

it will be of some advantage to your intended improved Bill; and for convenience I have placed the answers on a separate sheet. You have not stated if the Court is to go Circuit, in that case some alterations may be necessary and advantageously made.

I have, &c.,

To Henry Sewell, Esq., Attorney General.

SAUL CHARLES PHILIPS.

Question 1st,—As to the present constitution of the Court.

The Court should consist of a Commissioner of Insolvency and not a Judge, one Commissioner's Clerk who in the early practice of the Court could act as Registrar, one Official Assignee, and one Official Assignee's Clerk, one Principal Messenger, and liberty to employ extra messengers, and one Crier to the Court.

Question 2nd,—Whether it would be desirable to separate the Jurisdiction from that of the Supreme Court.

Most certainly, very few gentlemen well learned in the Law (and may be very clever), still they are not always conversant with Insolvency. The Commissioner and the Official Assignee ought to be men of a full knowledge of Mercantile and Retail trade.

Question 3rd,—Whether in cases below a certain value the Courts of Resident Magistrates should have summary jurisdiction, &c., &c.

This was not found to answer in England, but a prisoner for debt was allowed to be brought up (if in confinement) before the Resident Magistrate, and on giving bail, he having previously petitioned the Court, was let out of prison by being bailed for double the amount of his detainer.

Question 4th,—As to the proceedings of the Court, &c., &c.

The Court to sit every six weeks with the officers named, and arrangements made for the final settlement of each Insolvent's Estate before the ensuing Court day.

Question 5th,—As to vesting the Debtor's Estate, &c.

The Insolvent in filing his Schedule with a statement of all he possesses for the benefit of his Creditors and all his expectancies in his own right, or in the right of his wife, should at the same time execute a Power of Attorney, and such Trade Assignee as may be chosen by the Creditors or appointed by the Court.

Question 6th,—As to the mode of appointing Trustees.

There will be no necessity for Trustees, the property of the Insolvent being on his filing his petition at once transferred to the Official Assignee. The Official Assignee, and the Trade Assignee having turned all the Assets of the Insolvent into cash to make immediate distribution under the sanction of the Commissioner of the Court.

Question 7th.—To ensure speedy and just administration of effects.

The Assignees having possession can proceed to immediate sales, and the Official Assignee having power to collect debts can proceed almost immediately to a distribution. There will be little expense attached, as it is presumed the fees will be trifling.

Question 8th.—As to the custody of the Estate of Insolvent's and money arising from proceeds, &c., &c.

The Estate being vested in the Court, the Official and Trade Assignee, all moneys received until the distribution to be placed into a Bank to be appointed by the Court, with the approbation of the Chief Justice. Separate accounts of each insolvent's estate to be kept.

Question 9th.—Restrictive provisions.

It is impossible to enact laws to meet every case that comes before the Court, many provisions for punishment are orders of Court. Discharge from debts can be refused with or without protection if fraud or improvidence or reckless dealings are proved, whether the future property of such insolvents can be made hereafter available to pay their debts or they can be discharged conditionally.

Question 10th.—Alteration in law as regards Trust Deeds under private arrangements.

There will scarcely be any Trust Deeds necessary, the Official Assignee having possession of all the Insolvent's property. But upon the second meeting of creditors, if arrangements can be made, approved by the Official Assignee, and under the sanction of the Court, private arrangements can be made.

In England the Courts for the Recovery of Debts under fifty pounds take cognisance of insolvents under two hundred and fifty pounds. It was tried, I believe, to extend it to five hundred pounds, but did not succeed, as it was found that the expenses were nearly as much as going through the regular Courts.

The Officers of this Court while holding office to be sworn in as special constables, particularly the messenger and assistants.

No. 14.

Mr. R. G. FOUNTAIN to S. C. PHILIPS, Esq., Auckland.

SIR,—

Attorney-General's Office, Wellington, 24th February, 1865.

I have the honor to acknowledge the receipt of your letter of the date quoted in the margin.

I have, &c.,

S. C. Philips, Esq., Auckland.

R. G. FOUNTAIN,
For the Assistant Law Officer.

17th Feb. 1865.

No. 15.

S. L. MULLER, Esq., to the ATTORNEY-GENERAL.

SIR,—

Resident Magistrate's Office, Blenheim, 9th March, 1865.

In reply to your circular letter requesting my opinion upon certain questions relating to the Debtors and Creditors Act, I have the honor to transmit to you my answer upon the subject.

I have, &c.,

The Hon. the Attorney-General, Wellington.

L. S. MULLER,
Resident Magistrate.