If, however, Mr. Justice Richmond proposes to alter the law altogether, and adopt the Act at present in force in Victoria, where official assignees have the uncontrolled management of insolvent estates, then I am of opinion that evils of quite as flagrant a character as those complained of under the Act of 1862, will be the result. The system pursued in Victoria leaves the official assignee practically beyond the reach of supervision or inspection, and the result is that for years past they have been found to be quite as great a nuisance as the trustees or sequestrators who were appointed under the Debtors and Creditors Act of 1862. When estates are placed in the hands of these assignees there is no practical control over the manner in which the assets in any estate may be realised. By way of illustration, I may mention that debts are compounded, whereby sums bearing no relation to the amount of the debt which the insolvent has placed in his schedule as good are accepted as payment in full by the official assignee. I have known in one instance, and it is one of many, wherein a debt of £673 was compounded for £20, although the debtor could have paid at least one half of the former amount, but, as he resided some 120 miles from Melbourne, the assignee would not take the trouble to ascertain his ability to pay.

No doubt it may be said that it is the duty of the creditors to ascertain what is the value of any insolvent estate; but this is never done, because the Act gives them no remedy except through the expensive machinery of the Supreme Court, and the official assignee, being comparatively secure, puts himself to as little trouble as possible.

If Mr. Justice Richmond in using the term "official assignee," refers to the system which is the law of Great Britain by which there is an official assignee joined with a trade assignee, the one being a Government officer and the other chosen by the creditors, then I am of opinion that he proposes to establish too elaborate a machinery and one not adapted to the wants and requirements of the Colony.

The proposed Bill embraces most of the subjects glanced at by Mr. Justice Richmond, and, in addition, provides an easy and effective machinery for the speedy and faithful winding up of insolvent estates. It contains no principle such as those advocated by Mr. Justice Richmond in the concluding portion of his address, and does not propose to alter the relations in which the insolvent debtor at present stands to society.

I may add that it has been observed, and it would appear that the Amendment Act of 1865 was the result of that observation, that it is not only the debtor who requires supervision and official direction, but that the trustee or assignee, being practically uncontrolled in their administration of a debtor's estate should also be subject to the same process. This has been, to a certain extent, provided for in the Amendment Act of 1865. Mr. Justice Richmond, however, has made no allusion to the subject whatever; yet it is in this particular that the public complain mostly of the operation of the Bankruptcy laws of New Zealand.

I have endeavored in the proposed Bill to provide a method, by which it will be obligatory on the creditors, in order to participate in an estate, to come forward within a limited period, and prove their claims, and take some interest in the administration of the estate by electing trustees, either from their own body or otherwise; and also the means by which it will be obligatory upon trustees, within a limited period, to publish an account to the creditors (by depositing the same with the Inspector for inspection by them) of the result of their administration and the method in which they purpose to deal with the balance of assets (if any) remaining after payment of the expenses of administration.

I have, &c.,

The Hon. the Colonial Secretary,
(Judicial Branch) Wellington.

GEO. BRODIE,
Inspector in Bankruptcy.

Enclosure in No. 24.

ANALYSIS of the proposed Bill for amending "The Debtors and Creditors Act, 1862," and the Amendment Act, 1865, showing those portions of the existing law which are sought to be amended.

Sections 1 to 8 of "The Debtors and Creditors Act, 1862," which enact who may petition for the sequestration of a debtor's estate, and the course to be adopted to effect this object, are not contemplated to be effected by the proposed Bill.

I.—AS TO PROCEDURE ON ACCEPTANCE OF A PETITION.

Section 9 of "The Debtors and Creditors Act, 1862," provides: 1st, that the Judge may appoint a day for hearing; 2nd, the duties of the petitioners thereupon.

Section 17 of "The Debtors and Creditors Act, 1862," provides that the Judge may, upon application of a debtor or creditor, appoint an interim sequestrator.

Section 8 of "The Debtors and Creditors Act Amendment Act, 1865," gives a discretion to the Judge to make the order for sequestration a vesting order, and describes the effect that such order shall have.

It will be seen, therefore, that upon the acceptance of a petition, the only duty the Judge is called upon to perform is "to appoint a day for hearing," and he may in his discretion appoint an interim sequestrator either upon the application of a person interested or of his own motion.

In practice it has been the custom of Judges not to appoint an interim sequestrator, unless application be made by some person interested.

The effect of this has been to leave the estate of the debtor absolutely unprotected from fraud or disposal until the order upon hearing.

No provision is made in the present law to stay actions or executions; a judgment creditor may therefore, if in possession, sweep the estate away, to the detriment of the general body of creditors.

The Amendment Act, 1865, by the appointment of Inspectors in Bankruptcy, has provided a machinery which might easily be adapted to remedy these defects, and by aid of which he would be enabled to exercise the very important functions with which he is invested with considerably more facility than at present exists for their exercise.