mitted to some intelligent merchants for their observations, as such observations will be of great service to the draftsmen in the first instance, and to the Legislature generally in the framing of a practical and working measure.

H. S. CHAPMAN.

Dunedin, 24th April, 1865.

No. 29.

The CHAMBER OF COMMERCE, Wellington, to the ATTORNEY-GENERAL.

SIR,— Chamber of Commerce, Welllington, 19th June, 1865.

In reply to your letter of the 20th January last, addressed to this Chamber, inviting an opinion and suggestions on the law relating to Debtors and Creditors, and in particular to the Debtors and Creditors Act 1862, I have the honor to inform you that the subject has had the earnest attention of the members, and it is now my duty to report to you the decision they have arrived at.

In the first place, I must tell you frankly that they are unable to answer seriatim the questions put by you, and for this reason, that they are of opinion that there should be no Court of Insolvency at all. The evils of the existing state of the law require a remedy stronger than the alteration of the minutiæ. To quote the words of an able writer on the subject, the cardinal error consists in imposing on a body essentially judicial, duties essentially administrative.

They believe that the estate of an Insolvent ought to be managed by the optional administration of a separate executive department of the Government, such department acting through an official Trustee appointed to each district.

By "optional" they mean that, in the first instance, the creditors should, if they choose. be allowed to appoint a trustee, to take possession, get in debts, realise, and in short manage the estate of the debtor for the purpose of winding it up with all convenient speed. In the event, however, of the creditors failing to agr ee on and appoint a trustee within a time to be fixed by law, then the entire control of the Insolvent's estate should be vested in the Official Trustee, who should act on his own judgment, but there should be the power of appeal.

They believe it to be a mistake (I use the words of the author already referred to) to choose a body adapted for deciding legal controversies, to be the executive body for transacting mercantile business. The Supreme and Minor Courts should of course be open to all parties, provided any wrong was done, just in the same way as the Courts are now open to all or any one who may have real or supposed grievances to redress; but what this Chamber contends is, that when a man is declared an Insolvent, his Creditors should, if they choose, be able to appoint some one to manage his estate; and, if they do not choose to do so, or fail to agree on a Trustee, then, as before suggested, an official trustee should take the matter in his own hands. It will then be the fault of the Creditors themselves if the estate does not yield as much as it should have done. The law, however, must define what is to be an Act of Insolvency. It is not sufficient to allow the debtor to be the only judge as to whether he is to take the protection of the Act or not, the creditors must also have the power under some circumstances of declaring the debtor an Insolvent, and I am advised by the Chamber of the Commerce, to suggest that, after judgment has been granted in any Court of Law, it shall be in the power of such Court (upon sufficient proof of claim being adduced to its satisfaction) to order an *ad interim* sequestration of the debtor's estate for a period of..... days, sufficient to enable such claim to be established, and in the application of any judgment creditor, whose claim may not have been satisfied within.....days, the Court shall order the estate of the debtor to be dealt with in accordance with the provisions of the Act. The object being to prevent the original Creditor having a preferential claim over an Insolvent's estate. Due provision should of course be made for the punishment of any fraud or attempt at fraud.

This Chamber is supported in its views by many high legal anthorities, and by the knowledge of the result of the working of the English system in England, where statistics show a sum equal to 45 per cent. of the realised assets is wasted in expenses, while in Scotland, where the trustee system is adopted and where there is no Court of Bankruptcy, the cost of collection does not amount to more that 20 per cent.

In conclusion, from what I have said, you will notice that this Chamber believes that the present system cannot either be modified or amended with advantage A new system, a radical change, is wanted. Our Judges must not be required or expected to become executive officers for the purpose of directing the management of Insolvent's Estates, nor should we devolve administrative duties on Courts of Law.

I have, &c.,

C. J. PHARAZYN,
Chairman.

The Honorable the Attorney-General, &c., &c., &c.

No. 30.

SIR,— Attorney General's Office, Wellington, 24th June, 1865.

19 June, 1865. I have the honor to acknowledge the receipt of your letter of the date quoted in the margin, and in reply am directed to express the thanks of the Attorney-General to the Chairman of the Wellington Chamber of Commerce for his communication of the 19th inst. enclosed therein.

I have, &c.,

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

The Secretary, Chamber of Commerce, Wellington.