

No. 22.

SIR,— Province of Otago, New Zealand,
Superintendent's Office, Dunedin, 10th March, 1865.
I have the honor to acknowledge the receipt of your letter of the number and date quoted in the margin, informing me that the Debtors and Creditors Act is under the consideration of the Government with a view to its amendment next session.

No. 82.
1st March, 1865.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

J. HYDE HARRIS,
Superintendent.

No. 23.

SIR,— Province of Otago, New Zealand,
Superintendent's Office, Dunedin, 15th Feb., 1865.
I do myself the honor to invite the consideration of the General Government to the very considerable expense entailed on this province, owing to the inadequate provision made by the "Debtors and Creditors Act 1862," for the maintenance of debtors, see section 35, which fixes the amount to be paid by a detaining creditor at the rate of five shillings per week.

No. 4202.
3.

The actual cost of the ration supplied to a debtor in Dunedin gaol is seven shillings and sevenpence per week, while in the country gaols it ranges as high as twenty-eight shillings, in addition to the cost of supervision and providing the necessary accommodation.

It appears to me that, in common fairness, when a debtor is incarcerated, the actual expense of his maintenance should fall on those at whose suit he is detained; and I therefore, on behalf of this Government, have the honor to suggest that an amendment to the existing law may be introduced at the next session of the General Assembly with that object.

I have, &c.,

The Hon. the Colonial Secretary, Auckland.

J. HYDE HARRIS,
Superintendent.

No. 24.

SIR,— ROBERT CHAPMAN, Esq., Dunedin, to the ATTORNEY-GENERAL.
Supreme Court Office, Dunedin, 17th March, 1865.
I have the honor to acknowledge the receipt of your printed circular, of date 20th January last, requesting my opinion and suggestions on certain points relative to the proposed introduction of an amendment on the "Debtors and Creditors Act 1862," and have now the honor to send enclosed what you have so required. My experience is founded on the working of the present Act in many hundred cases brought before this Court.

(No. 8.)

I have, &c.,

The Honorable the Attorney-General, Wellington.

ROBERT CHAPMAN,
Registrar.

Opinions and suggestions by the Registrar of the Supreme Court at Otago as to amendments of the "Debtors and Creditors Act 1862," prepared in reply to Circular of 20th January, 1865.

(No. 8.)

Queries—

1. I would not suggest any alteration in the constitution of the Court.
2. I do not think it desirable to separate the jurisdiction from that of the Supreme Court.
3. I would not advise giving jurisdiction to Resident Magistrates in any description of cases, not even to the extent of allowing them to discharge prisoners in custody for small debts. The Supreme Court is capable of accomplishing what is proposed by this query.
4. By the adoption of the suggestions in reply to other queries, and more particularly to query 11, the object sought to be obtained by this query will in a great measure be accomplished.
5. On presentment of the insolvent's petition, or the petition of a creditor or creditors, as the case may be, an order should be made vesting the insolvent's estate in one of certain official assignees who shall give bond with two sufficient sureties in the amount of the assets in the estate.
6. I would recommend that the appointment of trustees, as by section 10 of the present act, should not be provided for in a new act. The official assignees should have power to realise the estate, pay preferable claims, and prepare a scheme of division of the estate; upon the footing of which, on approval of the court or a judge, the assets should be distributed.
7. The recommendations in previous answers will effect the object contemplated by the query.
8. The custody of the estate would, according to previous suggestions, be in the official assignee. All monies realized should be forthwith paid into Court, or into an account in the name of the estate in the Bank of New Zealand, or into the Colonial Treasury; no part of which monies to be paid out except upon order of the Court or a Judge.
9. I would suggest that fraudulent insolvents should, along with imprisonment, as provided by the present act, have hard labour.
10. I would leave the law as it is on these points.
11. Generally, I would suggest that the debtor should be present at the first hearing for examination by the Court or the creditors; and if the conduct of the insolvent should appear unimpeachable, he may then and there obtain his final order of discharge, or be otherwise dealt with, if it should appear that his conduct has been characterised by fraud.

The Court or a Judge may grant *ad interim* protection, or order discharge of insolvent from prison.

The provisions of the act as to mercantile assessors might be left out in the new act. They appear unnecessary, and have not hitherto been taken advantage of in this Province.

The provisions for meetings of creditors may not be continued in the new act, as creditors do not attend in one out of twenty cases. Often one creditor may attend and propose himself as assignee.

I would further recommend that the power of delegation provided by the act should be retained.