

No. 26.

Copy of a Letter from Mr. F. NUTTER to the Hon. E. W. STAFFORD.

SIR,—

Invercargill, 19th June, 1866.

I have the honor to lay before you the following case for instructions thereon.

The trustees of the assigned estate of Messrs. Henderson, Bonar and Co., are Messrs. McPherson, Buchanan, and Bonar, sen., the latter father-in-law and father of the insolvents. The two former report to me their inability to proceed with the business of winding up the estate by the action taken by the other trustee, Mr. Bonar, who frustrates all attempts made in obtaining a settlement of the affairs of the estate or inquiry into the conduct of the insolvents. I have had Mr. Bonar before me, and I stated to him the nature of the complaint against him; he denies that the trustees have any cause for the report they have made to me. It is evident there is a degree of ill feeling existing between them which, I think, altogether precludes the possibility of the estate being wound up under existing circumstances, and the interests of the creditors will consequently suffer. I have already received complaint from the creditors on the subject of the delay on the part of the trustees. I am aware that by the 15th clause of the Debtors and Creditors Amendment Act, the Inspector is required to report to the Supreme Court, or a Judge thereof, the conduct of such trustees who do not faithfully perform their duties; but, as I am of opinion that immediate action in this matter should take place, and the Judge will not be at Invercargill till the next session of the Supreme Court, in July next, and it may be August, I thought it advisable to write you at once on the subject.

I experience great difficulty in collecting the fees payable, as the trustees, with few exceptions at present, repudiate altogether their liability either for the payment of fees, or to my supervision of their estates, asserting that they do not come under the meaning of the Acts; but I shall be able, I have very little doubt, to lead them to take a different view of the matter, and to convince them that the appointment of an Inspector, especially at Invercargill, will be of great benefit, where the need of inquiry into the manner in which some of the assigned estates have been worked is very evident.

I have, &c.,

The Hon. Colonial Secretary, Wellington.

F. NUTTER.

No. 27.

Copy of a Letter from Mr. R. G. FOUNTAIN to the INSPECTOR IN BANKRUPTCY, Southland.
(No. 286 G.) Colonial Secretary's Office, (Judicial Branch),

SIR,—

Wellington, 11th July, 1866.

I am directed to inform you, in reply to your letter of the 19th ultimo, that proceedings ought to be taken by the creditors, but if they will not do so the course to be pursued by you under the circumstances is to prepare a report for the Judge, and instruct a solicitor to take out summonses, calling upon trustees to show cause why they should not be removed. As your object is simply to see that the fees are properly paid, it will be advisable to hesitate before taking extreme measures.

I am also to inform you that you are not to accept this as a general authority to employ a solicitor whenever you may deem his services to be necessary.

I have, &c.,

The Inspector in Bankruptcy,
Southland.R. G. FOUNTAIN,
(for the Assistant Law Officer.)

No. 28.

Copy of a Letter from Mr. F. NUTTER to the Hon. E. W. STAFFORD.

SIR,—

Invercargill, 2nd July, 1866.

I have the honor to intimate to you, in explanation of the small amount of fees paid by me this day to the Sub-Treasurer, viz., £13 13s. 11d., that the trustees of the assigned estates which are liable for payment of the heaviest amounts in fees, have not yet paid those fees, alleging their non-liability. I had reason for hoping that they would long ere this have come to the conclusion to pay the amounts without further trouble. I have received from them no definite refusal to pay; they generally request further time, as they are unable to come to an unanimous opinion on the matter among themselves, and trustees can only act with unanimity. I am afraid extreme measures will have to be adopted in order to compel payment.

I have the honor to apply for information on the following two points, viz. :—

First, does non-compliance on the part of the debtor and his creditors with any one particular condition in clause 23 of the Act of 1862 interfere with the liability of the estate in payment of the fees due under the Act? In illustration of my meaning I will instance a case:—In the largest assigned estate in Invercargill it appears that three-fourths in value of the creditors have not assented in writing to the deed of assignment, and on that ground the trustees refuse payment of the fees.

The second point is, the amount on which the fees are payable. The trustees assert the meaning of the Act to be that the fees are payable on the amount divisible among the creditors after payment of all expenses incurred in realizing such amounts, but it appears to me the fees should be levied on the gross amount received, irrespective of all expenses of collection.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

F. NUTTER.

No. 29.

Copy of a Letter from Mr. R. G. FOUNTAIN to the INSPECTOR IN BANKRUPTCY, Southland.
(No. 294 G.) Colonial Secretary's Office, (Judicial Branch),

SIR,—

Wellington, 13th July, 1866.

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