

La faillite en droit constitutionnel canadien, by Albert Bohémier, Montreal: Les Presses de l'Université de Montréal, 1972. Pp. 439 (\$5.00).

This first rate study of the constitutional implications of the field of bankruptcy was originally Professor Bohémier's doctoral thesis at the University of Montreal, and had been highly praised by the jury (chaired by Professor Frank Scott) when it was publicly defended by the author.

The book itself is well divided so that one may easily follow the legal threads that hold it together. Its basic divisions deal with:

- 1) The conditions under which bankruptcy occurs;
- 2) The law applicable to various types of bankruptcy;
- 3) The legal consequences of bankruptcy; and
- 4) The nature of the judicial organization in matters of bankruptcy, and the structure and jurisdiction of the courts.

It is written in precise and clear prose, which is always helpful in a study of this nature. The reader is left free to grapple with ideas and not language. In sum, the book reads well.

The study covers the whole field of bankruptcy law in relation to the civil law of Quebec as well as to the law of the other provinces. The author draws analogies between interpretations of bankruptcy law as put forth in the common law jurisdictions and those put forth by Quebec law when the question has not been conclusively resolved with regard to the civil law. Similarly, when a purely civil law question is analysed, reference is made to the corresponding law in other provinces (*e.g.* p. 232).

The comparisons and references to other legal systems dealing with bankruptcy (*e.g.* those of England, the United States and France) are quite useful in a study of this nature (pp. 335 ff.). As well, the in-depth treatment of legislative history (*e.g.* pp. 125 ff.) contributes to a fuller understanding of contemporary bankruptcy legislation and problems. On many occasions Professor Bohémier gives us an overview of the socio-economic and political background so that the legal problem is framed in its true context (*e.g.* pp. 150-152, dealing with the economic problems of the 1930's).

Because of my particular interest in constitutional law, I was most interested in the analysis of the problems dealing with paramountcy (or concurrency) that flow from the federal jurisdiction over bankruptcy. Much has been written on paramountcy but this is the first intensive study of the many constitutional issues that arise from the inter-relationship of bankruptcy law and the civil law. Thus, the author has made an important contribution to the legal literature in this area of the law. He has contributed to the classroom as well:

the constitutional law teacher will find many interesting paramountcy problems which will lend themselves to classroom discussion.

Hundreds of cases are cited and analysed, and often an analysis is made of all judgments from first to last instance of the same case. It would appear that, in his extensive treatment of case material, the author has not omitted anything of significance. Essentially, Professor Bohémier has given us an exhaustive study of the federal jurisdiction in s.91, head 21 ("Bankruptcy and Insolvency") of the *British North America Act*, and the inevitable conflicts that arise with provincial legislation based on s.92, head 13 ("Property and Civil Rights in the Province"). While other heads of power in s.91 and 92 have previously been treated (e.g. A. Smith, *The Commerce Clause in Canada and the United States* (1963)), until now no in-depth study had been made of the federal jurisdiction over bankruptcy and insolvency.

This book is a valuable addition to Canadian legal studies in general and to the field of constitutional law in particular. It deserves to be widely read.

Herbert Marx*

* Faculty of Law, Université de Montréal.