

No. 39.

Mr. FOUNTAIN to the CHAIRMAN, CHAMBER OF COMMERCE, Dunedin.

Attorney-General's Office, Wellington, 26th July, 1865.

SIR,—I have the honor, by direction of the Attorney-General, to acknowledge the receipt of suggestions by the Dunedin Chamber of Commerce on the law relating to Debtors and Creditors, and to thank you for the same.

I have, &c.,

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

Chairman, Chamber of Commerce, Dunedin.

No. 40.

Mr. JUSTICE CHAPMAN to the ATTORNEY-GENERAL.

SIR,—Dunedin, 20th July, 1865.

On the 24th of April last, I had the honor to transmit to you some answers to your questions of the 20th January respecting the operation of the Debtors and Creditors Act; I now desire to add another suggestion.

Under the present Act, when once trustees have been appointed, and the estate of the debtor assigned to them, and the insolvent has been discharged at the final hearing, the Court loses all control over the estate, and never hears more of it.

To remedy this, I think that the final distribution should be under the control of the Commissioner and of the Court, so as to give to any creditor who feels himself aggrieved by the postponed distribution, to except or object to the plans of distribution—in the same way that the report of a Master in Equity may be excepted to by any party or person included in a class of practice—for instance a creditor in a creditor's suit where one sues for himself and others.

For this purpose no distribution of the estate of the debtor should be made until the official assignee has prepared a "plan of distribution," showing an exact account of balance of the estate. On one side, it should contain all that the assignee has received; on the other, his costs and commission; and then should follow the plan of distribution of the balance, showing any preferential creditors to be paid in full, such as rent, and the dividend proposed.

This plan should be advertised, and should remain open in the Commissioner's office for, say 14 days.

During that period, any person aggrieved should be allowed to give to the official assignee notice of objections in writing.

If unopposed, the Commissioner should present the plans to the Court at the next day of sitting for confirmation; and it is in such case confirmed, and the distribution follows.

If opposed, the official assignee or the creditor, when proof is objected to, shows cause; and, if need be, the plan of distribution is amended in accordance with the decisions of the Court.

It is by way of exception to the plan of distribution that the admission or rejection of proof can be brought before the notice of the Supreme Court; and, in the same way, the assignee's charges can be brought under review (see *in re* Yorston and Webster, 1 Wyatt and Webbs, reports S. C. Victoria Insolvency, page 133, and other cases upon the plan of distribution, pages 77, 86, 95, 100.)

The sections of the Act in force in New South Wales and Victoria, 5 Vic. No. 17, and from 87 to 92, all relating to the plan of distribution.

I have, &c.,

The Hon. the Attorney-General.

H. S. CHAPMAN.

No. 41.

The ATTORNEY-GENERAL to Mr. JUSTICE CHAPMAN.

SIR,—Attorney-General's Office, Wellington, 26th July, 1865.

I have the honor to acknowledge the receipt of your letter of the 20th instant, containing a further suggestion on the law of Debtors and Creditors, and, in reply, to express the thanks of the Government to your Honor for the same.

I have, &c.,

His Honor Mr. Justice Chapman, Dunedin.

HENRY SEWELL.

No. 42.

Mr. J. A. GILFILLAN to the ATTORNEY-GENERAL.

Chamber of Commerce, Auckland, New Zealand, 3rd August, 1865.

SIR,—I have the honor to enclose herewith the Report of the Committee of the Auckland Chamber of Commerce appointed to consider your letter on the subject of the Debtors and Creditors Act 1862, and to commend the same to your favorable consideration.

I have, &c.,

J. A. GILFILLAN,  
Chairman.

The Hon. the Attorney-General, Wellington.