTCIES REPORTED IN 1935

—	N.S.	N.B.	P.E.I.	Que.	Mont.	Ont.	Tor.	Man.	Sask.	Alta.	B.C.	Total
January	4	1	0	32	59	19	7	5	1	0	1	129
February	2	3	1	31	46	14	7	9	2	3	4	122
March	3	1	1	30	37	17	10	1	3	1	0	104
April	5	3	0	21	41	23	9	2	4	5	6	119
May	3	1	1	36	32	15	2	1	4	2	4	101
June	2	4	0	18	33	13	11	3	1	2	2	89
July	1	4	0	22	39	15	5	0	4	4	2	96
August	4	5	0	29	35	23	7	2	1	0	1	107
September	2	4	0	19	36	17	5	2	1	0	4	90
October	5	4	0	23	38	12	7	3	0	1	2	95
November	3	4	1	21	52	17	8	2	0	2	5	115
December	2	1	0	21	42	18	4	1	2	2	3	96
Total	36	35	4	303	490	203	82	31	23	22	34	1,263

TABLE III—COMPARISON OF THE NUMBER OF ASSIGNMENTS AND RECEIVING ORDERS IN REGARD TO THE TOTAL NUMBER OF BANKRUPTCIES

Province or City	Assignments		Receiving Orders		Totals	
	Number	Per cent	Number	Per cent	Number	Per cent
Nova Scotia	29	80·6	7	19·4	36	100
New Brunswick	31	88·6	4	11·4	35	100
Prince Edward Island	4	100	0	0	4	100
Quebec	271	89·4	32	10·6	303	100
Montreal	412	84·1	78	15·9	490	100
Ontario	175	86·2	28	13·8	203	100
Toronto	57	69·5	25	30·5	82	100
Manitoba	28	90·3	3	9·7	31	100
Saskatchewan	18	78·3	5	21·7	23	100
Alberta	15	68·2	7	31·8	22	100
British Columbia	26	76·5	8	23·5	34	100
Total	1,066	84·4	197	15·6	1,263	100

TABLE IV—ASSETS AND LIABILITIES ACCORDING TO DEBTORS' STATEMENTS

TOTAL AND AVERAGES FOR ALL NEW ESTATES REPORTED IN 1935

Province or City	Number of estates	Total		Average per estate	
		Assets	Liabilities	Assets	Liabilities
		$	$	$	$
Nova Scotia	36	326,552	358,407	9,071	9,955
New Brunswick	35	269,316	445,324	7,695	12,724
Prince Edward Island	4	46,496	38,310	11,624	9,577
Quebec	303	6,874,025	7,487,801	22,687	24,712
Montreal	490	7,556,857	10,013,177	15,422	20,435
Ontario	203	3,636,243	4,453,177	17,913	21,937
Toronto	82	3,513,460	2,603,337	42,847	31,748
Manitoba	31	302,740	431,466	9,766	13,918
Saskatchewan	23	121,470	202,664	5,281	8,811
Alberta	22	203,667	262,601	9,258	11,936
British Columbia	34	713,858	1,385,515	20,996	40,750
Total	1,263	23,564,684	27,681,779	18,658	21,917

PART II

ESTATES COMPLETELY ADMINISTERED IN 1935

TABLE V.—ASSETS AND LIABILITIES ACCORDING TO DEBTORS' STATEMENTS

TOTAL AND AVERAGES FOR ALL NEW ESTATES CLOSED IN 1935

Province or City	Number of Estates	Total		Average per estate	
		Assets	Liabilities	Assets	Liabilities
		$	$	$	$
Nova Scotia	32	184,836	252,428	5,776	7,888
New Brunswick	25	159,361	256,135	6,374	10,245
Prince Edward Island	7	52,066	65,333	7,438	9,333
Quebec	339	4,418,316	7,194,471	13,033	21,223
Montreal	377	4,276,142	5,490,181	11,343	14,563
Ontario	203	2,253,278	2,601,727	11,100	12,816
Toronto	92	1,673,004	2,109,828	18,185	22,933
Manitoba	32	179,657	282,730	5,614	8,835
Saskatchewan	36	351,127	365,329	9,754	10,148
Alberta	20	195,106	201,631	9,755	10,082
British Columbia	35	296,954	582,678	8,484	16,648
Total	1,198	14,039,847	19,402,471	11,719	16,196

TABLE VI.—TOTAL REALIZATION OF ASSETS AND COST OF ADMINISTRATION

Province or City	Number of Estates	Gross Receipts	Net receipts from operations	Total Realization	Total cost of administration
		$ cts.	$ cts.	$ cts.	$ cts.
Nova Scotia	32	48,964 65	903 12	49,867 77	12,294 66
New Brunswick	25	52,583 59	.....	52,583 59	12,288 98
Prince Edward Island	7	6,856 00	.....	6,856 00	2,453 06
Quebec	339	853,022 99	3,992 88	857,015 87	251,149 30
Montreal	377	720,287 07	8,847 12	729,134 19	205,837 21
Ontario	203	450,865 26	3,185 76	454,051 02	122,176 05
Toronto	92	360,751 70	14,060 54	374,812 24	87,884 73
Manitoba	32	46,089 29	.....	46,089 29	15,713 86
Saskatchewan	36	106,632 73	404 29	107,037 02	27,181 62
Alberta	20	25,431 33	570 00*	24,861 33	9,078 28
British Columbia	35	92,596 24	2,104 44	94,700 68	17,559 65
Total	1,198	2,764,080 85	32,928 15	2,797,009 00	763,617 40

* Deficit.

TABLE VII.—ANALYSIS OF ADMINISTRATIVE COSTS

Province or City	Number of estates	Average Net Realization and Cost of Administration			Average Cost per Estate					
		Average realization	Average cost of administration	Percentage cost of administration	Custodian	Trustee	Legal	Levy	Less Trustee's net deficit	Net cost of administration
		$ cts.	$ cts.	%	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
Nova Scotia	32	1,558 37 *(a)*	384 21	24·66	67 08	259 97	53 91	5 95	2 71	384 21
New Brunswick	25	2,103 34	491 56	23·37	94 48	329 24	74 29	8 08	14 53	491 56
Prince Edward Island	7	979 43	350 44	35·78	58 97	195 15	102 72	3 16	9 57	350 44
Quebec	339	2,528 07	740 85	29·31	138 29	433 85	173 37	8 65	13 30	740 85
Montreal	377	1,934 04	545 98	28·23	108 62	341 03	103 19	7 30	14 16	545 98
Ontario	203	2,236 70	601 85	26·91	112 54	367 14	121 52	7 75	7 10	601 85
Toronto	92	4,074 04	955 27	23·45	167 97	579 94	202 08	14 90	9 62	955 27
Manitoba	32	1,440 28	491 06	34·10	148 90	290 74	48 42	4 67	1 66	491 06
Saskatchewan	36	2,973 25	755 05	25·40	210 54	401 44	133 09	11 16	1 19	755 05
Alberta	20	1,243 07	453 91	36·52	115 69	254 87	92 56	4 04	13 25	453 91
British Columbia	35	2,705 73	501 70	18·54	99 43	323 66	74 36	11 13	6 87	501 70
	1,198	2,334 73	637 41	27·30	124 53	385 33	130 24	8 40	11 09	637 41

(a) Based on the realization of assets.

TABLE VIII.—SUMMARY OF TOTAL ADMINISTRATIVE COSTS

Province or City	Number of estates	Custodian	Trustee	Legal	Levy	Less net deficit	Net cost of administration
		$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
Nova Scotia	32	2,146 41	8,319 19	1,725 25	190 39	86 58	12,294 66
New Brunswick	25	2,362 09	8,230 95	1,857 32	201 96	363 34	12,288 98
Prince Edward Id.	7	412 80	1,366 04	719 05	22 13	66 96	2,453 06
Quebec	339	46,880 98	147,074 75	58,771 85	2,932 06	4,510 34	251,149 30
Montreal	377	40,948 50	128,569 25	38,902 20	2,753 74	5,336 48	205,837 21
Ontario	203	22,845 93	74,529 25	24,668 92	1,573 80	1,441 85	122,176 05
Toronto	92	15,453 36	53,354 06	18,591 64	1,370 73	885 06	87,884 73
Manitoba	32	4,764 77	9,303 69	1,549 37	149 30	53 27	15,713 86
Saskatchewan	36	7,579 60	14,451 96	4,791 30	401 68	42 92	27,181 62
Alberta	20	2,313 83	5,097 47	1,851 18	80 75	264 95	9,078 28
British Columbia	35	3,480 10	11,328 00	2,602 55	389 50	240 50	17,559 65
Total	1,198	149,188 37	461,624 61	156,030 63	10,066 04	13,292 25	763,617 40

TABLE IX.—ANALYTICAL STATEMENT SHOWING TOTAL OF ALL ITEMS OF RECEIPTS AND DISBURSEMENTS FOR ALL NEW ESTATES CLOSED (1,198) AND AVERAGE FOR EACH ITEM

—	Total	—	Average	—
RECEIPTS	$ cts.	$ cts.	$ cts.	$ cts.
Gross receipts	2,764,080 85		2,307 25	
Net receipts from operations	32,928 15		27 49	
Total realization		2,797,009 00		2,334 74
DISBURSEMENTS				
Custodian—				
Fees of Official Receiver	19,438 68		16 22	
Advertising	22,850 17		19 07	
Notices to creditors	15,173 74		12 67	
Postage	7,160 16		5 98	
Possession and stocktaking	55,448 77		46 30	
Bond and insurance premiums	9,989 34		8 33	
Miscellaneous	19,127 51		15 96	
Total custodian		149,188 37		124 53
Trustee—				
Advertising	22,650 78		18 91	
Bond and insurance premiums	27,349 54		22 83	
Auctioneer	11,348 34		9 47	
Notices to creditors	25,084 73		20 94	
Postage	13,750 22		11 48	
Registrar's fees	24,437 80		20 39	
Inspectors' fees and disbursements	32,682 12		27 28	
Trustee's remuneration	195,219 31		162 96	
Miscellaneous	109,101 77		91 07	
Total Trustee		461,624 61		385 33
Legal—				
On petition or assignment	52,549 53		43 87	
Solicitor to estate	98,486 06		82 21	
Awarded against trustee	4,995 04		4 17	
Total Legal		156,030 63		130 25
Levy		10,066 04		8 40
		776,909 65		648 51
Less trustee's deficits over residue		13,292 25		11 10
Net cost of administration		763,617 40		637 41
Exemptions allowed debtor		12,524 09		10 46
Secured creditors	453,906 29*		378 89	
Preferred creditors	580,540 89		484 59	
Ordinary creditors	986,420 33		823 39	
Total paid to creditors		2,020,867 51		1,686 87
Total payments		2,797,009 00		2,334 74

* In addition, secured creditors have also realized directly upon their securities in the amount of $5,208,382 (or an average of $4,347.56 per estate).

TABLE X.—ANALYTICAL STATEMENT SHOWING AVERAGE OF ALL ITEMS OF RECEIPTS AND DISBURSEMENTS FOR ALL NEW ESTATES CLOSED

COMPARATIVE STATEMENT FOR THE YEARS 1933, 1934 AND 1935

—	1933		1934		1935	
RECEIPTS	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.	$ cts.
Gross receipts	2,114 21		2,294 09		2,307 25	
Net receipts from operations	97 57		52 20		27 49	
Total realization		2,211 78		2,346 29		2,334 74
DISBURSEMENTS						
Custodian—						
Fees of Official Receiver	14 63		15 73		16 22	
Advertising	19 04		18 38		19 07	
Notices to creditors	11 15		10 87		12 67	
Postage	4 24		5 14		5 98	
Possession and Stocktaking	42 08		42 15		46 30	
Bond and insurance premiums	7 44		7 78		8 33	
Miscellaneous	16 68		10 59		15 96	
Total Custodian		115 26		110 64		124 53
Trustee—						
Advertising	15 72		18 08		18 91	
Bond and insurance premiums	14 25		21 31		22 83	
Auctioneer	11 03		10 22		9 47	
Notices to creditors	19 60		18 94		20 94	
Postage	8 23		9 68		11 48	
Registrar's fees	22 42		19 94		20 39	
Inspectors' fees and disbursements	22 55		23 42		27 28	
Trustee's remuneration	132 44		139 96		162 96	
Miscellaneous	56 24		75 21		91 07	
Total Trustee		302 48		336 76		385 33
Legal—						
On petition or assignment	28 34		38 04		43 87	
Solicitor to estate	52 31		60 40		82 21	
Awarded against trustee	1 36		1 52		4 17	
Total Legal		82 01		99 96		130 25
Levy		8 14		7 99		8 40
Total disbursements		507 89		555 35		648 51
Less trustee's deficits over residue		9 26		11 65		11 10
Net cost of administration		498 63		543 70		637 41
Exemptions allowed debtor		7 98		7 51		10 46
Secured creditors	359 44		483 16		378 89	
Preferred creditors	575 03		502 17		484 59	
Ordinary creditors	770 70		809 75		823 39	
Total paid to creditors		1,705 17		1,795 08		1,686 87
Total payments		2,211 78		2,346 29		2,334 74

PART III

COMPARATIVE COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATES

TABLE XI.—CLASSIFICATION OF ESTATES ACCORDING TO SIZE

Province or City	$500 or under	$501–1,000	$1,001–2,500	$2,501–5,000	$5,001–10,000	Over $10,000	Total
Nova Scotia	14	6	9	2	.....	1	32
New Brunswick	12	5	4	2	.....	2	25
Prince Edward Island	3	.....	3	1	.....	.....	7
Quebec	124	67	67	39	25	17	339
Montreal	190	70	70	19	11	17	377
Ontario	71	42	43	26	14	7	203
Toronto	28	15	22	11	8	8	92
Manitoba	10	7	8	6	1	.....	32
Saskatchewan	7	8	9	5	4	3	36
Alberta	12	2	2	3	1	.....	20
British Columbia	11	6	6	7	3	2	35
Total	482	228	243	121	67	57	1,198
Percentage	40·24	19·03	20·28	10·10	5·59	4·76	100·00

TABLE XII. (1)—COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATE

ESTATES OF $500 OR LESS

Province or City	Number of Estates	Total realization	Total cost of administration	Average size of estate	Average cost of administration
		$	$	$ cts.	$ cts.
Nova Scotia	14	2,901	2,054	207 21	146 71
New Brunswick	12	3,049	1,961	254 08	163 42
Prince Edward Island	3	669	540	223 00	180 00
Quebec	124	32,279	27,572	260 31	222 35
Montreal	190	41,001	35,940	215 79	189 16
Ontario	71	15,847	13,371	223 20	188 32
Toronto	28	5,799	4,470	207 11	159 64
Manitoba	10	2,491	2,213	249 10	221 30
Saskatchewan	7	1,971	1,497	281 57	213 86
Alberta	12	2,795	2,054	232 92	171 17
British Columbia	11	1,428	1,264	129 82	114 91
Total	482	110,230	92,936	228 69	192 81

Average percentage cost of administration, 84·31%.

TABLE XII (2).—COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATE

ESTATES OVER $500 UP TO $1,000

Province or City	Number of Estates	Total realization	Total cost of administration	Average size of estate	Average cost of administration
		$	$	$ cts.	$ cts.
Nova Scotia	6	3,828	1,674	638 00	279 00
New Brunswick	5	3,532	2,037	706 40	407 40
Prince Edward Island	0				
Quebec	67	49,525	27,394	739 18	408 87
Montreal	70	49,867	28,168	712 39	402 40
Ontario	42	30,684	14,341	730 57	341 45
Toronto	15	10,218	6,017	681 20	401 13
Manitoba	7	5,236	2,523	748 00	360 43
Saskatchewan	8	5,558	2,756	694 75	344 50
Alberta	2	1,399	773	699 50	386 50
British Columbia	6	4,651	1,748	775 17	291 33
Total	228	164,498	87,431	721 48	383 47

Average percentage cost of administration, 53·15%.

TABLE XII (3).—COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATE

ESTATES OVER $1,000 UP TO $2,500

Province or City	Number of Estates	Total realization	Total cost of administration	Average size of estate	Average cost of administration
		$	$	$ cts.	$ cts.
Nova Scotia	9	15,463	3,939	1,718 11	437 67
New Brunswick	4	5,494	1,824	1,373 50	456 00
Prince Edward Island	3	3,512	1,149	1,170 67	383 00
Quebec	67	110,172	44,208	1,644 36	659 82
Montreal	70	109,435	43,647	1,563 36	623 53
Ontario	43	66,207	26,038	1,539 70	605 53
Toronto	22	37,049	12,340	1,684 05	560 91
Manitoba	8	11,121	3,419	1,390 12	427 37
Saskatchewan	9	14,265	4,097	1,585 00	455 22
Alberta	2	3,006	714	1,503 00	357 00
British Columbia	6	9,279	2,425	1,546 50	404 16
Total	243	385,003	143,800	1,584 37	591 77

Average percentage cost of administration, 37·35%.

TABLE XII (4).—COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATE

ESTATES OVER $2,500 UP TO $5,000

Province or City	Number of Estates	Total realization	Total cost of administration	Average size of estate	Average cost of administration
		$	$	$ cts.	$ cts.
Nova Scotia	2	8,116	1,216	4,058 00	608 00
New Brunswick	2	6,484	1,938	3,242 00	969 00
Prince Edward Island	1	2,675	764	2,675 00	764 00
Quebec	39	138,418	36,574	3,549 18	937 79
Montreal	19	69,901	17,873	3,679 00	940 68
Ontario	26	88,351	26,017	3,398 12	1,000 65
Toronto	11	47,159	14,109	4,287 18	1,282 64
Manitoba	6	21,215	5,862	3,535 83	977 00
Saskatchewan	5	15,557	3,281	3,111 40	656 20
Alberta	3	11,341	3,737	3,780 33	1,245 66
British Columbia	7	28,717	5,541	4,102 43	791 57
Total	121	437,934	116,912	3,619 29	966 21

Average percentage cost of administration, 26·70%.

TABLE XII (5).—COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATE

ESTATES OVER $5,000 UP TO $10,000

Province or City	Number of Estates	Total realization	Total cost of administration	Average size of estate	Average cost of administration
		$	$	$ cts.	$ cts.
Nova Scotia	0	.....	.....	.....	.....
New Brunswick	0	.....	.....	.....	.....
Prince Edward Island	0	.....	.....	.....	.....
Quebec	25	182,921	34,371	7,316 84	1,374 84
Montreal	11	75,677	20,775	6,879 73	1,888 64
Ontario	14	94,505	24,649	6,750 36	1,760 64
Toronto	8	56,477	14,203	7,059 62	1,775 37
Manitoba	1	6,026	1,697	6,026 00	1,697 00
Saskatchewan	4	31,923	8,298	7,980 75	2,074 50
Alberta	1	6,320	1,800	6,320 00	1,800 00
British Columbia	3	19,662	3,488	6,554 00	1,162 67
Total	67	473,511	109,281	7,067 33	1,631 06

Average percentage cost of administration, 23·08%.

TABLE XII (6).—COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATE

ESTATES OVER $10,000

Province or City	Number of Estates	Total realization	Total cost of administration	Average size of estate	Average cost of administration
		$	$	$ cts.	$ cts.
Nova Scotia	1	19,560	3,412	19,560 00	3,412 00
New Brunswick	2	34,024	4,529	17,012 00	2,264 50
Prince Edward Island	0	.....	.....	.....	.....
Quebec	17	343,701	81,030	20,217 71	4,766 47
Montreal	17	383,254	59,433	22,544 35	3,496 06
Ontario	7	158,457	17,760	22,636 71	2,537 14
Toronto	8	218,111	36,746	27,263 87	4,593 25
Manitoba	0	.....	.....	.....	.....
Saskatchewan	3	37,763	7,253	12,587 67	2,417 67
Alberta	0	.....	.....	.....	.....
British Columbia	2	30,963	3,094	15,481 50	1,547 00
Total	57	1,225,833	213,257	21,505 84	3,741 35

Average percentage cost of administration, 17·40%.

TABLE XIII.—RECAPITULATION OF COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATES

Size of Estate	Number of Estates	Total realization	Cost of administration	Average realization	Average cost of administration	Percentage cost of administration
		$	$	$ cts.	$ cts.	Per cent
$500 or under	482	110,230	92,936	228 69	192 81	84·31
$501 – $1,000	228	164,498	87,431	721 48	383 47	53·15
$1,001 – $2,500	243	385,003	143,800	1,584 37	591 77	37·35
$2,501 – $5,000	121	437,934	116,912	3,619 29	966 21	26·70
$5,001 – $10,000	67	473,511	109,281	7,067 33	1,631 06	23·08
Over $10,000	57	1,225,833	213,257	21,505 84	3,741 35	17·40
Total	1,198	2,797,009	763,617	2,334 73	637 41	27·30

TABLE XIV.—PERCENTAGE COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATES

Province or City	$500 or under	$501–$1,000	$1,001–$2,500	$2,501–$5,000	$5,001–$10,000	Over $10,000	All Estates
	%	%	%	%	%	%	%
Nova Scotia	70·81	43·73	25·47	14·98	.....	17·44	24·66
New Brunswick	64·32	57·67	33·20	29·89	.....	13·31	23·37
Prince Edward Island	80·72	.....	32·72	28·56	.....	.....	35·78
Quebec	85·42	55·31	40·13	26·42	18·79	23·58	29·31
Montreal	87·66	56·49	39·88	25·57	27·45	15·51	28·23
Ontario	84·38	46·74	39·33	29·45	26·08	11·21	26·91
Toronto	77·08	58·89	33·31	29·92	25·14	16·85	23·45
Manitoba	88·84	48·19	30·74	27·63	28·16	.....	34·10
Saskatchewan	75·95	49·59	28·72	21·09	25·99	19·21	25·40
Alberta	73·49	55·25	23·75	32·95	28·48	.....	36·52
British Columbia	88·52	37·58	26·13	19·30	17·74	9·99	18·54
Average percentage cost for Canada	84·31	53·15	37·35	26·70	23·08	17·40	27·30

PART IV

OLD ESTATES CLOSED IN 1935

TABLE XV.—OLD ESTATES CLOSED IN 1935

REALIZATION AND COST OF ADMINISTRATION ACCORDING TO SIZE OF ESTATES

Amount of realization	Number of Estates	Total realization	Cost of administration
		$	$
$500 or under	130	32,415	28,852
$501 - $1,000	59	43,314	28,538
$1,001 - $2,500	82	134,915	61,140
$2,501 - $5,000	59	206,820	79,023
$5,001 - $10,000	42	293,212	98,610
Over $10,000	56	1,973,829	435,349
	428	2,684,505	731,512

Amount of realization	Average realization	Average cost of administration	Percentage cost of administration
	$ cts.	$ cts.	Per cent
$500 or under	249 25	221 94	89·0
$501 - $1,000	734 14	483 69	65·9
$1,001 - $2,500	1,645 30	745 61	45·3
$2,501 - $5,000	3,505 42	1,339 37	38·2
$5,001 - $10,000	6,981 24	2,347 86	33·6
Over $10,000	35,246 95	7,774 09	22·1
	6,272 21	1,709 14	27·2

PART V

MISCELLANEOUS INFORMATION

TABLE XVI.—BANKRUPTCIES SETTLED BY PROPOSALS OF COMPOSITION, EXTENSION, OR SCHEME OF ARRANGEMENT

	Number		Number
Nova Scotia	0	Toronto	1
New Brunswick	1	Manitoba	0
Prince Edward Island	0	Saskatchewan	2
Quebec	33	Alberta	0
Montreal	27	British Columbia	0
Ontario	3	Total	67

TABLE XVII.—APPLICATIONS OF DEBTORS FOR THEIR DISCHARGE FROM BANKRUPTCY DEALT WITH IN 1935

Province or City	Number of applications heard	Unconditional	Suspended for 1 year or less	Suspended for more than 1 year	Other conditional discharges	Applications refused
Nova Scotia	5	4	1	0	0	0
New Brunswick	0	0	0	0	0	0
Prince Edward Island	1	0	1	0	0	0
Quebec	91	83	5	3	0	0
Montreal	113	44	49	14	5	1
Ontario	29	28	1	0	0	0
Toronto	10	7	2	1	0	0
Manitoba	11	11	0	0	0	0
Saskatchewan	6	4	1	0	0	1
Alberta	4	3	0	0	1	0
British Columbia	2	2	0	0	0	0
Total	272	186	60	18	6	2

TABLE XVIII.—OCCUPATIONS, BUSINESSES OR PROFESSIONS OF DEBTORS

—	N.S.	N.B.	P.E.I.	Que.	Mont.	Ont.	Tor.	Man.	Sask.	Alta.	B.C.	Total
MANUFACTURE AND INDUSTRY—												
Lumber and woodworking	2	2	.....	5	1	8	3	.....	1	.....	7	29
Mining	2	.....	.....	1	2	1	5	1	.....	1	1	14
Fox farming	1	.....	.....	1	1	.....	.....	.....	.....	.....	.....	3
Food products	.....	.....	.....	4	10	1	2	.....	.....	.....	1	18
Furniture	.....	.....	.....	2	2	2	3	.....	.....	.....	.....	9
Shoes and leather goods	.....	.....	.....	3	4	.....	2	.....	.....	.....	.....	9
Rubber	.....	.....	.....	1	1	.....	.....	.....	.....	.....	.....	2
Clothing	.....	.....	.....	.....	23	1	8	1	.....	.....	.....	33
Textile	.....	.....	.....	.....	1	3	2	.....	.....	.....	.....	6
Auto supplies	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	.....	2
Drugs	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	.....	2
Toys	.....	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	2
Brass and Iron Works	.....	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	2
Printing	1	.....	.....	.....	9	2	2	1	.....	.....	.....	15
Miscellaneous	.....	.....	.....	2	8	2	0	1	.....	.....	2	24
Total	6	2	.....	19	66	24	36	4	1	1	11	170
TRADE—												
Fuels	1	2	.....	2	12	4	5	2	.....	1	.....	29
Dry goods	4	7	.....	30	61	27	10	6	3	2	2	152
Food products	11	6	3	77	100	48	3	2	4	3	5	262
Garage and auto supplies	1	1	.....	14	11	8	2	2	.....	3	2	44
General merchants	4	8	1	45	7	15	1	6	3	3	1	94
Footwear	1	1	.....	4	9	1	2	1	2	1	.....	22
Furs	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	1
Hardware	2	1	.....	6	9	2	1	2	2	.....	.....	25
Furniture	1	.....	.....	3	3	9	1	.....	.....	.....	.....	17
Druggists	2	.....	.....	3	8	4	.....	1	3	2	1	24
Electric supplies	.....	.....	.....	4	1	2	.....	.....	.....	.....	.....	7
Plumbing supplies	.....	.....	.....	5	1	4	1	.....	1	.....	.....	12
Tobacco and Stationery	.....	.....	.....	5	7	4	2	.....	.....	.....	.....	18
Jeweller	.....	.....	.....	4	6	2	1	.....	1	.....	1	15
Florist	.....	.....	.....	.....	6	5	1	.....	.....	.....	.....	12
Total	27	26	4	203	241	135	30	22	19	15	12	734
OTHERS—												
Transportation	.....	.....	.....	3	1	.....	1	.....	.....	.....	.....	5
Finance	1	.....	.....	3	10	4	7	1	1	.....	1	28
Service:												
Professional	.....	.....	.....	7	11	.....	1	.....	1	.....	1	21
Business	.....	.....	.....	.....	1	1	1	.....	.....	.....	.....	3
Recreational	.....	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	2
Personal	.....	.....	.....	1	1	.....	1	.....	.....	.....	.....	3
Laundry	.....	.....	.....	.....	5	.....	.....	.....	.....	.....	.....	5
Hotel	.....	1	.....	20	2	2	1	.....	.....	.....	2	28
Construction	1	.....	.....	9	18	10	2	2	.....	.....	1	43
Wage earners	1	6	.....	35	120	22	2	2	1	3	3	195
Miscellaneous	.....	.....	.....	3	14	3	.....	.....	.....	3	3	26
Total	3	7	.....	81	183	44	16	5	3	6	11	359

CIRCULAR MEMORANDUM No. 6

To Official Receivers and Trustees in Bankruptcy

The following comment and suggestion has been received recently from the Honourable Mr. Justice Boyer of the Superior Court in Montreal, the judge especially assigned to exercise jurisdiction in Bankruptcy matters by the Honourable the Chief Justice of the Superior Court of the Province of Quebec, pursuant to Section 156 of the Bankruptcy Act:—

> In connection with discharges, I notice that the reports of the trustees are often unsatisfactory in so far as they do not give any information as to whether or not there have been offences against the Act (section 191), and as to the facts (section 143) which justify the Court to refuse an unconditional order, the whole as required by Form 73, paragraph 7, sub-paragraphs b, c, and d.
>
> In many cases also, the debtor has not been examined before the Receiver and no copy of the examination is filed.
>
> It might be useful that a circular letter should be sent them on your part, insisting upon their complying with the Act in this respect.

The attention of trustees is accordingly directed to the provisions of section 141 (4) and (5) and to Form No. 73 of the Bankruptcy Act. Form No. 73 should be completed accurately and fully in every detail in each case, particularly with respect to any acts of the debtor or any facts which under Sections 142 (2) and 143 would affect his discharge. Trustees must not forget that the duty is imposed on them of including in their reports all relevant facts, no matter how prejudicial these facts may be to debtors, as the Court must rely implicitly on the trustee's report not only as *prima facie* evidence of the statements contained therein but also as to all the facts which ought to be brought to the knowledge of the Court.

Some trustees appear to adopt the attitude that if the report cannot be helpful to the debtor they should not at least report anything to his disadvantage, and so they omit to refer to any of the facts mentioned in Section 143, or to the penal offences referred to in Section 142 (2) as described in Sections 191, 192 and 193, or in the analogous provisions of the Criminal Code. It is not for the trustee to set up his opinion as to what facts should be included in the report. He must state all the facts and it is then for the Court to determine what consideration shall be given to them. For instance, some trustees seem to think that an acquittal by the Court or a jury relieves them of the responsibility of making any reference to the evidence on which a prosecution may have been based. This is an entirely mistaken idea as it is their duty notwithstanding an acquittal to include all such facts because facts which may not warrant a conviction for a penal offence might well, when combined with other facts not in evidence on the trial, have a very different significance to a judge in arriving at a decision on a debtor's application. Trustees must be absolutely independent and their reports made without fear or favour. So long as the facts stated are made in good faith, without malice and with an honest belief in the truth thereof after a reasonable investigation, the report is privileged. The co-operation of all trustees in making these reports as complete and as informative as possible is accordingly requested.

Examination of Debtors by Official Receivers

The attention of Official Receivers particularly, and of trustees as well, is also directed to the comment of the Honourable Mr. Justice Boyer respecting the examination of debtors by the Official Receiver. The practice of Form No. 50 being completed and filed merely as a matter of form is not sufficient for the purposes of the Act. The relevant sections of the Act are as follows:—

> 128. Where a receiving order or an authorized assignment is made, the bankrupt or assignor shall present himself before the Official Receiver who shall examine him as to the causes of his insolvency and the disposition of his assets, and shall put to him the questions provided by the General Rules or questions to the like effect.

2. The Official Receiver shall make notes of such examination and shall communicate them to the creditors at their first meeting.

3. If the bankrupt or assignor fails to present himself for such examination within three days from the making of the receiving order or the filing of the assignment, the court may by warrant cause him to be apprehended and brought up for examination, and may order him to be committed to the common gaol of the judicial district in which he resides for a term not exceeding twelve months.

133. Whenever the bankrupt or authorized assignor is a corporation, the officer executing the assignment or such other officer or officers as the Official Receiver shall direct, shall present himself before the Official Receiver for examination under section one hundred and twenty-eight, and, in case of failure to perform such duty, such officer shall be punishable as if he were the debtor.

Section 138 and Bankruptcy Rules 46, 47, 48, 49, 85 and 110, all of which contain further provisions concerning the matter, should also be carefully noted and followed.

The purpose of a thorough examination of the debtor cannot be better explained than as given in a recent address by V. R. Jones, Esq., Official Receiver at the City of Calgary, whose comprehensive survey of the need of these provisions of the Act being more closely followed leaves little to be added thereto. Mr. Jones' experience in these matters makes the following remarks of particular value and, with his permission, they are quoted in full:—

It would be of interest to you if I told you how I came to adopt the procedure which I follow as official receiver and the reasons which prompted me to deviate from what I understand is the usual practice of official receivers in Canada.

When I took office I found that the practice existing was similar to that of most other official receivers in Canada, so far as I have been able to ascertain. The practice was to call the debtor into a private office some time prior to the first meeting of creditors, to read to him the questions set forth in Form 50 and, generally speaking, to accept his answers without any real attempt at cross-examination; to insert a short summary of them opposite the questions and leave it to the creditors to ask further questions at the meeting if they so desired. At the beginning I followed this practice. I don't know how many of you have ever read or seen Form 50. It consists of a number of questions for the debtor to answer. The questions are worded in a very comprehensive manner and are sometimes difficult to understand. Indeed, I have had lawyers come and seek my advice as to what some of the questions mean. Therefore it was not unusual to find that not only did the debtor fail to understand the questions, but that he usually came to the examination unprepared and was therefore unable to give definite answers.

My first variation of the practice was to require the custodian or the debtor's solicitor, where he was represented, to interview the debtor prior to the meeting and go over the questions with him so that the Form 50 might be left with me with the debtor's answers made, some time previous to the examination of the debtor. At the examination I then went over the form again with the debtor, paying particular attention to those answers which, in my opinion, either required some amplification or were in some other respects unsatisfactory. I then completed the form by swearing the debtor and gave the creditors at the first meeting a short summary of the debtor's position as a result of the examination.

As soon as I adopted the practice of delving into the answers made, I found that I frequently obtained answers from debtors which were of great importance to creditors in deciding the rights of creditors amongst themselves and also their rights against the debtor. Sometimes I found the debtor's answers evasive and his explanations lengthy, so that it was exceedingly difficult to do justice to all parties concerned, if I attempted to summarize the answers in longhand. I therefore developed the idea of calling in a Court reporter when I had reached the stage where the debtor began to make important admissions. This became necessary on so many occasions that it was difficult to get a reporter at a moment's notice. Frequently the debtor's answers were interwoven with the answers given before the reporter came in; sometimes, after having a few moments to reflect, the debtor, realizing the effect of his answers, would change answers which he had made before they were being taken down by the reporter; and so it seemed to me it was necessary to have the whole examination taken down by the reporter.

As soon as I began the practice of attempting to scratch below the surface, I found that the debtor usually either would not, or could not, commit himself definitely without going more fully into his affairs. I was therefore met by the answer, which in many cases was justified, that the debtor did not know. It was quite obvious that if that explanation was accepted, it provided a very easy means by which a debtor could escape investigation, and so it was frequently found necessary to adjourn so that the debtor might obtain definite information on the points in question. Then, as there did not appear to be any good reason why the examination of the debtor should take place in

private, creditors who were interested were encouraged to attend the examination. I found that it assisted the debtor in making more accurate answers when some of the creditors who had knowledge of his affairs were present. Sometimes the creditors who were present furnished information which assisted in checking the truth of the statements made by the debtor. I saw nothing in the Act which prohibited a public examination, and could see every reason in favour of it.

Finally, as I saw the position, it was impossible to examine the debtor properly unless I prepared for the examination. I therefore adopted the practice of notifying the custodian on appointment in each case of my requirements—(1) that I wished to be furnished with as much information as possible with reference to the debtor's affairs, particularly with all balance sheets and all other documents, books and records which disclosed the nature of the business and any transactions of an unusual nature; (2) that I should like the custodian to advise the debtor that it would be necessary to file the Form 50, with answers duly sworn to, at least three days before the examination; (3) that in addition the debtor should go into his business affairs so that he would be able to give me a general outline of the course of his business and give me definite information of the transactions to which I have referred.

I also took steps to see that all creditors and solicitors interested in the bankruptcy were advised that I would welcome information regarding the debtor's affairs before the examination, and was prepared to insist that the debtor give me definite information with regard to any matters which appeared to require investigation. I further directed the custodian to bring to my attention anything of a suspicious nature in connection with the business which came to his notice while carrying out his duties.

The result was that, while the preparation was necessarily limited in its scope, yet it was sufficient to give me some general knowledge of the debtor's affairs and some information regarding matters of a suspicious character, so that I might start him explaining and wondering how much I really did know. I found that a little knowledge worked wonders in getting the debtor to give me an accurate account and in checking any false explanations.

I then decided that, since these examinations did reveal many things of which perhaps creditors were not aware and did frequently reveal conduct which was often extremely reprehensible from the point of view of the creditors and sometimes contrary to law, it was of great advantage to the creditors to hear the examinations, to see the attitude taken by the debtor on his examination so that they might form their conclusions concerning the conduct of the debtor. In addition to the moral effect on the debtor of answering questions in the presence of his creditors, about which I have previously spoken, I also found that if there was any question as to the scope of my examination, which, while very wide, is restricted to the causes of the insolvency and the disposition of the assets and the questions in Form 50, I could still make use, if necessary, of the greater scope given at the first meeting of creditors by Section 131 of the Bankruptcy Act, where it is provided that the debtor shall submit to such examination and give such information as the meeting may require. If any adjournments of the examinations are necessary, it is customary for the creditors, after appointing the trustees and inspectors, and disposing of the formal business at the first meeting, to adjourn the first meeting to the same date and place as the examination is adjourned, so that I may still give my report to creditors at the meeting in accordance with the Act. In addition to that, it is usually directed that the trustee incorporate a copy of my report in the minutes of the meeting, which he sends to all creditors, so that even those who are not able to attend may be advised as to the general situation from my summary.

So much for the practice. And now to my reasons. In a large majority of the cases I found that the creditors were the real owners of the business. Sometimes they had realized the fact before the bankruptcy; sometimes they had not. In any event, the debtor had failed in his trust. If he had failed for a perfectly legitimate reason he had nothing to fear from an exhaustive examination into his affairs. If he had betrayed the trust of his creditors, then I felt that creditors were entitled in all cases to know exactly what had been done. Sometimes the debtor's disposition of his assets was such that by law creditors were entitled to recover some of their losses from third parties. Frequently some creditors had obtained unlawful preferences. Sometimes the debtor's conduct justified a prosecution or, in other cases, opposition to a compromise or his application for discharge.

Under the old system you might have your suspicions and your doubts, but it was necessary for you to employ a solicitor to embark on an expensive fishing operation by examination before you could even ascertain whether you had any rights at all. Under the new practice you could go to your lawyer charged with facts and valuable admissions made by the debtor.

Under the old system examinations were seldom held ,even in large estates, never in small ones, so that the worst cases, where the debtor had exhausted all the assets before going into bankruptcy, were never investigated at all.

If the whole situation is uncovered, you are then in a position to size up the situation for yourselves and decide what you want to do about it.

The purpose and usefulness of such an examination of the debtor being made before the first meeting of creditors is held may be summarized as follows:—

1. The report of the Official Receiver is made available at the first meeting, thus enabling the debtor to be further examined on any points raised in the report, and immediately enabling the creditors to take whatever additional proceedings that may be necessary.

2. The information obtained may be extremely useful to the trustee in the administration of the estate.

3. The report is available for the Court when the debtor makes an application for discharge.

4. The knowledge that the debtor's conduct and dealings prior to bankruptcy are subject to close scrutiny by the Official Receiver is in itself an effective deterrent to those contemplating dishonest or fraudulent transactions.

It is particularly important to emphasize the fact that the duty has been imposed on Official Receivers by the Bankruptcy Act to examine debtors along the lines indicated above. The judge having called attention to the fact that these provisions of the Act are not always being observed will, I am sure, be sufficient to bring about an improvement in the present practice. I shall be glad to give any further advice or assistance that any Official Receiver may require in this connection.

W. J. REILLEY,
Superintendent of Bankruptcy

April 5, 1935.