

## SUPPLEMENTARY ORDER PAPER.

## LEGISLATIVE COUNCIL.

Wednesday, the 31st Day of August, 1892.

## BANKRUPTCY BILL.

The Hon. Sir P. A. BUCKLEY, when in Committee, to move the following amendments:—

Section 89, subsection 2: Strike out the first three lines of the subsection, and insert in lieu thereof,—

- (2.) Where the Court is satisfied that there is reason to believe that property, or any book, paper, or document relating to the affairs or property, of the bankrupt is concealed in any house or place, the Court may, if it think fit, grant a search-warrant.

Section 92, subsection 1: After the word "property," in line 4, to insert the words "or any book, paper, or document relating to the affairs or property;" and after the word "any," in line 9, to insert the words "book, paper, or."

Subsection 3: After the word "of," in line 1, to insert the words "the bankrupt and;" and after the word "and," in line 2, insert the words "the bankrupt and."

Subsection 4, line 1: After the word "If" to insert the words "the bankrupt or," and after the word "any" to insert the word "other." In line 4, after the word "cause," to insert the words "the bankrupt or any."

To strike out subsections 7, 8, 9, and 10.

Section 93, subsection 2: After the word "against," in line 4, to insert the words "such bankrupt or."

Sections 139, 140, and 141: To strike out these sections, and to insert the following new sections:—

## PART XIV.

## CONTEMPT OF COURT.

152. If the bankrupt or any other person shall—

- (a.) Assault, threaten, intimidate, or insult a Judge, or any Registrar, Clerk, Bailiff, or officer of the Court, or any juror, suitor, or witness during his sitting or attendance in Court, or in going to or returning from Court; or
- (b.) Interrupt or obstruct the proceedings of the Court or any meeting of creditors, or otherwise misbehave in Court or at any such meeting; or
- (c.) Being summoned or examined as a witness in any proceedings in the Court, or before the Judge in Chambers, or before the Official Assignee or a Resident Magistrate, shall, without lawful excuse, refuse to attend or be sworn, or to answer any lawful question, or shall in the opinion of the Judge be guilty of wilful prevarication; or
- (d.) Write or publish, or cause or procure to be written or published, any letter, statement, or report, or do or cause or procure to be done any other act or thing calculated to obstruct or in any way interfere with, prejudice, or affect the ordinary course and due and proper administration of justice; or
- (e.) Wilfully disobey any lawful command or order of the Court or a Judge thereof; or
- (f.) Wilfully refuse or neglect to discharge or perform any of the duties required by this Act to be performed by him, or to comply with the provisions of this Act; or
- (g.) Does any other act, or omits to do any other act, the doing or omission to do which is by this Act made contempt of Court,

he shall be deemed guilty of a contempt of Court; and it shall be lawful for any constable, or for any bailiff or officer of the Court where the offence is committed, in the Court or within the precincts thereof, by order of the Judge, to take such offender into custody and detain him until the rising of the Court; or it shall be lawful for the

Judge in any such case, and in all other cases where the offence is not committed in the Court, by summons under his hand issued out of the Court and sealed with the seal of the Court, to call upon the offender to appear before the Court, at such time and place as shall therein be fixed, to show cause why he should not be fined or imprisoned for such offence, neglect, or default; and the Court shall, after hearing evidence, and being satisfied that a contempt of Court as herein defined has been committed, be empowered, by warrant under the hand of the Judge, issued out of the Court and sealed with the seal of the Court (and that whether such offender shall appear to show cause or not), to commit such offender to prison for any time not exceeding six calendar months, or to impose upon such offender a fine not exceeding *fifty* pounds for every such offence; and, in default of payment thereof, by warrant issued, signed, and sealed as aforesaid, to commit the offender to prison for any time not exceeding three calendar months unless the said fine be sooner paid; and in either of the cases aforesaid a warrant in the form or to the effect contained in the *Seventh* Schedule to this Act shall be good and valid.

153. Any person so fined or ordered to be imprisoned as aforesaid shall, where the order is made by a Judge of the District Court or by a Resident Magistrate, be entitled to appeal therefrom to the Supreme Court of the district where the order is made: Provided such person shall within three days after the making of the order file in the office of the District Court or Resident Magistrate's Court where the order was made a written notice of his intention to appeal, and the grounds thereof.

154. Upon such notice being filed as aforesaid the Judge or Resident Magistrate making the order shall, within seven days from the filing of the said notice, state, sign, and deliver to the Registrar of the Supreme Court a case setting forth the circumstances under which the order appealed from was made, and the Clerk of the Court shall immediately on the said case being delivered as aforesaid give notice of such delivery to the appellant, who shall thereupon proceed to have the said appeal set down for hearing.

155. Such appeal shall not operate as a stay of proceedings unless the Judge of the District Court or the Resident Magistrate shall otherwise order.

156. If the appellant shall fail to prosecute the said appeal with due diligence, the Court appealed to, or the Judge thereof, shall order the same to be dismissed with or without costs.

157. No warrant issued under the foregoing sections and shall be removed into the Supreme Court by *certiorari* or otherwise, and in every warrant issued as aforesaid it shall be sufficient to set forth shortly the substance of the contempt, and in no case shall any such warrant be quashed, set aside, or declared void for any technical defect therein, or on account of any omission therefrom; and any such defect or omission may be amended or supplied at any time by the Judge of the District Court, or the Resident Magistrate, or by the Court appealed to, or the Judge thereof.

158. The term of imprisonment stated in any such warrant shall commence to run and be calculated from the date when the offender is apprehended under the warrant.

#### SEVENTH SCHEDULE.

In the [Insert name of Court], holden at [place].

To the Bailiff of the said Court [or A.B., Constable at \_\_\_\_\_], and to all other Constables at \_\_\_\_\_, and to the Keeper of the Gaol at \_\_\_\_\_.

THESE are to command you and every of you to apprehend A.B., of \_\_\_\_\_, and convey him to the said gaol, and to deliver him to the said keeper thereof; and you, the said keeper, are hereby required to receive him, the said A.B., into your custody in the said gaol, and him there safely to keep for the term of \_\_\_\_\_, unless the sum of £ \_\_\_\_\_ shall be sooner paid. I, the undersigned, the Judge of the said Court, having now here adjudged the said A.B. to pay a fine of £ \_\_\_\_\_, and in default of immediate payment thereof to be imprisoned for the said term, for that the said A.B. [Here state shortly substance of contempt].

Given under my hand, and sealed with the seal of the said Court, at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_.

(L.S.)

Judge, &c.