

DRAFTING SUB-COMMITTEE

Muir Hunter  
Peter Avis  
David Graham  
Edward Walker-Arnott

from Trevor Traylor

It might be helpful if I circulate a note of the principal decisions reached at our meeting on 24 May, in particular, with regard to the layout of the Report.

2 We thought that Part I should comprise seven chapters as follows:-

Chapter 1 - Introductory, along the lines of my first <sup>TT</sup> *Refresh* draft of 11 December 1978.

Chapter 2 - The Credit World. An homogeneous version of the Muir/David draft Chapter 2 (8 February) and Peter's two papers of 4 January and 9 March.

Chapter 3 - History of Insolvency Systems. David's draft Chapter 3, expanded as necessary, plus anything appropriate from my draft Chapter 3 of 16 February. *Done completed*

Chapter 4 - Factual description of existing insolvency procedures. Expansion of part of my paper of 16 February extended to include other procedures. Plus abbreviated statistics. *TT, Principles of the law*

Chapter 5 - Critique of present systems; are they ideal or not? Use Peter Millett's ILRC 3 and possibly some of ILRC 6. Refer also to trends in recent Reports/Bills/Legislation in Australia, Canada, US, etc. *DG*

Chapter 6 - Areas of present day concern; major items brought to our attention. Are insolvency proceedings inimical to proper business financing? Does the OR's system threaten the continuation of business? The cost of the Insolvency Service to the consumer and to the public. Are bankrupts treated too lightly? The complexity and cost of present procedures. The distribution of assets is unjust and unusual. Preferential creditors. Floating charges. Retention of Title - is it an improvement or a deterioration in the system of business finance? Can bankruptcies

*look forward to ch.5.*

*DG to think up*

*Administration*

*80% Drafted*

*now complete?*

*committees.*

*ILRC6*

*In this partly covered by DG's Ch.5?*

*Prof. Ess.*

*Collectivisation*

*Ours of proof  
Democracy principle  
Speed.*

*DG  
MH*

be contrary to the public interest?  
Attacks on receivers and managers - even if  
unjustified. The matrimonial home.  
Check written evidence for complaints and  
use as examples.

Chapter 7 - <sup>↑</sup>The Mechanics of the Report -

*Do we get know enough?*

ie. the lead in to the main body of the Report -  
the analytical chapters with all the various  
recommendations. This chapter should also  
say what we think about harmonisation and how  
we have dealt with it.

*MW*

*my papers*

3 We thought it would be preferable if Part I was put before  
the Main Committee in toto. I undertook to see to what extent  
Chapter 1 should be amended at this stage and to prepare Chapter 4.  
David agreed to look at Chapter 2, also taking into consideration  
comments received from John Copp. David agreed also to tackle  
Chapters 3 and 5 and Muir agreed to draft Chapter 7. It was suggested  
that ILRC 6 could be used as the first draft of Chapter 6, but on  
reflection I'm not so sure about this.

4 We thought that Part II would contain the meat of the Report,  
with individual chapters on "Debts Arrangement Orders", "Voluntary  
Arrangements", "Receiverships", etc, etc. Chapter 1 should be along  
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Outline of Chapters - how do insolvency procedures presently commence  
and what changes do we recommend.

*Part II & III*

5 We thought Edward's paper on "Secured Creditors" would slot  
into Part II but that detailed consideration of it should wait until  
evidence had been received from the CICB and until the Committee had  
dealt with some outstanding aspects of the subject.

6 The next meeting was fixed for Tuesday 19 June (10.00 am to  
12.30 pm) when we would settle the Chapter headings for Part II.  
We also agreed a meeting for Tuesday 17 July, hopefully to look at  
a complete draft of Part I.

*Trevor Traylor*

T H TRAYLOR  
6 June 1979

working copy

INSOLVENCY LAW REVIEW

DRAFT REPORT - PROPOSED LAYOUT

PART I

The introduction to the report set out in seven chapters as follows:-

to be amended  
nearly ready

✓ Chapter 1 - Introductory. The formal matters which are set out at the start of all good reports to Government.

B.G. + P.A.  
Jan/Mar.

Chapter 2 - The Credit World. Part of this chapter was circulated to members some time ago when they were invited to comment on the style of the draft. The chapter is being expanded to include the provision of finance and credit to the trading community.

nearly complete.

Chapter 3 - Historical background to insolvency laws and practice.

TT nearly ready.

Chapter 4 - Factual description of existing insolvency procedures.

B.G. 1/2 draft.

Chapter 5 - A Philosophy for Insolvency Law. Aims and basic principles of a modern insolvency law.

follows 4 & 5.  
Insolvency Service

Chapter 6 - Areas of concern. Shortcomings in the present system when set against the standards put forward in Chapter 5. *Consultants' views.*

Chapter 7 - The mechanics of the report: this will be the lead-in to the main body of the report, explaining the layout. It may also discuss harmonisation and say how we have dealt with it.

Terms of Reference  
how dealt with.

PART II

A relatively short part giving a brief summary of the new look Insolvency Code. Probably divided into five chapters as follows:-

Initiation

Chapter 1 - <sup>for Admin. of Dir's affairs in insolvency.</sup> Bringing the debtor within the jurisdiction of the court (grounds for petitions, advertising, etc). *Link with philosophy.*

Chapter 2 - <sup>Judicial</sup> Procedures available for <sup>or applicable to</sup> individual debtors and partnerships.

Chapter 3 - <sup>Judicial</sup> Procedures available for <sup>or applicable to</sup> corporate debtors.

Chapter 4 - <sup>corporate</sup> The debtor in receivership. *(Part 1, ch. 5, (d))*

Chapter 5 - Non-judicial procedures.

*Deed of Arrangement  
Moratorium.*

Penny Weiss  
SAB  
Munday } October  
LOA. end 79.

Sentences of Imprisonment

PART III The new look procedures in detail with a separate chapter for each of the procedures summarised in Part II.

*EWA*  
*MM.*  
PART IV *MM.* The realisation and distribution of assets. / Will *splitting* include chapters on secured creditors, retention of title, preferential creditors, antecedent transactions, the matrimonial home, after-acquired property, provable debts and interest on debts.

*MM.*  
*MM.*  
*MM.*  
*MM.*  
PART V Administration. Will deal with (a) trustees, liquidators, receivers and administrators - who they should be - their powers and duties, etc, (b) committees of creditors, (c) the Insolvency Service, and (d) the Court. *CT*

PART VI Enquiries and investigation. This part will deal with what might be termed the "public interest" aspect and will cover public examination of both individual debtors and directors of insolvent companies, disqualifications, fraudulent trading (though this might be transferred to Part IV) and insolvency offences.

PART VII Miscellaneous, being any subjects which do not fall conveniently into any of the other parts. *inspectorships*

- NOTES
- (1) Statistical information will be included where appropriate throughout the report, as will views submitted in evidence.
  - (2) Drafts of the seven chapters comprising PART I are largely complete and members should receive them before the September meeting.

FINAL REPORT LAYOUT AND CONTENTS

Position at 19 November 1980.

PREFACE AND INTRODUCTORY

- Final draft typed

PART I - INTRODUCTION

- Chapter 1 - The Credit World )
- 2 - Historical Background )
- 3 - Present Insolvency Procedures )
- 4 - Principles of Insolvency Law )

- Final drafts being prepared

PART II - PROPOSED PROCEDURES

- / Chapter 5 - Initiation of Insolvency Proceedings - Drafted by Muir and being circulated.
- Chapter 6 - Voluntary Arrangements for Individual Debtors - Being drafted
- ~~7~~ <sup>N.A.O.</sup> - Chapter 8 - Compulsory Procedures for Individual Debtors - Mostly drafted
- Criminal Bankruptcy - (Muir)
- Chapter ~~8~~ 9 - The Administrator
- Chapter 9 - Procedures for Companies. Harmonisation with those for individual debtors
- Chapter 10 - The corporate debtor in Receivership
- Chapter 11 - Company Schemes and Reconstruction
- Chapter 12 - Deceased Insolvents

## PART III - REALISATION & DISTRIBUTION OF ASSETS

### Chapter or Section Headings:-

Preferential Creditors [done by Peter Millett ]  
Secured Creditors [done by Edward ]  
Antecedent Transactions [in hand by Peter Millett ]  
*Recovery of assets disposed of by the Debtor.*  
"Romalpa"  
Interest on Debts  
Matrimonial Home  
Property of a Spouse  
After-acquired Property  
Exempt Property  
Property available for distribution  
Set-off  
Provable debts  
Floating Charges [Peter Millett ]  
Crown residual prerogatives  
Relation back  
Reputed Ownership

## PART IV - ADMINISTRATION

- 1 Liquidators, Trustees and Receivers -  
who they may/may not be.  
Powers and duties  
Remuneration, etc.
- 2 Committees (ie. of Creditors, etc)
- [3 The Insolvency Service]
- ✓ 4 Insolvency Courts [paper drafted by Ritchie ]
- 5 Jurisdiction as between England, Scotland and N Ireland
- 6 EEC *+ abroad.*

## PART V - ENQUIRIES AND INVESTIGATION

ie. "Public Interest"

- 1 Public Examinations
- 2 Fraudulent/Wrongful Trading
- 3 Disqualifications
- 4 Insolvency Offences

- 5 Discharge "Facts"
- 6 Inspections
- 7 Delinquent Directors

PART VI - MISC.

- 1 Debtor Counselling
- [ 2 Enforcement Procedures Generally [ Paper prepared  
by Ritchie ] ]
- ? 3 Group Trading [ Drafts being prepared by Peter Millett  
and Edward ]
- [ 4 Green Paper Proposals ]
- 5 Fines
- 6 Penalties

*Criminal Bankruptcy*

# INSOLVENCY LAW REVIEW

## DRAFTING SUB-COMMITTEE

Muir Hunter  
Peter Avis  
David Graham  
Edward Walker-Arnott

from Trevor Traylor

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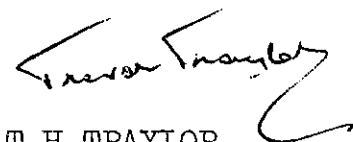
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T H TRAYLOR  
6 June 1979

INSOLVENCY LAW REVIEW

DRAFTING SUB-COMMITTEE

Muir Hunter  
Peter Avis  
David Graham  
Edward Walker-Arnott  
John Endersby

from Trevor Traylor

I undertook to prepare a draft layout of the report based upon our discussions last Tuesday with a view to it being distributed to members of the Committee at the meeting on 10 July. Perhaps you would kindly let me have your comments on the attached draft (a telephoned "OK" will do!). My own view is that we should not go into further detail at this stage but simply provide enough information to show that the matter is being capably handled.

*Trevor Traylor*  
T H TRAYLOR  
22.6.79.

# INSOLVENCY LAW REVIEW

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INSOLVENCY LAW REVIEW

DRAFTING SUB-COMMITTEE

Amplifying remarks about the outline of chapters

The following are points arising from our discussions on 20 December 1978 and 1 February 1979.

1 Chapters should go to the Main Committee via the Reading Panel as soon as they are drafted and then be slotted into the Report as it is built up.

2 Bring into the text of the Report appropriate written and oral evidence.

3 PART I Chapter I. <sup>PC.1 ~~ch I~~ Introductory</sup> <sup>DG/MH</sup> Include a discussion of the credit world old and new. Possibly refer to such as delinquent directors, the control of receivers, and honest bankrupts. DG/MH

4 Chapter 2. <sup>History (T.T.) + CEE</sup> <sup>Objectives of different codes</sup> Outline only, the present methods of dealing with insolvencies in England and when and why they are not satisfactory. Deal with the balancing of the rights of security against the interests of collectivity, bringing out also the effect of preferential claims. The absence of adequate statistics.

5 Chapter 3. Highlight the present confusion and chaos.

Give examples of private arrangements which have a public impact (receiverships, deeds of arrangement). Summarise the efforts made for bankruptcy reform since about 1870. Refer to Blagden, Green, Cohen and Jenkins. Refer to our examination of various foreign systems and fact that cannot import them wholesale.

6 PART II Chapter I. List the grievances and anomalies, and say that each will be dealt with in detail in subsequent chapters.

7 Chapter 2. Describe the present systems in more detail. At top of page 3, refer to declaring that he is trustee for his creditors in a Deed of Arrangement.

The "Machinery for implementing insolvency jurisdiction" (page 3) should come later [we said "chapter 5"].

On the 4 aspects of insolvency, for "retributive" read "compensatory". Also, highlight the different aspects for individual debtors as opposed to debtor companies.

8     Chapter 3. What we have at present in the way of administrators and what changes we think there should be - or will be required to implement our proposals. Make cross-references to later chapters.

9     Chapter 4. Renumber 6.

10    Chapter 5. Renumber 4. Highlight the anomalies between bankruptcy and winding-up, such as, the matrimonial home, reputed ownership, relation back, the property of a company remaining in the company, vesting.

Bring out the effect of public policy on any of the above.

The artificial body must act through agents.

The reference to a "levy" at the bottom of page 4 should be moved to the new Chapter 7.

Expand the references to trust property (page 5).

11    Chapter 6. Renumber 7

Detail the differing effects of insolvency on fixed and floating charges.

Bring in the proposals about a "levy" for the benefit of  
unsecured creditors.

12 Chapter 7. Renumber 6.

Edward undertook to do a first draft of this chapter.

*Feby.*  
7 ~~March~~ 1979



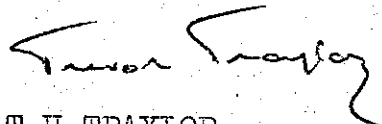
INSOLVENCY LAW REVIEW

Note to Members of the Drafting Panel

The secretariat have collated all the comments and suggestions which were received from members of the committee on the first five chapters of the Final Report. It was a time-consuming task.

I propose to send copies of the collated comments on each chapter to their respective authors in the hope that a revised and updated draft will be forthcoming! Chapter 2 was, however, the work of several members of the panel, and in addition, Ritchie Penny has made some suggestions about a complete re-write. Therefore, I am sending copies of the comments on this chapter to all members of the panel.

Copies of the general comments and the detailed comments on Chapter 2 are attached. I hope you will bear with the manuscript version in order to reduce the workload on my secretary.



T. H. TRAYLOR  
1 August 1980

Distribution

- Mr Muir Hunter
- Mr Peter Avis
- Mr David Graham
- Mr Edward Walker-Arnott

CORK REPORT

PART I CHAPTER 2 - SECOND DRAFT

General comments from members

- Peter Avis - No doubt we shall say somewhere that we have referred throughout to an individual debtor as 'he'.
- John Copp - Thinks it is on the right lines.
- John Hunter - It is very good.
- Geoffrey Drain - It lucidly conveys the philosophy which emerged early in the committee's life.
- Ritchie Penny - Would like a complete re-write; copies of his letter and enclosure are attached.
- Chris Taylor - Main criticism is that there is no reference to the "cost of credit", ie. interest, which is particularly important now, nor to the repeal in large measure of the money lending acts. The whole tenor is too soft on the debtor who is usually only too willing to get what he can and who, without being dishonest, nonetheless has little heed for the future or having to pay as long as he is not forced to.

FINAL REPORT - CHAPTER 2, PART I

COPY OF LETTER FROM RITCHIE PENNY

Dear Trevor,

I am sorry I have been so long over sending my comments on Chapter 2 of Part I of the Report. I have been hesitant to pursue my first reaction of general criticism and I hope my final effort after much agonising will not be taken amiss by anyone. At first I thought it was a chapter which could be ~~better~~ better written into other chapters particularly History and Philosophy but I now agree that it is necessary to "set the scene".

On another subject, the National Consumer Council has issued a very good paper on Small Claims procedures. This sets out the problems of the litigant in person and it includes some interesting comments and proposals on enforcement of judgments ~~in~~ in the County Court. I realise you have more than enough reading matter but if you or Eric had a moment to have a glance at Chapter 6 it might be helpful. It is quite light reading.

Yours,

Ritchie

(comments attached)

*Penny FEB*

~~XXXX~~

COPY

FINAL REPORT PART I CHAPTER 2

COMMENTS - T R PENNY

This Chapter appears to be an amalgam of three separate papers, each of which on its own is excellent. I ~~suggest~~ suggest that as a combined paper it suffers from duplication and lack of cohesion, logical arrangement and lucidity.

The purpose of the Chapter is to give the reader an account of the most common start for insolvency - the granting of credit in its widest sense.

I suggest that the chapter might be planned as follows:

- 1 What is credit and how does it arise and why is it important in society.
- 2 The relationship of credit to insolvency
- 3 The general history of credit
- 4 Changes in the credit world in this century in general
- 5 The new credit agencies
  - (a) The joint stock banks and credit cards
  - (b) The finance houses and consumer credits, including HP
  - (c) The mail order business and its allied local agency network
  - (d) The Government Revenue Departments
- 6 The effect of security on credit
- 7 The discipline of credit
- 8 The effect of the changing credit situation on insolvency

There is much good material in the Chapter which does not fall within the above synopsis. I suggest that there are a number of paragraphs which should be included in the Chapter on Philosophy.

I don't understand why the statistics section is included in this chapter. It would appear to be more appropriate to the

History Chapter.

T. R. PENNY 19. 4.79

## COMMENTS ON ILRC 101 by Mr D McNab

No mention is made in subsection 3 (9 and 10) of the responsibility of the auditor.

Where an auditor has not warned the directors, shareholders, etc, of commercial insolvency or the hopelessness of its position, then in my opinion he is as guilty as the directors. The same must apply to the accountant, who must know from the accounts the position of the company.

Subsection 6. 15

I am extremely doubtful that a Judge has the knowledge of the business world, that would be necessary for him to make a decision, and that trading for a given period would not be wrongful. As an example, it states until a certain overdraft limit has been reached.

While there undoubtedly are a few Judges with a considerable commercial experience I doubt if even they would wish to take on such a responsibility. Unless a complete investigation by an independent accountant who is a member of one of the Associations, no-one in their right mind would accept and give a decision which could be adding further substantial debts which may never be repaid.

Here again no mention is made of the auditor's report which in such cases would be vital.

6.12.79

FINANCE HOUSES ASSOCIATION (SECOND SUBMISSION)

In addition to providing the Committee with a copy of views on the Green Paper (being circulated separately), the Association has provided comments on the Committee's Interim Report - these are attached.

12th November 1980

(1/LR)

FINANCE HOUSES ASSOCIATION

MEMORANDUM ON THE INTERIM REPORT  
OF THE INSOLVENCY LAW REVIEW COMMITTEE (CMND 7968)

The references in this Memorandum are to the Chapters and paragraphs in the Report.

CHAPTER 1

We concur with the description of the present state of affairs and with the analysis of the defects (for both parties) in the remedies presently available to creditors. We have but one criticism - the references such as "the blandishments of the providers of credit" (para 13). We suppose that our members are among the "larger credit providing institutions" referred to in para.10, and they have no desire at all to thrust credit on the uncreditworthy.

But apart from that, we agree with the analysis - and we agree also, and warmly, with the proposition following that a distinction should be made between insolvency due to muddle and insolvency due to sharp practice. We concur that the full rigour of bankruptcy proceedings should be reserved for the latter, and that to apply it to the former is misconceived. But we are somewhat apprehensive that the distinction between the two categories may be easier to recognise than to define, and we trust there will be the fullest treatment of this point in the Final Report.

Subject to our general assent to Chapter 1 there are three particular points we should like to make

i) We expressly agree with the proposition (para 12) that the threat of bankruptcy should remain though reserved for those cases where no other remedy is effective

ii) We agree also that it is a little anomalous for Directors of an insolvent company to be treated far more leniently than an insolvent sole trader - and we look forward to the promised proposals on this point.

iii) But we cannot agree that the matrimonial home should in all circumstances be sacrosanct (para 13). Perhaps sometimes it should be; but we think there could be cases where it would be just for the home to be available to creditors.

/contd.

CHAPTER 2

We welcome the proposals for a Debts Arrangement Order set out in para 7. Our only comment is on 7(a): the minimum of 5p in the £ could mean the withholding (at the upper limit) of £500. But in general we believe that these proposals if introduced would be widely used.

We welcome also the indications (para 10 et seq) of the Committee's thinking on voluntary arrangements, and we look forward to the Final Report.

But we express reservations about the proposals (para 27) on the commencement of insolvency. We feel first that "non-payment of a debt whether embodied in a judgement, or not" is too sweeping. What if the debt was disputed (e.g. a 'fitness for purpose' claim)? Second, we think that great care will be required in devising safeguards against malicious petitions.

We hope all these comments are helpful.



MEETING OF WG1 AND WG2 ON 20 MAY 1980, TO CONSIDER THE DRAFT  
CONSULTATIVE DOCUMENT

1 There were present 6 members of the Committee and 2 co-opted members having specialist knowledge of bankruptcy matters. Written comments had been received from Mr Goldman, Mr Graham and Mr Penny and were taken into consideration during the discussion.

2 Those present were unanimous in their condemnation of the plan set out in the consultative document (CD).

3 Mr John Hunter entirely agreed with the views expressed by Messrs Graham and Penny in their papers and did not think that the right course was being adopted in the CD. There was every likelihood that reverting to the creditor control would eventually result in the severe criticisms to which Mr Chamberlain had referred in 1883. Public interest was being ignored.

4 Mr Penny said it was vital for public interest that there should be some sort of impartial, official investigation. Enforcement of the rule of law was paramount and for this, full bankruptcy with investigation was essential. Attachment of earnings was of use only against people under the PAYE scheme and in his experience the only enforcement weapon against the self-employed was bankruptcy. The plan also ignored the plight of small innocent creditors who would be unable to afford the proposed scheme.

5 Mr Taylor was wholly against the plan. In his view, the retention of an independent, official investigation was essential. It was a fallacy to assume that there are bad directors but no bad sole traders or partners. Debt recovery depended on the ultimate sanction of bankruptcy.

6 Mr Graham stood by the views expressed in his paper. He also questioned whether the insolvency of individual debtors could be left entirely to "suitably qualified persons". The plan would rob ordinary trade creditors of the ultimate enforcement measure as even if they could afford it, they would not want to see the proceeds going primarily to Government preferential creditors. The plan ignored the debtor's conduct and lumped them altogether, the good and the bad. The creditors would have to underwrite any examination for fraud. This was invidious - society should deal with it. It would be more difficult to petition, except for Government departments. Further, it simply was not acceptable to invite a debtor to bring along his own trustee.

7 Mr McNab drew attention to the problems in Scotland, where there was no OR. There was certain work for which the OR was essential. The Committee's schemes would almost certainly allow at least as much saving in manpower.

8 Mr Weiss was concerned about the abuses to which the plan would lend itself. Also, for years he had been told by the Department of the many problems with which they had to contend in bankruptcy matters; now, it seemed, all these would simply be dropped. The private sector relied on the knowledge, experience and help which they received from the OR's service; this would no longer be available. The "friendly trustee" would do only a cursory job. Further, the fees demanded by a SQP would be substantial; possibly a minimum of £500 and there would probably be many complaints.

{CW  
} missing

9 Mr Copp was wholly against the plan. The trading community must be properly policed. There was a real danger of abuse in leaving everything to non-officials.

10 Mr Copp pointed out that the draft CD was a conflict scheme to those of the Committee. If there is to be publication of the CD, he did not see how the Committee could continue to sit while the Government was gathering support for an alternative scheme. They would kill any proposals which we were likely to make in our Final Report, in advance. He drew attention to line 12 of para 3 of the draft which referred to the plan being "instead" of the Cork proposals. Also the previous sentence which literally dismissed the Committee's proposals.

11 Mr Goldman was totally opposed to any compromise of the principle on which our plans had been founded. He was entirely against the idea that fraud was any less now than in the 1880's. If official investigation was removed, everyone would move from limited companies to trading on their own account. The plan made a nonsense of our brief to provide for harmonisation. He agreed with those who spoke in defence of public interest and also supported Mr Copp's view about it being a conflict scheme. Further, the bankruptcy notice would no longer carry the threat that it does today.

12 It was agreed unanimously that the Committee must press for the OR to be available:

(a) for initial enquiries following the Protection Order and to report to the Court, and

(b) to carry out the detailed investigation of serious cases.

13 On 12(a), we would be proposing that the Court should have a much wider discretion than at present when hearing a petition. Where the known liabilities were below £X, the Court should have power to dispense with the OR's enquiries, and either make a DAO, adjourn for a Voluntary Arrangement to be agreed, or possibly make an Enforcement Restriction Order. It might be necessary, also, to remove the upper limit restriction for all DAO's. Coupled with our plans for improved procedures to replace the existing Administration Order and Deed of Arrangement, this would substantially reduce the involvement and workload of the OR, without removing him from those areas where he was considered to be vital.

? 14 It was thought likely that the number of OR provincial offices could be reduced to about 6 if the Committee's over-all plans were implemented. There would also be savings of Headquarters staff.

15 The Working Group to meet with the Department's officials should enquire if the Department was prepared to agree to include the requirements in para 12 above in their plan. This appeared to be the only basis upon which the plan could be discussed.

16 If it was necessary to inform the Minister of the reasons why the CD was not acceptable, consideration should be given to offering to prepare a second Interim Report detailing our proposals for dealing with the individual debtor.

17 Suggested questions to be put to the Department by the Working Group were as follows:-

- (1) Why is the reduction in numbers coming exclusively from bankruptcy and not from the IS generally?
- (2) What is the percentage reduction of IS staff, ie. of actual insolvency specialist grades excluding those seconded to CIB?
- (3) What is the breakdown of the 570 quoted into (a) Insolvency grades (b) Administrative executive and (c) Administrative clerical?
- (4) What happens to Criminal Bankruptcy?
- (5) What percentage of bankruptcy petitions has been presented by Government departments?
- (6) What are the Department's proposals for preferential creditors?
- (7) What guidance is to be given to the Court for considering early applications for early discharge?
- (8) What about consumer debtors and other small debtors getting relief from their debts?
- (9) What do they have in mind for SQP's. A licensing system?

18 It was agreed that the next meeting of WG2 would be held on Friday 4 July starting at 10.30 am. The proposed meeting on 24 June was cancelled.

<i>present</i>	<i>no present</i>
AG	EWA
JA	PM
AS	MUK
Je	PA
RP	
CT	
AM	
EW	

17(2.2)

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AIFG/SG

14th May, 1980

*Alan Traylor,*

The Draft Consultative Paper

I have come back from a few days away to find on my desk the draft Consultative Paper and your several communications and Eric's Paper.

I must say that, when I first saw the draft Consultative Paper, I felt profoundly pessimistic, as it does seem to me to beg so many questions and, when I think of the depth with which we on the Committee have gone into the subject, I find the Consultative Paper to be comparatively superficial. Here are just a few of my preliminary thoughts, as I shall not have an opportunity of thinking about this matter again before we meet on the occasion when all Members of the Working Group will gather.

1. I am certainly committed to trying to get a compromise with the Government, if it is humanly possible; certainly not at the expense of sacrificing so much of what we have achieved in these past three years.
2. I do not want to subscribe to a system which makes it even more difficult for the comparatively small Creditor to collect his debts.

3./

916

Commander T. H. Traylor

!.....continued

3. I am unwilling to allow the question of the public interest to be swept aside, simply to save a relatively small sum of money and, in this connection, I do hope that, before our meeting, you will be able to find out from the Department the profit that the Insolvency Service made in 1979.

4. I am concerned that, if we take the easy way out, we may well have destroyed all the hard work which we put into our proposals in regard to 'Wrongful Trading'.

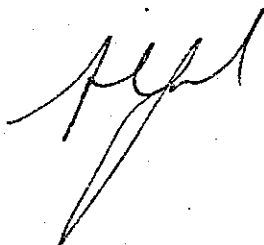
Having said all this, I am encouraged by the very clear way in which Eric has set out his paper, which does point to certain areas where there is just the chance of reaching an accommodation, without sacrificing our basis principles.

One point, however, which worries me considerably, is this suggestion of a Creditor having to go along to the Court with a so-called 'suitably qualified person'. It seems to me that this is really not on, for the ordinary Creditor, and that the only Creditors who will really be able to do this will be those such as the Government Departments, who are quite prepared to commit your money and mine.

As regards the composition of the small Working Party from ourselves to meet with the Minister, I agree that it should be as small as possible, and, as you rightly say, it will be for the Main Committee to make up its mind as to our Working Party's composition.

I do hope that you have recovered from your hospitalisation, and that I shall see you on Tuesday.

*As ever*

A handwritten signature in dark ink, appearing to be 'T. H. Traylor', written in a cursive style.