

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.
House of Representatives,
31st July, 1891.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Seddon.

AUCTIONEERS.

ANALYSIS.

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A BILL INTITLED

AN ACT to regulate the Licensing of Auctioneers.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

- 5 1. The Short Title of this Act is "The Auctioneers Act, 1891."
- 2. In this Act, if not inconsistent with the context,—
 - "Auctioneer" means any person who sells or attempts to sell by auction, or offers for sale or resale by auction, property of any kind whatever, or any interest or supposed interest in any property:
 - 10 "Clerk" means the Clerk of any local authority, and includes the person who may be appointed by the Governor to receive fees and issue licenses in all any parts of the colony where the Governor is the local authority:
 - 15 "District" means any portion of the colony under the administration of a local authority as herein defined:

Title.

Short Title.

Interpretation.

“Local authority” means and includes the Council or Board of any borough or town district, and the Council of a county; and, within any county where “The Counties Act, 1886,” is suspended, means the Road Board or Town Board; and within counties which are excepted from the operation of “The Counties Act, 1886,” and also in all parts of the colony not included in any borough, town district, or county, means the Governor: 5

A town district, for the purposes of this Act, shall be deemed not to form part of the county wherein it is comprised: 10

“Public notification,” “public notice,” “publicly notify,” respectively mean the insertion of a notice in one or more newspapers having general circulation in the district or place affected by the matter contained in such notification or notice: 15

“Sales by auction” or “sell by auction” means the selling of property of any kind whatever, or any interest or supposed interest in any property, by outcry, by the auctioneer saying, “I’ll take,” and commencing at a higher figure and going to a lower figure, by what is known as Dutch auction, knocking-down of hammer, candle, lot, parcel, instrument, machine, or any other mode whereby the highest, the lowest, or any bidder is the purchaser, or whereby the first person who claims the property submitted for sale at a certain price named by the person acting as auctioneer is the purchaser, or where there is a competition for the purchase of any property or any interest therein in any way commonly known and understood to be by way of auction. 20 25 30

No person to sell by auction unless licensed.
Penalty.

3. No person, except as hereinafter mentioned, shall sell by auction unless he shall be the holder of an auctioneer’s license as hereinafter provided; and every person offending against this provision shall be liable to a penalty of not less than *ten* pounds and not exceeding *one hundred* pounds for every such offence. 35

Application for certificate.

4. Any person who is desirous of obtaining an auctioneer’s license shall lodge with the Clerk of the local authority in the district within which such person resides or has his place of business a notice, in the form in the *First* Schedule hereto, that he intends at the first meeting of such authority to apply for a certificate for an auctioneer’s license; but 40

Any person holding an auctioneer’s license at the time of the passing of this Act shall, on the expiry of the said license by effluxion of time, be entitled on application to receive from the local authority of the district in which he resides or has his place of business a certificate for the issue of a new license. 45

Local authority to hear application.

5. At such meeting of the said local authority such application shall be dealt with and granted, unless the members of such local authority, by resolution of a two-thirds majority *present and voting*, decide that the applicant is not a fit and proper person to receive such license. 50

Certificate.

6. If such application be granted, the Chairman, Acting Chairman, or Mayor of the said local authority, as the case may be, shall sign a certificate in the form in the *Second* Schedule hereto, and hand the same to the Clerk of the local authority, and, upon payment to the said Clerk of

the sum of forty pounds as license-fee, or such proportionate part of such sum as ~~hereinbefore~~ *hereinafter* mentioned, he shall issue to such applicant a license in the form in the *Third* Schedule, signed by such Clerk, which shall, for the period of its continuance, authorise the person therein named to sell by auction in any part of the colony, subject to forfeiture as hereinafter provided.

License.

7. Every license shall take effect from the date of the issue thereof, and shall expire on the thirty-first day of December next following such date. Every license granted under this Act which shall have a currency of less than eleven months before its expiry shall be charged only a part of the fee of forty pounds proportionate to the time of the currency of the license.

Duration of licenses.

8. The Governor from time to time, by Order in Council, may declare special districts for the purposes of this Act, comprising respectively any parts of the colony which are sparsely populated, or are excepted from the operation of "The Counties Act, 1886," or are not within any county; and the Governor may appoint persons to grant auctioneers' licenses for such special districts upon payment of a license-fee not exceeding *ten* pounds, and may prescribe the mode of applying for and issuing such licenses.

Governor to provide for issue of licenses in some parts of the colony.

9. All sums received as license-fees or registration-fees under this Act shall be paid by the Clerk receiving the same into the ~~Public Account, and shall be paid out of the said Account according to the ratio of two thirds to the local authority of the fund of the borough or district wherein the licensee has his principal or sole place of business, and one third to the local authority of the district wherein he resides.~~

License and other fees to be paid to local authority.

All sums as aforesaid received in any special district shall be paid into the Public Account, and, after deducting therefrom all expenses incident to the administration of this Act in such part of the colony, shall be paid to the local authority of the district wherein the licensee has his principal place of business; and if there be no such local authority shall form part of the Consolidated Fund.

Exception.

10. Every Clerk or person appointed by the Governor to issue auctioneers' licenses shall, within *ten* days after the issue of any license by him, publicly notify that the same has been so issued in the form in the *Fourth* Schedule hereto.

Issue of license to be notified.

11. Every auctioneer's license in force at the commencement of this Act, issued under any of the Acts and Ordinances hereby repealed, shall be deemed to have been issued under and be subject to the provisions of this Act, and shall remain in force until its expiration by effluxion of time or forfeiture.

Existing licenses.

12. In case of the illness of any licensed auctioneer, whose license has not been forfeited or cancelled, or of his absence or intended absence from the district in which his principal or sole place of business shall be situated, he may give notice in writing to the Clerk who has issued such license that he intends to appoint one other specified person to sell by auction as his substitute for a period in such notice mentioned, not exceeding six months; and such substitute may, if approved of in writing by the Clerk by whom such license was issued, be registered by the Clerk who has issued such license upon payment of a registration-fee of ten shillings, and may act as such substitute accordingly, and shall whilst so acting be deemed

Licensed auctioneer may appoint substitute.

the holder of such license and a licensed auctioneer within the meaning of this Act.

Auctioneer not to sell after appointing substitute until after notice.

13. No licensed auctioneer who shall have appointed another person to sell by auction as his substitute shall sell by auction until *ten* days after he shall have delivered to the Clerk by whom his license was issued a notice in writing that he intends to resume business personally as an auctioneer, and upon the expiration of such period of *ten* days his substitute shall cease to be a licensed auctioneer, and his right to sell by auction shall absolutely cease and determine. 5

In case of death or bankruptcy of auctioneer, license may be transferred.

14. If any licensed auctioneer shall die or be adjudicated a bankrupt his executors or administrators, or the Official Assignee in Bankruptcy of his property, as the case may be, shall be entitled to transfer the auctioneer's license to any other person, with the previous consent in writing of the local authority having jurisdiction in the district in which such license was issued, and after paying to the Clerk who issued the license a registration-fee of ten shillings, and delivering to the said Clerk a notice in writing of such intended transfer, describing the name, occupation, and principal or sole place of business of the intended transferee, and immediately after such transfer the transferee shall be deemed to be the holder of such license, and a licensed auctioneer within the meaning of this Act. 10

Auctioneer may hold a wholesale license under "The Licensing Act, 1881," but not a publican's license.

15. Notwithstanding anything contained in "The Licensing Act, 1881,"—

(1.) A wholesale license within the meaning of that Act may be granted to any licensed auctioneer, subject otherwise to the provisions thereof; but no person holding a publican's license thereunder shall be competent to become a licensed auctioneer; 25

(2.) An auctioneer shall not by reason only of owning the freehold of any land upon which any house or premises are erected be deemed to be directly or indirectly interested in such house or premises within the meaning of subsection four of section twenty-eight of the last-named Act. 30

Night auctions prohibited, saving as to cattle-sales.

16. No auctioneer shall sell by auction any property except between the hours of *six* o'clock in the morning and *six* o'clock in the evening of the same day; saving that any auction sale of live stock which shall have been commenced at any time not later than *two* o'clock in the afternoon of any day may be continued until *eight* o'clock in the evening of the same day, but not any later: Provided that land, plans of which have been exhibited in the auction-room for at least two clear days prior to the date of sale, may be sold without limit to time; also the tallow, wool, and books sold only from catalogues, after daylight inspection, may be sold without limit as to 35

Pawnbroker not to hold auctioneer's license.

17. No person holding a pawnbroker's license under any Act in reference to pawnbrokers shall be competent to hold an auctioneer's license. 45

Struck out.

18. Every auctioneer shall, within *fourteen* days after receiving a demand in writing from the vendor of any property sold by auction by him so to do, render an account of and pay over the proceeds of the sale of such property, and on failure to do so shall be deemed 50

to have committed an offence against this Act, and shall be liable for each such offence to a penalty not exceeding *ten* pounds.

5 19. Every auctioneer shall keep all moneys arising from sales by auction apart from other moneys of his business, and
 10 such first-mentioned moneys shall not be capable of being attached or taken in execution under the process of any Court for any debt or liability of such auctioneer, and shall, less the
 15 auctioneer's cost, fees, and charges, and advances, if any, made by such auctioneer, be available only for payment to the person on whose behalf the property was sold; and any auctioneer who wilfully and knowingly neglects to keep all moneys arising from sales by auction apart from other moneys of his business shall, for every such offence, be liable to a penalty not exceeding *one hundred* pounds: Provided that this clause shall not apply to sales of property belonging to the auctioneer himself, or to any firm in which he is a partner.

New clauses.

18. Every auctioneer shall within seven days after a sale render to the person on whose behalf such sale shall have taken place a correct account of such sale, and shall, subject to the deductions
 20 authorised by section *nineteen* of this Act, within such period of seven days, pay to such person the balance of the proceeds of such sale received by such auctioneer. If any such auctioneer shall, after a written demand from such person in that behalf, neglect for seven
 25 days to render such account or to pay such balance to such person, he shall be guilty of an offence under this Act, and shall be liable for every such offence to a penalty not exceeding *ten* pounds. This section shall not affect any other remedy against or liability of an auctioneer.

Account-sales to be rendered within seven days.

Penalty.

19. Every auctioneer shall apply the proceeds of sale, when
 30 realised, as follows: (a.) In or towards payment of the expenses, commission, and other charges of or incidental to the sale. (b.) In or towards payment of any moneys owing to such auctioneer by the person on whose behalf the property was sold. (c.) The balance of
 35 such proceeds shall be held by the auctioneer exclusively for such person, to be paid to him or as he may direct, and until so paid such balance shall be paid into a bank carrying on business under the authority of an Act of the General Assembly to a general or separate trust account, and such balance shall not be available for payment
 40 of the debts of any other creditor of such auctioneer, nor shall such balance be liable to be attached or taken in execution under the order or process of any Court at the instance of any such creditor. Any auctioneer who knowingly acts contrary to the provisions of this section shall be liable for every such offence to a penalty not
 45 exceeding *one hundred* pounds.

Proceeds of sales, how to be applied.

Penalty.

20. Any auctioneer who—

- 45 (1.) Fraudulently converts to his own use the *balance of the* proceeds of any property sold by auction by him, or any part of such proceeds, or fraudulently omits to pay such proceeds or any part thereof to the person entitled thereto, shall be deemed guilty of larceny:
- 50 (2.) With intent to defraud, renders any account of the proceeds of any property sold by auction by him, knowing the same to be false in any *material* particular, shall be deemed guilty of a misdemeanour, and on conviction thereof shall be liable to imprisonment for any time not exceeding two years.

Misappropriation, larceny; falsifying accounts, misdemeanour.

Penalty on
unlicensed person
pretending to be an
auctioneer.]

21. Any person, not being a licensed auctioneer, who shall have any words written, painted, or inscribed, or which may have been written, painted, or inscribed, and not thoroughly obliterated, over or about his house, window, or premises, which shall lead to the belief or supposition that such person is an auctioneer, or who shall place or cause to be placed any placard, board, writing, matter, or thing in the public view, to the intent that it may be believed or supposed that such person is an auctioneer, or that any property of any kind whatever or any interest therein is to be sold by auction by such person, shall be liable to a penalty not exceeding *one hundred* pounds. 5

Penalty for not
exhibiting license
on demand.

22. If any person acting as a licensed auctioneer does not at the time of any sale by auction, or within *three* days thereafter, on demand of any police officer or constable, produce and show to such officer or constable a proper license granted or deemed to be granted to him under this Act, such person shall be liable to a penalty not exceeding *ten* pounds. 10

Penalty for selling
contrary to Act.

23. If any licensed auctioneer shall exercise his business at any time or in any manner contrary to the provisions of this Act, he shall for every such offence be liable to a penalty not exceeding *ten* pounds. 20

Forging licenses,
felony.

24. Every person who shall forge, counterfeit, or alter, or cause to be forged, counterfeited, or altered, any license, or any signature to any license, or shall use or tender in evidence any such forged, counterfeited, or altered license, or signature, knowing the same to be forged, counterfeited, or altered, shall be guilty of felony, and being convicted thereof shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour. 25

Penalty for lending
or hiring, &c., a
license.

25. Every person shall be liable to a penalty not exceeding *fifty* pounds for every separate offence who shall let out or hire or lend any license granted to him, or shall, except as hereinbefore provided, trade with or under colour of any license granted to any other person whomsoever, or of any license in which his own name shall not be inserted as the name of the person to whom the same is granted. 30

Oans of proof of
license on person
charged with
offence.

26. In all proceedings against any person for having acted as an auctioneer without a license, such person, unless he shall produce his license or bring other satisfactory proof of his having been licensed at the time at which the offence was committed, shall be deemed to have been unlicensed. 35

Licenses may be
cancelled.

27. If any auctioneer holding a license under this Act shall be convicted of an offence under sections *nineteen*, *twenty*, and *twenty-four* of this Act, his license shall be *ipso facto* forfeited; and any auctioneer convicted of an offence under any other sections of this Act, and thereafter be convicted within twelve months of a second or any subsequent offence of any kind under this Act, the convicting Magistrates or Justices may, if they think fit, in addition to any other penalty, *cancel* his license. 40

Summary
jurisdiction as to
certain offences.

28. All offences under this Act, except under sections *nineteen*, *twenty* and *twenty-four*, may be heard and determined, and all fines and penalties may be recovered, in a summary way before a Resident Magistrate or any two or more Justices of the Peace, and shall be paid into the Public Account, and form part of the Consolidated Fund. 45

Fines to be paid
into Public Account.

Saving of civil
remedies.

29. Nothing in this Act contained shall be deemed to take away or limit any civil remedy which any person may have against an

auctioneer in respect of any matter which is constituted an offence under this Act.

New clause.

5 30. Notwithstanding anything contained to the contrary in this Act, or in any by-law made by any Borough or County Council or Town Board respectively, it shall be lawful for fishermen, or for any person appointed by them in that behalf, to sell newly-caught fish of any kind, except shell-fish, by auction at any hour of the day or night, in the manner usual at auction-sales or in any other manner customary in the fish-trade, or to hawk and carry such fish for sale at any private houses by retail, without taking out a license either as auctioneer or hawker and pedlar.

Fresh fish may be sold at auction at any hour, day or night.

15 If any person shall in any way exceed the authority granted by this Act, and sell any articles under the colour of this Act which are not thereby authorised, he shall be liable to the penalties prescribed for selling goods without having taken out an auctioneer's license, or a hawker's and pedlar's license, as the case may be.

30 31. Nothing in this Act contained—

Sales exempted from Act.

20 (1.) Shall extend to any sale made by order of the Governor or of any Collector or Sub-Collector of Customs, or to any sale ordered by virtue of or in obedience to any writ or process issued by or out of any Warden's Court or other Court of law or justice, nor to any sale of any animals sold under the law relating to public pounds, nor to any sales of Crown lands, or of the leases or occupation-licenses of any such lands;

25 (2.) Shall be construed to repeal any enactment authorising particular sales to be conducted without an auctioneer's license.

30 32. Nothing in this Act contained shall be taken to render legal and valid any sale which before the commencement of this Act was contrary to law.

Illegal sales not validated.

32 33. The several enactments enumerated in the *Fifth* Schedule hereto are hereby repealed.

Acts and ordinances repealed.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

APPLICATION FOR AUCTIONEER'S LICENSE.

To the Clerk of the
I, A.B., residing at _____, and whose occupation is that of a _____, hereby give notice that I intend to apply, at the next meeting of the said County Council [Borough Council or Town Board], for a certificate for an auctioneer's license, and that my residence [or sole or principal place of business as an auctioneer] is within the said county [borough or town district]; and that my sole or principal place of business [or residence] is in the County [Borough or Town District] of _____.

SECOND SCHEDULE.

CERTIFICATE FOR ISSUE OF LICENSE.

District of

I, THE Chairman [Acting Chairman or Mayor] of the _____ County [borough or town district], do hereby certify that the said local authority has ordered that A.B., who resides [or has his sole or principal place of business] within the District of _____, and has his sole or principal place of business [or residence] in the County [Borough or Town District] of _____, is a fit and proper person to receive an auctioneer's license.

Dated at _____, this _____ day of _____, 18 _____
Chairman [Mayor or Acting Chairman].

THIRD SCHEDULE.

FORM OF LICENSE.

District of

I, THE undersigned, Clerk of the local authority, do hereby, in pursuance of "The Auctioneers Act, 1891," license A.B., whose residence [or place of business] is within this district, and whose place of business [or residence] is within the County [Borough or Town District] of _____, to sell by auction in any part of the Colony.

This license shall continue in force until the thirty-first day of December ensuing next after the date hereof, and no longer, provided it be not forfeited or cancelled in the meantime.

Dated the _____ day of _____, 18 _____.

Clerk, Local Authority.

FOURTH SCHEDULE.

LIST OF LICENSED AUCTIONEERS.

District of

I HEREBY give notice that A.B., whose residence [or place of business] is within this district, has been duly licensed to sell by auction for twelve months, to be computed from the _____ day of _____, 18 _____.

Clerk, Local Authority.

FIFTH SCHEDULE.

ACTS AND ORDINANCES REPEALED.

(1.) *Ordinances of the Governor and the Legislative Council of New Zealand.*

1842, Sess. 2, No. 13.—An Ordinance for licensing Auctioneers.

1843, Sess. 3, No. 10.—An Ordinance to amend an Ordinance for licensing Auctioneers.

New Paragraph.

(2.) *Act of the General Assembly.*

1886, No. 10.—The Fish Auction Act, 1886.

2 (3.) *Acts of the Province of Auckland.*

1863, Sess. 15, No. 9.—The Auctioneers Licensing Act, 1863.

1871, Sess. 26, No. 2.—The Auctioneers Licensing Act 1863 Amending Act, 1871.

1874, Sess. 29, No. 13.—The Auctioneers Licensing Act 1863 Amending Act, 1874.

3 (4.) *Ordinance of the Province of Taranaki.*

1858, Sess. 6, No. 6.—The Auctioneers Licensing Ordinance, 1858.

4 (5.) *Acts of the Province of Nelson.*

1858, Sess. 5, No. 5.—The Auctioneers Licensing Act, 1858.

1862, Sess. 9, No. 4.—The Auctioneers Licensing Amendment Act, 1862.

1867, Sess. 15, No. 1.—The Auctioneers Licensing Amendment Act, 1867.

5 (6.) *Act of the Province of Marlborough.*

1860, Sess. 1, No. 6.—The Auctioneers Licensing Act, 1860.

6 (7.) *Ordinance of the Province of Canterbury.*

1854, Sess. 3, No. 3.—The Auctioneers Ordinance, Sess. 3, No. 3.

7 (8.) *Ordinances of the Province of Otago.*

1862, Sess. 16, No. 99.—The Licensed Auctioneers Ordinance, 1862.

1869, Sess. 25, No. 283.—The Licensed Auctioneers Ordinance 1862 Amendment Ordinance, 1869.

1870, Sess. 28, No. 335.—The Auction Ordinance 1862 (Southland) Repeal Ordinance, 1870.

BANKRUPTCY BILL.

THIS is mainly a consolidation Bill, though a great many changes in matters of detail have been introduced. No important change in the system of administration of bankrupt estates is proposed. The Bill as it stands is very similar to the English Act of 1883. In order to facilitate comparison of the various clauses of the Bill with the corresponding provisions of the existing New Zealand Acts and of the English Act this memorandum has been prepared, stating for each clause and subsection of the Bill what is the corresponding provision, if any, in our present Acts and in the English Act. Special reference is made to any material difference, though it must not be assumed that there is no difference because no special comment may be made. The wording sometimes differs considerably.

The English Act provides for an intermediate stage before actual adjudication in bankruptcy, namely, the making of a receiving order. But, as in most cases, this would only entail delay without corresponding advantage, the procedure in our present Act, by which adjudication ensues immediately on the filing of a debtor's petition or on the hearing of a creditor's petition, if the requisite conditions have been complied with, has been retained. Whenever necessary a receiving order, pending the hearing of a petition, can be obtained.

A number of suggestions for the amendment of bankruptcy law have been made during the past year or two by the various Chambers of Commerce in the colony, nearly all of them identical. The greater part of these suggestions will be found to have been dealt with in this Bill, and generally in the way desired by the Chambers.

In connection with the present Act the chief cause for dissatisfaction has arisen in connection with the penal clauses. A number of offences are punishable on summary conviction before the Bankruptcy Judge. The disadvantage of this system as regards bankrupts is that the bankrupt has no proper notice of the offence for which he is to be tried, and therefore has not the same facilities for preparing his defence which an ordinary criminal has. As regards the creditors, the disadvantages are that the Judges are reluctant to take upon themselves the duty of instituting the charge and trying it without a jury, as it does not seem to be regarded as the duty of the Assignee to take the responsibility and incur the expense of formulating a charge. Moreover, no procedure for the summary jurisdiction is provided by the Act. What is proposed by the Bill in regard to offences is this: In the first place, it is made the duty of the Assignee to institute proceedings if he thinks an offence has been committed. He is to lay the facts as he thinks they can be proved before the Crown Prosecutor, who may certify that there is a good *prima facie* case, if he is of that opinion. The Assignee will then lay an information, and the whole proceedings will be conducted by the Crown officers as in an ordinary criminal case, all offences being treated as misdemeanours—that is to say, being indictable, and therefore having to be tried before a Judge and jury after a preliminary hearing before Justices. The whole expense of the prosecution, including the preliminary proceedings before the Justices, will have to be borne by the Crown, unless the Judge directs them to

be paid out of the estate. To protect the Assignee it is provided that no action for malicious prosecution shall lie against an Assignee who acts upon a certificate from the Crown Prosecutor. This plan will relieve the creditors from expense and responsibility, while it will give a fraudulent bankrupt the same trial as a man tried for any other kind of crime. It will, of course, still be open to any creditor to lay the information himself.

It should be added that provision is made for enabling the Justices to deal summarily with any charge if they think fit to do so, and if the person charged consents. In such case no greater term of imprisonment than six months can be imposed.

Clause 1 is the Short Title.

Clause 2 brings the Bill into operation on the 1st January, 1892. Under clause 22, subsec. (2), rules for the purposes of the Act can be made at any time before that date.

Clause 3. N.Z. Act, s. 2; Eng. Act, s. 168.

“Adjudication.” This definition is extended so as to mean the filing of a debtor’s petition, as well as the making of an order of adjudication on a creditor’s petition; but see also clause 34.

“Advertised” is defined to mean published in one or more newspapers, which will be some saving of expense; under the English Act notices of the various steps are gazetted, and such of them as have to be advertised need only to be advertised in one local paper. (See English Act, s. 20, subsec. (2), and various other sections.) By subsec. (8) of clause 156 provision is made for ensuring the publication of the Assignee’s advertisements in the *Gazette* free of expense to the estate; but this is not essential to “advertising” according to the definition, and therefore will not cause any delay in giving effect to an adjudication or any other proceeding which has to be advertised by the Assignee.

“Affidavit,” is defined so as to include statutory declarations, as in the English Act.

The expressions “District Court” and “Supreme Court” are used in lieu of “Local Court” and “Superior Court” in the present Act.

“Liabilities.” This definition is taken from s. 37, subsec. (8), of the English Act.

“Resolution,” “ordinary resolution,” “special resolution” are taken from the interpretation clause of the English Act. The corresponding clauses of the New Zealand Act are subsecs. (6) and (7) of s. 61; the difference between them being that in the English Act the requisite majority for a special resolution means a majority of the creditors actually at the meeting, whereas under the New Zealand Act it means the requisite majority of the entire body of creditors. But, to prevent creditors not present at a meeting being placed at a disadvantage, there has been added to the definition of a special resolution in this Bill words requiring it to be confirmed by a subsequent meeting.

The definition of “property” is the same as that in the English Act, which mainly differs from that in our present Act by having the word “land” in addition, and also the words “obligations” and “easements.” The word “good-will” has also been added.

The definition of “settlement” is that which appears in sec-

tion 77 of the New Zealand Act, and in s. 47, subsec. (3), of the English Act.

Clause 4. N.Z. Act, s. 3 ; Eng. Act, s. 123.

The word "corporation" is added to the definition in the Bill.

Clause 5. N.Z. Act, s. 4 ; Eng. Act, s. 152,

Married women are included in the Bill as well as aliens. The inclusion of married women introduces a change of some importance. Under subsec. (5) of s.3 of "The Married Women's Property Act, 1884," the only married women who can be made bankrupt are married women carrying on a trade or business separately from their husbands. It seems probable that any married woman can herself place herself under the Bankruptcy Act. But, as all married women who have property can incur debts, all married women should be capable of being made bankrupt by their creditors, so that their separate property, if any, can be equally divided among their creditors.

PART I.

THE COURT.

(1.) *Constitution.*

Clause 6. N.Z. Act, s. 5 ; Eng. Act, s. 92.

This makes the Supreme Court the Court having jurisdiction in bankruptcy. The Bill does not constitute a separate Court of Bankruptcy, as is done by the present Act, but merely gives to our existing Courts bankruptcy jurisdiction, which is the same as in the English Act. Under the present Act, though District Courts only exist in some parts of the colony, they are made the principal Courts, and jurisdiction is only given to the Supreme Court where there is no District Court. This plan is at any rate illogical, and is reversed in the Bill. The Supreme Court is to be the Court of Bankruptcy, though by clause 7 the Governor may confer bankruptcy jurisdiction on a District Court, and by clause 8 he can also confer a limited jurisdiction on the Resident Magistrates' Courts in districts where no Supreme Court Judge resides.

Clause 9. N.Z. Act, s. 7 ; Eng. Act, s. 118.

(2.) *Powers of Judges.*

Clause 10. N.Z. Act, ss. 18 and 19 ; Eng. Act, s. 98 ; and G.R. No. 5.

In England under this rule several other matters are mentioned, which must be heard in open Court, such as applications to set aside settlements, &c., appeals concerning proofs, &c.

(3.) *Jurisdiction.*

Clause 11. N.Z. Act, s. 5 ; Eng. Act, s. 97, subsec. (1)

Clause 12—

Subsec. (1). N.Z. Act, s. 9, subsec. (1).

It is doubtful whether this subsection is necessary, having regard to the provisions of the next section of the Bill.

Subsec. (2). N.Z. Act, s. 9, subsec. (2); Eng. Act, s. 102, subsec. (1).

The proviso as to County Courts in the English Act is not inserted in the Bill as regards District Courts, as it would very much curtail the jurisdiction of the District Courts in bankruptcy matters.

Subsec. (3). N.Z. Act, s. 9, subsec. (3).

Subsec. (4). N.Z. Act, s. 9, subsec. (4).

The power to inflict fines on officers of the Court is not repeated.

Subsec. (5). N.Z. Act, s. 9, subsec. (5).

Subsec. (6) is new, but confers no additional powers.

(4.) *District Courts and Resident Magistrates' Courts.*

Clause 13—

Subsec. (1). N.Z. Act, ss. 17, 18, and 20; Eng. Act, s. 100.

Subsec. (2). N.Z. Act, s. 10; Eng. Act, s. 97, subsec. (3).

(5.) *Transfer of Jurisdiction.*

Clause 14. N.Z. Act, ss. 12 and 13; Eng. Act, s. 97, subsec. (2).

The provision in the English Act gives much less power to the creditors in this matter than the New Zealand Act, which is the one followed in the Bill. By this clause also provision is made for a transfer from the Supreme Court to a District Court or Resident Magistrate's Court, or from any Court in one district to the same Court in another district.

(6.) *Powers of Registrar.*

Clause 15. N.Z. Act, ss. 23, 24, 25, 26; Eng. Act, s. 99.

In this clause the provisions of the existing Act are followed. Under the English Act the Registrars have certain specified powers, and their right to use them does not depend upon the absence of the Judge, as in New Zealand. It will be observed that the wide powers given to Registrars are not given by this clause to Clerks of Resident Magistrates' Courts having jurisdiction in bankruptcy.

(7.) *Barristers and Solicitors.*

Clause 16. N.Z. Act, s. 27; Eng. Act, s. 151.

Under this clause a solicitor, though not qualified to act as a barrister, can act as a barrister in bankruptcy matters. As this provision exists in the present Act it has been retained in the Bill.

(8.) *Trial by Jury.*

Clause 17. N.Z. Act, s. 11; Eng. Act, s. 102, subsec. (3).

(9.) *Appeals.*

Clause 18. N.Z. Act, s. 8; Eng. Act, s. 102, subsec. (2).

Clause 19. N.Z. Act, s. 14, subsecs. (1), (2), and (3); Eng. Act, s. 104, subsec. (2), (a), (b), (c).

Clause 20—

Subsec. (1). N.Z. Act, s. 15; Eng. G.R. 112.

The clause of the present Act declaring that the decision of the Court of Appeal shall be final has not been inserted in the Bill.

Subsec. (2). N.Z. Act, s. 14, subsec. (4); Eng. Act, s. 104, subsec. (2), (d).

Subsec. (3). Eng. G.R. 111, subsec. (3).

Subsec. (4). N.Z. Act, s. 16; Eng. Rule 16 of Order 58, R.S.C., 1883.

Subsec. (5). N.Z. Act, s. 16, second paragraph.

(10.) *Procedure.*

Clause 21—

Subsec. (1). Eng. Act, s. 105, subsec. (3).

This subsection is wider than the provision in the English Act. It gives a similar power of amendment to that in the Supreme Court Code.

Subsec. (2). Eng. Act, s. 105, subsec. (4).

This subsection gives a general power to the Court to extend the time for doing anything, and therefore any period of time specified in the Bill may be extended by the Court.

Subsec. (3). Eng. Act, s. 92, subsec. (5).

This is not quite the same as in the English Act, as it leaves the matter of fixing sitting-days in bankruptcy to the Judge.

Subsec. (4). Eng. Act, s. 105, subsec. (5).

Subsec. (5). N.Z. Act, s. 30; Eng. G.R. 12.

Subsec. (6). N.Z. Rule 2 of 3rd January, 1884; Eng. Act, s. 94, subsec. (5).

(11.) *Rules.*

Clause 22. N.Z. Act, ss. 28 and 29; Eng. Act, s. 127.

The words of the English Act as to the subjects on which rules can be made have been adopted in this Bill, as being more general. The necessity for the concurrence of the Judges is done away with.

Subsec. (3) provides that the rules are not to come into operation until at least a month after they have been gazetted, so as to give the public notice of their effect.

Subsec. (5) keeps the rules under the existing Act in force until new rules have been made under the Bill.

PART II.

THE OFFICIAL ASSIGNEE.

(1.) *Appointment of Assignees.*

Clause 23. N.Z. Act, s. 31.

Under this clause the Assignees will not be appointed to a district, but are to be attached to a particular office of a Court. This seems more appropriate, as the whole property of the bankrupt, in whatever district it is situate, is vested in them. It will be observed that no provision is made for appointing Deputy-Assignees. It is better that those Deputies whose districts are important, and who at present practically work independently of the Assignees, should be Assignees; but full power is given by clause 65, subsection 16, to appoint agents to represent them at a distance.

(2.) *Appointment of Acting Assignees.*

Clause 24. N.Z. Act, 1885, s. 3.

(3.) *Existing Assignees to continue in office.*

Clause 25.

This, of course, did not appear in the New Zealand Act of 1883.

(4.) *General Provisions as to Assignees.*

Clause 26—

Subsec. (1). N.Z. Act, s. 33.

Under this subsection it is contemplated that Assignees may be paid either by commission or by salaries.

Subsec. (2). N.Z. Act, s. 34.

Subsec. (3). N.Z. Act, s. 31, second paragraph.

Subsec. (4). N.Z. Act, s. 31, third paragraph.

Subsecs. (5), (6). N.Z. Act, s. 32.

Clause 27—

Subsec. (1). N.Z. Act, s. 35, subsec. (1).

This subsection does not necessitate an Assignee ceasing to act in an estate in which he is a creditor unless it is the wish of the creditors that he should so cease to act.

Subsec. (2). N.Z. Act, s. 35, subsec. (2).

Subsec. (3). N.Z. Act, s. 35, subsec. (3).

The additional provision with reference to commissions, discounts, &c., offered to an Assignee in respect of sales, advertisements, &c., is new.

Clause 28—

Subsec. (1). N.Z. Act, s. 69; Eng. Act, s. 83.

Subsec. (2). N.Z. Act, s. 39; Eng. Act, s. 54, subsec. (3).

Subsecs. (3), (4), (5).

These are new, but effect no real change in the law, as it has been the practice for the Assignee to use a seal and to execute documents in the manner described in subsec. (4).

PART III.

PROCEEDINGS UP TO ADJUDICATION.

(1.) *Acts of Bankruptcy.*

Clause 29—

The acts of bankruptcy in the English Act are enumerated in s. 4, and in the New Zealand Act in s. 41 of Act of 1883, as amended by ss. 6 and 7 of the Act of 1884.

Subsecs. (1), (2).

These are in both the English and New Zealand Acts.

Subsec. (3).

This is in the English Act, subsec. (c), but not in the New Zealand Act.

Subsecs. (4), (5).

These are in both English and New Zealand Acts.

Subsecs. (6), (7).

These are from the English Act, subsecs. (g) and (h).

Subsec. (8).

This is new.

Subsec. (9).

This is the same as subsec. (3) of section 41 of the New Zealand Act.

Subsec. (10).

This embodies the amendment made by section 6 of the Act of 1884. By the English Act the execution must be levied by seizure and sale to constitute an act of bankruptcy.

Subsec. (11).

This is the same as s. 7 of the New Zealand Act of 1884, except that according to this subsection the writ of sale need not be advertised for twenty-one days to constitute an act of bankruptcy.

(2.) *General Provisions as to Petitions.*

Clause 30—

Subsecs. (1), (2). N.Z. Act, ss. 42, 43.

The filing fee is made six pounds instead of five guineas as at present, but the estate is, on the other hand, to be relieved of certain charges by clauses 167 and 168.

Subclauses (b), (e), and (f) of subsec. (3).

These are new.

Subsec. (4). Eng. Act, s. 95, subsec. (3).

Clause 31. N.Z. Act, s. 46.

Clause 32. Eng. Act, s. 108.

Clause 33. Eng. Act, s. 8, subsec. (2).

(3.) *Petitions by Debtors.*

Clause 34. N.Z. Act, s. 44, subsec. (1); Eng. Act, s. 8, subsec. (1).

Clause 35.

This is new.

(4.) *Petitions by Creditors.*

Clause 36. N.Z. Act, s. 45, subsec. (1).

Clause 37. N.Z. Act, s. 45, subsecs. (2), (3), (4); Eng. Act, s. 6.

This clause, it will be observed, reduces the amount of debt necessary for a petitioning creditor from £50 to £20. As in most bankruptcies in New Zealand the amount of the respective debts is comparatively small, it is submitted that this is a desirable change.

Clause 38. Eng. Act, s. 7, subsec. (1).

Clause 39. N.Z. Act, s. 47.

The third subsection is taken from the New South Wales Act of 1887, section 8, subsection (3).

Clause 40. N.Z. Act, s. 48.

Clause 41. N.Z. Act, s. 49; Eng. Act, s. 7, subsec. (2).

Clause 42. Eng. Act, s. 7, subsec. (3).

Clause 43. Eng. Act, s. 7, subsec. (4).

Clause 44. Eng. Act, s. 7, subsec. (5).

Clause 45. Eng. Act, s. 7, subsec. (6).

Clause 46—

Subsec. 1. N.Z. Act, ss. 55 and 56; Eng. Act, s. 10, subsec. (1).

Subsec. (2). Eng. Act, s. 10, subsec. (2).

Clause 47. Eng. Act, s. 106.

Clause 48. Eng. Act, s. 107.

Clause 49. Eng. Act, s. 109.

Clause 50. Eng. Act, s. 110.

Clause 51. Eng. Act, s. 115.

Clause 52. Eng. Act, s. 111.

(5.) *General as to Adjudication.*

Clause 53. N.Z. Act, s. 50 ; Eng. Act, s. 20, subsec. (2).

Clause 54—

Subsec. (1.) This requires the Registrar to give notice to the Assignee of every adjudication.

Subsec. (2.) N.Z. Act, s. 51 ; Eng. Act, s. 20, subsec. (2).

Clause 55—

Subsec. (1.) N.Z. Act, 1884, s. 8 ; N.Z. Act, 1883, s. 54 ; Eng. Act, s. 20, subsec. (1).

Subsec. (2.) N.Z. Act, s. 56 ; Eng. Act, s. 9, subsec. (1).

Subsec. (3.) N.Z. Act, s. 57 ; Eng. Act, s. 9, subsec. (1).

Subsec. (4.) N.Z. Act, 1884, s. 17 ; Eng. Act, s. 42.

An important alteration is effected by this subsection. At present it is considered that, if a distress is levied before bankruptcy, it can be completed after bankruptcy, but this subsection provides to the contrary. The English law is very different: under s. 42 the landlord can distrain for twelve months' rent notwithstanding bankruptcy.

Subsec. (5).

This is new.

Clause 56. N.Z. Act, s. 52.

Clause 57. N.Z. Act, s. 53 ; English Act, s. 43.

Under the English Act the period for relation back is only three months ; under our present Act it is twelve months. In the Bill the period is three months, as in the English Act.

Clause 58.

This clause is taken from the English County Court Rules 1, 2, 3 of January, 1884. It has been the general practice to release debtors on bankruptcy when imprisoned on an order made on a judgment summons. This clause, therefore, can hardly be said to make any real change in the law.

PART IV.

SUPERVISORS.

Clause 59. N.Z. Act, s. 66, and 1884, s. 9 ; Eng. Act, s. 22.

Under the English Act these functionaries are called a Committee of Inspection, and there must be at least three of them.

PART V.

DUTIES OF BANKRUPT.

Clause 60—

Subsecs. (1), (2). N.Z. Act, s. 59, subsec. (1) ; English Act, s. 16, subsecs. (1), (2).

Subsecs. (3), (4). N.Z. Act, s. 59, subsec. (2) ; Eng. Act, s. 16, subsec. (4).

Failure to file the three-days statement is punishable as a contempt of Court (see clause 139), instead of by withholding protection as in s. 59, subsec. (3) of the present Act.

The other change effected by this clause is that it provides that creditors have not to pay a fee to inspect the three-days statement.

Clause 61—

Subsec. (1). N.Z. Act, s. 58; Eng. Act, s. 50, subsec. (1).

Subsec. (2). (See subsec. (2) of section 37 of N.Z. Act.)

Clause 62. N.Z. Act, s. 68; Eng. Act, s. 24.

Subsec. (6) is new.

It may sometimes be desirable to insure a bankrupt's life in order to protect a life-interest in property, and a recent English case has shown that without a provision to this effect a bankrupt cannot be compelled to take the necessary steps to have his life insured.

PART VI.

ADMINISTRATION OF THE BANKRUPT'S PROPERTY.

(1.) *Property passing to the Assignee.*

Clause 63. N.Z. Act, ss. 71, 72, 75, 81, 82; Eng. Act, s. 44.

The portion of this clause relating to goods in the order and deposition of the bankrupt is taken, with some alterations, from the English Act, which differs materially from the New Zealand Act. It does not require an order of Court. The English Act only relates to goods in the order and deposition of the bankrupt in his trade or business, but the clause in the Bill is not so confined.

Clause 64—

This clause is an adaptation of s. 10 of N.Z. Act, 1884.

(2.) *General Power of Assignee in Administration.*

Clause 65—

Subsec. (1). N.Z. Act, s. 37, subsec. (3), ss: 92, 134; Eng. Act, s. 56, subsec. (1).

By this subsection, except in regard to sales of perishable property, all property in bankrupts' estates must be first offered for sale by public auction or public tender.

Subsec. (2). Eng. Act, s. 56, subsec. (2).

Subsec. (3). Eng. Act, s. 56, subsec. (3).

Subsec. (4). N.Z. Act, s. 75; Eng. Act, s. 56, subsec. (4).

Subsec. (5). Eng. Act, s. 57, subsec. (1).

Subsec. (6). Eng. Act, s. 57, subsec. (2).

Subsec. (7). Eng. Act, s. 57, subsec. (3).

Subsec. (8). Eng. Act, s. 57, subsec. (4).

Subsec. (9). Eng. Act, s. 57, subsec. (5).

Subsec. (10). Eng. Act, s. 57, subsec. (6).

Subsec. (11). Eng. Act, s. 57, subsec. (7).

Subsec. (12). Eng. Act, s. 57, subsec. (8).

Subsec. (13). Eng. Act, s. 57, subsec. (9).

Subsec. (14). N.Z. Act, 1884, s. 25.

Subsec. (15). N.Z. Act, 1884, ss. 64 and 111, and 1885, s. 10.

Subsec. (16).

This is new.

Clause 66. N.Z. Act, s. 36, subsec. (4); Eng. Act, s. 89, subsecs.

(1), (4).

The effect of this clause, which follows the clauses in the English Act, is to give the creditors or their representatives, the supervisors, more control over the Assignee than they have at present.

Clause 67. N.Z. Act, s. 36, subsec. (3), s. 67; Eng. Act, s. 89, subsec. (3); G.R. 229.

Clause 68. Eng. Act, s. 90.

This general power of appeal from a decision of an Assignee obviates the necessity of giving a power to appeal specifically in several parts of the Bill.

(3.) *Miscellaneous Provisions as to the Administration of the Estate.*

Clause 69. N.Z. Act, s. 73.

Clause 70. N.Z. Act, s. 74.

Clause 71. N.Z. Act, s. 90; Eng. Act, s. 27, subsec. (4).

Clause 72. N.Z. Act, s. 60; Eng. Act, s. 64, subsec. (1).

Clause 73. N.Z. Act, s. 139; Eng. Act, s. 64, subsec. (2).

Clause 74. N.Z. Act, 1884, s. 4; Eng. G.R. 215.

Clause 75. Eng. Act, s. 113.

Clause 76. Eng. Act, s. 114.

(4.) *Effect of Bankruptcy on Antecedent Transactions.*

Clause 77. N.Z. Act, s. 76; Eng. Act, s. 47, subsec. (1).

The effect of this clause is to make voluntary settlements absolutely void if made within one year before bankruptcy, and void if bankruptcy ensues within three years after the date of the settlement, unless the settlor can prove solvency. In the English Act the periods are two and ten years.

Clause 78. N.Z. Act, s. 77; Eng. Act, s. 47, subsec. (2).

Clause 79—

Subsec (1). N.Z. Act, 1884, s. 27, subsec. (1); Eng. Act, s. 48, subsec. (1).

This leaves the law as regards fraudulent preference exactly as it is at present except for the saving provision made by subsec. (3) of this clause which will protect *bonâ fide* transactions.

Subsec. (2). N.Z. Act, s. 80.

This is really the same as the clause in "The Chattels Transfer Act, 1889."

Subsec. (3). N.Z. Act, 1884, s. 27, subsec. (2); Eng. Act, s. 48, subsec. (2). This clause is a copy of the proviso at the end of section 92 of the English Bankruptcy Act of 1869.

Clause 80—

Subsec. (1). Eng. Act, s. 45, subsec. (1).

Subsec. (2). Eng. Act, s. 45, subsec. (2).

Clause 81—

Subsec. (1). Eng. Act, s. 46, subsec. (1).

Subsec. (2). N.Z. Act, 1885, s. 9; Eng. Act, s. 46, subsec. (2).

As regards this subsection, it will be noticed that the amount of £20 has been inserted instead of £50, as in the present Act. £20 is the amount mentioned in the English Act however.

Subsec. (3). Eng. Act, s. 46, subsec. (3).

Clause 82. N.Z. Act, 1884, s. 28; Eng. Act, s. 49. The 2nd subsection is taken from the New South Wales Act of 1887, s. 58.

(5.) *Apprentices.*

Clause 83. N.Z. Act, s. 138; Eng. Act, s. 41: but subsec. (4) is new.

(6.) *Powers of Assignee in regard to Particular Property.*

Clause 84—

Subsec. (1). N.Z. Act, 1884, s. 15, pars. 1 and 2; Eng. Act, s. 55, subsec. (1).

Subsec. (2).

Subsec. (3). N.Z. Act, 1884, s. 15, par. 3; Eng. Act, s. 55, subsec. (2).

Subsec. (4). Eng. Act, s. 55, subsec. (4).

Subsec. (5). N.Z. Act, 1884, sec. 15, par. 4; Eng. Act, sec. 55, subsec. (5).

Subsec. (6). N.Z. Act, 1884, s. 15, par. 5; Eng. Act, s. 55, subsecs. (6) and (3).

Subsec. (7). N.Z. Act, 1884, s. 15, par. 6; Eng. Act, s. 55, subsec. (6).

Subsec. (8).

Subsec. (9). N.Z. Act, 1884, s. 15, par. 6; Eng. Act, s. 55, subsec. (6).

Subsec. (10). N.Z. Act, 1884, s. 15, par. 7; Eng. Act, s. 55, subsec. (7).

An addition is made in the Bill to limit the amount for which a creditor may prove under this subsection.

The whole of this clause relating to the disclaimer of onerous property requires particular attention and comparison with the English Act. The period of three months from adjudication is allowed to the Assignee to decide whether he will disclaim or not, as in the English Act; but by subsec. (4), which is taken from the English Act, a landlord, by giving special notice to the Assignee, can compel him to decide within one month whether he will disclaim or not. A recent English decision has raised a very important question under this clause with regard to mortgages by demise. It is held that, under the English Act, which in this respect is the same as the New Zealand Act, a mortgagee by demise could not obtain a vesting order without becoming personally liable for all the covenants in the lease. If this were to remain the law it would render leaseholds very undesirable securities. This difficulty is sought to be met in the Bill in this way: vesting orders, except with the consent of under-tenants or mortgagees, cannot be made so as to prejudice these under-leases or mortgages, though the rights of the ground-landlord in case of non-payment of his rent, &c., are preserved. On the other hand, if an underlessee or mortgagee wishes, by a vesting order, to obtain the whole interest of the bankrupt, he must accept the bankrupt's position, and undertake his liabilities.

Clause 85. N.Z. Act, s. 87; Eng. Act, s. 50, subsec. (3).

Clause 86. N.Z. Act, s. 88.

Clause 87. N.Z. Act, s. 89; Eng. Act, s. 50, subsec. (6).

(7.) *Enforcing Surrender of Property.*

Clause 88. N.Z. Act, s. 93; Eng. Act, s. 25.

Subsec. (3). Providing for arrests on a telegram, is new.

Clause 89—

Subsec. (1). N.Z. Act, s. 94; Eng. Act, ss. 51, 25.

Subsec. (2). N.Z. Act, s. 95.

Clause 90. N.Z. Act, s. 97.

Clause 91. N.Z. Act, s. 98; Eng. Act, s. 26.

(8.) *Examination before Assignee.*

Clause 92—

Subsec. (1). N.Z. Act, s. 99; Eng. Act, s. 27, subsec. (1).

Subsec. (2).

This is new. It enables an Assignee, in cases where, owing to distance or otherwise, it is expensive or inconvenient to bring a person to be examined by the Assignee himself, to summon the person to be examined by a Resident Magistrate.

Subsec. (3). N.Z. Act, s. 99.

Subsec. (4). N.Z. Act, s. 99; Eng. Act, s. 27, subsec. (2).

Subsec. (5). N.Z. Act, s. 99.

Subsec. (6). N.Z. Act, s. 100; Eng. Act, s. 27, subsec. (2).

Subsec. (7). N.Z. Act, s. 101.

Subsec. (8). N.Z. Act, s. 102.

Subsec. (9). N.Z. Act, s. 103.

Subsec. (10). N.Z. Act, s. 104.

Clause 93—

Subsecs. (1), (2). N.Z. Act, s. 65.

Subsec. (3).

This is new, but it is in accordance with existing practice.

PART VII.

MEETINGS OF CREDITORS.

(1.) *Summoning of Meetings.*

Clause 94—

Subsec. (1). N.Z. Act, s. 63, subsec. (1); Eng. Act, First Schedule, 1 and 4.

The limit of time for the first meeting is extended by the Bill to fourteen days, to allow more opportunity to distant creditors to attend.

Subsec. (2). N.Z. Act, s. 63, subsec. (2); Eng. Act, First Schedule, 2.

Provision is made by this for sending notice by post-card of the first meeting to all creditors.

Subsec. (3). N.Z. Act, s. 62, R. 17; Eng. Act, First Schedule, 5.

Subsec. (4). Eng. Act, First Schedule, 6.

(2.) *Procedure.*

Clause 95—

Subsec. (1). N.Z. Act, s. 62; Eng. Act, First Schedule, 7.

Subsec. (2). N.Z. Act, ss. 62 and 63, subsec. (3); Eng. Act, First Schedule, 22.

Subsec. (3). N.Z. Act, s. 62.

Subsec. (4). N.Z., R. 19; Eng. Act, First Schedule, 25.

Subsec. (5). N.Z. Act, s. 62.

Subsec. (6). N.Z., R. 23; Eng. Act, First Schedule, 23.

Subsec. (7). N.Z., R. 22; Eng. Act, First Schedule, 24.

The time allowed for creditors to attend before a meeting lapses is made a quarter of an hour here instead of half an hour as at present.

(3.) *Proxies.*

Clause 96—

Subsec. (1). N.Z. Act, s. 61, subsec. (5), R. 26; Eng. Act, First Schedule, 15.

Subsec. (2). Eng. Act, First Schedule, 16.

Subsec. (3). Eng. Act, First Schedule, 17.

Subsec. (4).

Subsec. (5). Eng. Act, First Schedule, 18.

Subsec. (6). N.Z. Act, s. 61, subsec. (5), last paragraph; Eng. Act, First Schedule, 26.

Subsec. (7).

This subsection is quite new, but will be of great use to creditors at a distance.

(4.) *Voting.*

Clause 97—

Subsec. (1). N.Z. Act, s. 61, subsec. (1); Eng. Act, First Schedule, 8.

Subsec. (2). N.Z. Act, s. 61, subsec. (2); Eng. Act, First Schedule, 9.

Subsec. (3). N.Z. Act, s. 61, subsec. (3); Eng. Act, First Schedule, 10.

Subsec. (4). Eng. Act, First Schedule, 11.

This provision is quite new in New Zealand, and requires some consideration, as it is of great importance to holders of indorsed bills. It, of course, only applies to voting.

Subsec. (5). N.Z. Act, s. 116; Eng. Act, First Schedule, 13.

Subsec. (6). Eng. Act, First Schedule, 14.

There is a power of appeal, as has already been pointed out, given by s. 68.

PART VIII.

PROOFS OF DEBTS.

(1.) *What Debts are provable.*

Clause 98—

Subsec. (1). Eng. Act, s. 37, subsec. (1).

Subsec. (2). Eng. Act, s. 37, subsec. (2).

This effects an important change, as it renders debts incurred after the creditor has notice of an act of bankruptcy not provable; but an exception has been made in the bill of debts incurred for the supply of the necessaries of life for the bankrupt and his family.

Subsec. (3). N.Z. Act, s. 106; Eng. Act, s. 37, subsec. (3).

(2.) *Effect of Proof.*

Clause 99. N.Z. Act, s. 105.

(3.) *Debts, how and when proved.*

Clause 100—

Subsec. (1). N.Z. Act, s. 107, subsec. (1); Eng. Act, Second Schedule, 1.

- Subsec. (2). N.Z. Act, s. 107, subsec. (2), and s. 108; Eng. Act, Second Schedule, 2.
- Subsec. (3). Eng. Act, Second Schedule, 3.
- Subsec. (4). N.Z. Act, s. 108; Eng. Act, Second Schedule, 4.
- Subsec. (5). Eng. Act, Second Schedule, 6.
- Subsec. (6). Eng. Act, Second Schedule, 7.
- Subsec. (7). N.Z. Act, s. 107, subsec. (4).
- Subsec. (8). N.Z. Act, s. 107, subsec. (4).
- Subsec. (9). N.Z. Act, s. 107, subsec. (7); Eng. Act, Second Schedule, 1.

This subsection provides that proofs shall not be accepted after a month, except under special circumstances, approved by the Assignee or by the Court. At present the period is four months, and this period of four months can only be extended by the Court. The delay in lodging proofs renders it impossible to wind estates up quickly.

- Subsec. (10). N.Z. Act, s. 109; Eng. Act, s. 148.

(4.) *Admission or Rejection of Proofs.*

Clause 101—

- Subsec. (1). Eng. Act, Second Schedule, 22.
- Subsec. (2). Eng. Act, Second Schedule, 23.
- Subsec. (3).
- Subsec. (4). N.Z. Act, s. 110.
- Subsec. (5). N.Z. Act, s. 111.
- Subsec. (6). N.Z. Act, s. 111.

(5.) *Proofs by Secured Creditors.*

Clause 102—

- Subsec. (1). N.Z. Act, s. 107, subsec. (5); Eng. Act, Second Schedule, 11.
- Subsec. (2). Eng. Act, Second Schedule, 10.
- Subsec. (3). Eng. Act, Second Schedule, 12 (b).
- Subsec. (4). Eng. Act, Second Schedule, 12 (b).
- Subsec. (5). Eng. Act, Second Schedule, 13.
- Subsec. (6). N.Z. Act, s. 107, subsec. (6); Eng. Act, Second Schedule, 12 (a).
- Subsec. (7).

This is quite new. It will prove a valuable check on valuations by secured creditors of their securities.

- Subsec. (8). Eng. Act, Second Schedule, 15.

The proviso to this subsection is new, and it is intended to remedy a grievance which the unsecured creditors sometimes suffer. A mortgagee can put up the property mortgaged through the Registrar of the Supreme Court, and if no one wishes to buy the property he is sometimes able to buy it in for a mere trifle, and then he can prove for the whole of the balance of his debt. No doubt it is open to the creditors to protect themselves, but it may easily happen that they are not in a position to risk having to buy the property even at a low price. It is more fair that the mortgagee should have to value his security, unless he makes a *bona fide* sale of it to some other person.

- Subsec. (9). Eng. Act, Second Schedule, 16.
- Subsec. (10). Eng. Act, Second Schedule, 17.

(6.) Proofs in Particular Cases.*(a.) Trade Discounts.*

Clause 103. Eng. Act, Second Schedule, 8.

This is a new clause in New Zealand. The provision as to cash discounts is designed to meet the case of bogus discounts intended to be disallowed in case of bankruptcy.

(b.) Set-off.

Clause 104. N.Z. Act, s. 112; Eng. Act, s. 38.

The proviso at the end of this clause is new, and is important: It is taken from the English Act, and is designed to prevent contra accounts being run up when bankruptcy is impending. The clause as to periodical payments, which is 122 in the New Zealand Act and 19 in the Second Schedule to the English Act, has not been repeated here. The Apportionment Act would seem to render it unnecessary.

(c.) Interest.

Clause 105. N.Z. Act, s. 113; Eng. Act, Second Schedule, 20.

It will be noticed that here and in other clauses of the Bill, where interest is mentioned, the rate is fixed at six pounds per cent. instead of eight pounds per cent. This is in accordance with the recent change in the rate of interest on judgment debts.

(d.) Debt payable at a Future Time.

Clause 106. N.Z. Act, s. 114; Eng. Act, Second Schedule, 21.

The clause as to debts payable by instalments, which is 115 in the New Zealand Act, has not been repeated here, being apparently unnecessary.

(e.) Debt owing on Invalid Security.

Clause 107. N.Z. Act, s. 120.

(f.) Partnership Debts.

Clause 108—

Subsec. (1). N.Z. Act, 1884, s. 3; Eng. Act, Second Schedule, subsec. (18).

Subsec. (2). N.Z. Act, 1884, s. 4.

(g.) Contingent Debts.

Clause 109. N.Z. Act, ss. 126, 127—

Subsec. (1). Eng. Act, s. 37, subsec. (4).

Subsec. (2). Eng. Act, s. 37, subsec. (5).

Subsec. (3). Eng. Act, s. 37, subsec. (6).

Subsec. (4). Eng. Act, s. 37, subsec. (7).

This clause is taken from the English Act, and is quite different from the sections of the New Zealand Act dealing with contingent debts.

(h.) Unliquidated Damages.

Clause 110. N.Z. Act, s. 118; Eng. Act, s. 37, subsec. (1).

(i.) Calls on Shares.

Clause 111. N.Z. Act, s. 131.

The portion of s. 131 of the New Zealand Act by which the bankrupt is discharged from his liabilities on shares, and ceases to be a member of a company is inserted in clause 84, subsec. (2.)

(j.) Wages and Salaries.

Clause 112. N.Z. Act, s. 137, seventh paragraph.

(k.) Policies of Insurance.

Clause 113. N.Z. Act, s. 124.

Section 123 of the New Zealand Act is not repeated here, as it seems to be covered by the provisions respecting contingent debts.

(l.) Surety.

Clause 114. N.Z. Act, s. 130.

Sections 128 and 129 of the New Zealand Act have not been repeated here, as they seem to be unnecessary.

(m.) Costs.

Clause 115. N.Z. Act, s. 132.

Clause 116. N.Z. Act, s. 119.

(n.) Proof where Action brought.

Clause 117. N.Z. Act, s. 133.

PART IX.

COMPOSITION WITH CREDITORS.

Clause 118—

Subsec. (1). N.Z. Act, s. 188, subsec. (1); Eng. Act, s. 18, subsec. (1).

Subsec. (2). N.Z. Act, s. 188, subsec. (2); Eng. Act, s. 18, subsec. (2).

Subsec. (3). N.Z. Act, s. 188, subsec. (3); Eng. Act, s. 18, subsec. (3).

Subsec. (4). N.Z. Act, s. 188, subsec. (4); Eng. Act, s. 18, subsec. (2).

Subsec. (5). N.Z. Act, s. 188, subsec. (5); Eng. Act, s. 18, subsec. (4).

Subsec. (6). N.Z. Act, s. 188, subsec. (5); Eng. Act, s. 18, subsec. (5).

Subsec. (7). N.Z. Act, s. 188, subsec. (5); Eng. Act, s. 18, subsec. (6).

Subsec. (8). Eng. Act, s. 18, subsec. (14).

Subsec. (9). N.Z. Act, s. 188, subsec. (5); Eng. Act, s. 18, subsec. (7).

Subsec. (10). N.Z. Act, s. 188, subsec. (6); Eng. Act, s. 18, subsec. (8).

Subsec. (11). Eng. G.R., 162.

Subsec. (12). N.Z. Act, s. 188, subsec. (7); Eng. Act, s. 18, subsec. (9).

Subsec. (13). N.Z. Act, s. 189.

Subsec. (14). N.Z. Act, s. 190.

Subsec. (15). N.Z. Act, s. 191.

Subsec. (16). N.Z. Act, s. 191.

Subsec. (17). Eng. G.R., 163.

Subsec. (18). Eng. G.R., 164.

Subsec. (19). N.Z. Act, s. 188, subsec. (8); Eng. Act, s. 18, subsec. (10).

Subsec. (20). N.Z. Act, s. 192.

Subsec. (21). N.Z. Act, s. 192.

- Subsec. (22). N.Z. Act, s. 193.
 Subsec. (23). N.Z. Act, s. 194.
 Subsec. (24). N.Z. Act, s. 195.
 Subsec. (25). N.Z. Act, s. 196.
 Subsec. (26).

This is new. It seems to be doubtful whether the Assignee is entitled to any costs at all if there is a composition. These elaborate provisions as to compositions are retained, as they are in both the New Zealand and the English Acts; but they are but little used, as it is more common to sell the estate to the debtor or to a trustee for him where a composition is intended to be taken.

PART X.

DISTRIBUTION OF ASSETS.

(1.) *Assignee's Bank Account.*

Clause 119—

- Subsec. (1). N.Z. Act, s. 135; Eng. Act, s. 74, subsec. (3).
 Subsec. (2). N.Z. Act, s. 135; Eng. Act, s. 74, subsec. (7).
 Subsec. (3). N.Z. Act, s. 136; Eng. Act, s. 74, subsec. (6).

By this clause the necessity for the bank account to be in the joint names of the Assignee and supervisors, and for the supervisors to countersign the cheques, is done away with.

(2.) *Application of Assets when realised.*

Clause 120—

- Firstly: N.Z. Act, s. 137.
 Secondly: N.Z. Act, s. 229.
 Thirdly: N.Z. Act, s. 121, and N.Z. Act, 1884, s. 16.

The second proviso to this division of the clause effects a change in the law. At present the landlord is entitled to his preferential claim as long as there are goods available for taking, no matter whether those goods are under bill of sale or are the furniture, &c., to which the bankrupt is entitled under the Act. This is unfair to the other creditors, as they may have to pay the landlord out of the other assets, though they themselves have no claim on the the goods.

- Fourthly: N.Z. Act, s. 137, subsecs. (1), (2), (3), (4), and N.Z. Act, 1884, s. 18; Eng. Act, s. 40, subsec. (1), (b), (c).

This division of the clause has been taken from the English Act, which it will be seen is more liberal in the matter of salary and wages than our present Act. The apprentice's claim for his fee is here put on the same footing as claims for wages.

- Fifthly: N.Z. Act, s. 137, subsecs. (1) and (2), towards the end of the section.
 Sixthly: N.Z. Act, s. 140, subsec. (2); Eng. Act, s. 40, subsec. (4).
 Seventhly: Eng. Act, s. 40, subsec. (5).

This provides for the payment of interest at £6 per cent. on debts provable when there are assets sufficient.

Eighthly: N.Z. Act, s. 148; Eng. Act, s. 65.

It should be remembered that rates have been taken out of the list of preferential claims in this Bill. The only ground for making rates a preferential claim is to save the local body from loss. But a local body can always obtain payment of the rates by selling or letting the land (see subsection (5) of clause 55). Therefore, the effect of making rates a preferential claim would only be to give a preference indirectly to some other person, such as the mortgagee, or owner, or occupier, who can be made to pay the rates under the Rating Acts, and who should prove for them in the ordinary course. Of course, when no other person is liable for the rates, the Assignee will pay them to save the land from sale.

Clause 121. N.Z. Act, s. 71, subsec. (2); Eng. Act, s. 44, subsec. (2).

This clause is framed to meet a difficulty which sometimes arises under the present Act. Sometimes the furniture, tools, &c., do not equal in value the £25 allowed by the Act, and it is not clear whether the bankrupt is entitled to have £25 made up out of other assets.

Clause 122. N.Z. Act, s. 71, subsec. (2).

(3.) *Dividends.*

Clause 123—

Subsec. (1). N.Z. Act, s. 141, subsec. (1); Eng. Act, s. 58, subsec. (1).

Subsec. (2). N.Z. Act, s. 141, par. (2).

Subsec. (3). N.Z. Act, s. 142, par. (1).

Subsec. (4). N.Z. Act, s. 142, par. (2).

Subsec. (5). N.Z. Act, s. 143; Eng. Act., s. 60 and 62.

Subsec. (6).

Subsec. (7). N.Z. Act, s. 144; Eng. Act, s. 61.

Subsec. (8).

Subsec. (9).

Subsec. (10). N.Z. Act, s. 145, par. (2); Eng. Act, s. 59, subsec. (1).

Subsec. (11). N.Z. Act, s. 146; Eng. Act, s. 62.

Subsec. (12). Eng. G.R., 176.

It may be remarked here that s. 150 of the New Zealand Act, relating to the close of the bankruptcy, has not been inserted in the Bill. It is not in the English Act. The formal closing of the bankruptcy serves no particular purpose, and only throws doubts upon the Assignee's powers should any fresh property of the bankrupt be discovered afterwards.

PART XI.

DISCHARGE.

(1.) *Examination of Bankrupt.*

Clause 124—

Subsec. (1). N.Z. Act, s. 149, subsec. (1); N.Z. Act, 1885, s. 11; Eng. Act, s. 17, subsec. (1).

Subsec. (2). N.Z. Act, s. 149, subsec. (1).

Subsec. (3). N.Z. Act, s. 38.

Subsec. (4). N.Z. Act, s. 149, subsec. (2); Eng. Act, s. 17, subsecs. (4), (5), (6).

Subsec. (5). N.Z. Act, s. 149, subsec. (4); Eng. Act, s. 17, subsec. (8).

Subsec. (6). N.Z. Act, s. 149, subsec. (5); Eng. Act, s. 17, subsec. (9).

The principal changes effected by this clause 124 in the present law are, first, that it is not necessary to apply to the Court to fix the day for the public examination; and, next, it is made clear by subsec. (5) that the bankrupt's examination can be used against him though it is otherwise as regards his evidence on all other occasions. See clause 93, subsec. (2).

(2.) *Application for Discharge.*

Clause 125—

Subsec. (1). N.Z. Act, s. 152, subsec. (1); Eng. Act, s. 28, subsec. (1).

Subsec. (2). N.Z. Act, s. 153.

The changes effected by this clause are that it does away with the necessity of applying to the Court to fix the day for the application, and that it is not necessary by this clause to obtain a recommendation of a discharge from the creditors. The application can of course always be opposed by any creditor.

(3.) *Hearing of Application.*

Clause 126—

Subsec. (1). N.Z. Act, s. 156; Eng. Act, s. 28, subsec. (5).

Subsec. (2). N.Z. Act, s. 154; Eng. Act, s. 28, subsec. (5).

Subsec. (3). N.Z. Act, s. 155.

Subsec. (4). N.Z. Act, s. 38.

Clause 127. N.Z. Act, ss. 156, 157; Eng. Act, s. 28, subsec. (2).

Clause 128. N.Z. Act, s. 137, proviso.

This clause does not prevent the bankrupt obtaining his discharge if he fails to pay all wages and salaries, &c., owing by him. The disability only applies to those portions of the claims for wages which are preferential claims, and even then the disability can be removed by the consent of the persons to whom the wages are owing.

Clause 129—

Subsec. (1); Eng. Act, s. 28, subsec. (7).

This clause, which provides for the revocation of an order of discharge on certain conditions, is entirely new, and may be considered of doubtful policy; but, as is shown, it exists in the English Act.

Subsec. (2).

Subsec. (3).

Subsec. (4).

Clause 130.

Clause 131. Eng. Act, s. 28, subsec. (6).

Section 158 of the New Zealand Act, by which it may be made a condition of discharge that the bankrupt shall pay a dividend of so many shillings in the pound, is not

inserted in the Bill, as the same result may be obtained by this clause 131.

Clause 132. N.Z. Act, s. 160.

(4.) *Effect of Discharge.*

Clause 133. N.Z. Act, s. 161 ; Eng. Act, s. 30, subsecs. (1), (2).

Clause 134. N.Z. Act, s. 162 ; Eng. Act, s. 30, subsec. (3).

Clause 135. Eng. Act, s. 30, subsec. (4).

Clause 136. N.Z. Act, s. 214. Eng. Act, s. 28, subsec. (7).

PART XII.

Clause 137—

Subsec. (1). N.Z. Act, s. 151 ; Eng. Act, s. 35, subsec. (1).

Subsec. (1) (a). N.Z. Act, s. 151, subsec. (1).

Subsec. (1) (b). N.Z. Act, s. 151, subsec. (2).

Subsec. (1) (c). N.Z. Act, s. 151, subsec. (3).

Subsec. (2). N.Z. Act, s. 151 ; Eng. Act, s. 36.

Subsec. (3). N.Z. Act, s. 151 ; Eng. Act, s. 35 ; subsec. (3).

Subsec. (4)—

This is new, and is to remove doubts as to whether it is necessary that on annulling a bankruptcy the property should be conveyed back by the Assignee.

Subsec. (5). Eng. Act, s. 35, subsec. (2).

Subsec. (6). N.Z. Act, s. 190, paragraph 2.

PART XIII.

PENAL.

(1.) *Offences.*

Clause 138—

The first nine subsections of this clause are the offences which at present are punishable under the summary jurisdiction clauses in the present New Zealand Act. Under the present Act in England only those contained in the sixth, seventh, and eighth subsections are offences, and then they are misdemeanours. The offences mentioned in the rest of the first nine subsections are not offences at all in England. They are only grounds for withholding a discharge. By this clause all these offences are made misdemeanours, and therefore indictable offences, though, with the prisoner's consent, the Justices may determine any case summarily.

Subsec. (1). N.Z. Act, s. 171, subsec. (1).

Subsec. (2). N.Z. Act, s. 171, subsec. (2) ; Eng. Act, s. 28, subsec. (3) (c).

Subsec. (3). N.Z. Act, s. 171, subsec. (3) ; Eng. Act, s. 28, subsec. (3) (a).

Subsec. (4). N.Z. Act, s. 171, subsec. (4) ; Eng. Act, s. 28, subsec. (3) (a).

Subsec. (5). N.Z. Act, s. 171, subsec. (5) ; Eng. Act, s. 28, subsec. (3) (e).

Subsec. (6). N.Z. Act, s. 171, subsec. (6) ; Eng. Debtors Act, 1869, s. 13, subsec. (1).

Subsec. (7). N.Z. Act, s. 171, subsec. (7) ; Eng. Debtors Act, 1869, s. 13, subsec. (2).

Subsec. (8). N.Z. Act, s. 171, subsec. (8); Eng. Debtors Act, 1869, s. 13, subsec. (3).

Subsec. (9). N.Z. Act, s. 171, subsec. (9); Eng. Act, s. 28, subsec. (3) (*d*).

The words gambling and drunkenness are inserted in this subsection.

Subsec. (10).

Subsection (10) is a new offence. It is intended to meet the case of bankrupts who give away considerable sums of money to relatives or other people, for which payments no good reason can be given, and yet it may be impossible to prove fraud.

Subsec. (11). N.Z. Act, s. 163, subsec. (1); Eng. Debtors Act, s. 11, subsec. (1).

Subsec. (12). N.Z. Act, s. 163, subsec. (2); Eng. Debtors Act, 1869, s. 11, subsecs. (2), (3).

Subsec. (13). N.Z. Act, s. 163, subsec. (3); Eng. Debtors Act, 1869, s. 11, subsec. (6).

Subsec. (14). N.Z. Act, s. 163, subsec. (4); Eng. Debtors Act, 1869, s. 11, subsec. (7).

Subsec. (15). N.Z. Act, s. 163, subsec. (5); Eng. Debtors Act, 1869, s. 11, subsec. (8).

Subsec. (16). N.Z. Act, s. 163, subsec. (6); Eng. Debtors Act, 1869, s. 11, subsecs. (9), (10), (11).

Subsec. (17). N.Z. Act, s. 68, subsec. (2), paragraph 2.

The words at the end of this subsection, exonerating the bankrupt, if he proves that he had no intent to defraud are new.

Subsec. (18). N.Z. Act, s. 163, subsec. (7); Eng. Debtors Act, 1869, s. 11, subsecs. (4), (5).

Subsec. (19). N.Z. Act, s. 163, subsec. (8); Eng. Debtors Act, 1869, s. 11, subsec. (12).

Subsec. (20). N.Z. Act, s. 163, subsec. (9); Eng. Debtors Act, 1869, s. 11, subsecs. (13), (14), (15).

Subsec. (21). N.Z. Act, s. 163, subsec. (10); Eng. Debtors Act, 1869, s. 11, subsec. (16).

Subsec. (22). N.Z. Act, s. 164; Eng. Debtors Act, 1869, s. 12.

Subsec. (23). Eng. Act, s. 31.

This subsection is new in New Zealand. It provides for punishing an undischarged bankrupt who gets credit without disclosing that he is undischarged.

Subsec. (24). Eng. Act, s. 28, subsec. (3) (*f*).

In subsections (11), (12), (13), (15), (16), (18), and (20), the words "unless the jury are satisfied," which appears in the corresponding clauses of the New Zealand and English Acts, have been altered in this Bill to "unless it is proved," to meet the case where the offence is tried summarily by the Justices, as provided later on. In subsections (16), (18), (19), (20), and (22) the period of four months, which is mentioned in the corresponding clauses of the New Zealand and English Acts, has been altered to twelve months in the Bill.

Clause 139. N.Z. Act, s. 59, subsec. (3).

By this clause the failure to file the three days' state-

ment, and to perform the other duties imposed on bankrupts by the *sixtieth*, *sixty-first*, and *sixty-second* clauses is made contempt of Court; at present the penalty for not filing the statement is that the debtor does not get protection; but unless this means that his property is not protected, in which case the creditors are really punished and not the bankrupt, it has not much meaning, as there is no need for protection to his person except in the few cases where an order for committal on a judgment summons has been made against him.

Clause 140.

Clause 141.

This is new, and is designed to fix a limit to the absolute powers of the Judge to punish for contempt.

Clause 142. N.Z. Act, s. 91.

Clause 143. N.Z. Act, s. 207.

Clause 144. N.Z. Act, ss. 165 and 201; Eng. Debtors Act, 1869, s. 14.

(2.) *Summary Trial of Misdemeanours.*

Clause 145.

This, of course, is entirely new.

(3.) *Miscellaneous.*

Clause 146. N.Z. Act, s. 166; Eng. Act, s. 165.

Clause 147. Eng. Debtors Act, 1869, s. 16.

Clause 148. N.Z. Act, s. 167; Eng. Debtors Act, 1869, s. 17.

Clause 149. N.Z. Act, s. 168; Eng. Debtors Act, 1869, s. 18.

Clause 150. N.Z. Act, s. 169; Eng. Debtors Act, 1869, s. 19.

Clause 151. N.Z. Act, s. 170.

PART XIV.

MISCELLANEOUS.

(1.) *Rights of the Crown.*

Clause 152. Eng. Act, s. 150.

(2.) *Accounts, Audit.*

Clause 153—

Subsec. (1). N.Z. Act, s. 173.

Subsec. (2).

This makes the Audit Office the auditors of the accounts of Official Assignees. Provision is also made by subsection (4) of this clause requiring the Audit Office to file a report on the accounts upon the announcement of a final dividend without the necessity of applying to the Court to refer the accounts to the Auditor, which is the present very round-about course.

Subsec. (3). N.Z. Act, s. 176; Eng. Act, s. 78, subsec. (4).

Subsec. (4). N.Z. Act, s. 177.

Subsec. (5). N.Z. Act, s. 177.

Subsec. (6). N.Z. Act, s. 178.

(3.) *Release of Assignee.*

Clause 154—

Subsec. (1). N.Z. Act, s. 179.

Subsec. (2). N.Z. Act, s. 180.

- Subsec. (3). N.Z. Act, s. 180 ; Eng. Act, s. 82, subsec. (1).
 Subsec. (4). N.Z. Act, s. 181 ; Eng. Act, s. 82, subsec. (2).
 Subsec. (5). N.Z. Act, s. 182 ; Eng. Act, s. 82, subsec. (3).
 Subsec. (6). N.Z. Act, s. 182.
 Subsec. (7).

Some changes are made by this clause: Application to the Court to fix a day for the hearing of an application for a release is rendered unnecessary, and the release is made a release from his administration, not from his office as Assignee; and by subsection (7) recognition is made of the fact that other property may come to the Assignee after the date of the order of release, and he is enabled, after dealing with it, to apply for and obtain a further order of release.

(4.) *Surplus Moneys.*

Clause 155—

Subsec. (1). N.Z. Act, s. 183 ; Eng. Act, s. 162.

By this subsection the necessity for an Order of Court transferring the moneys from the Bank to the Public Trust Office is dispensed with.

- Subsec. (2). N.Z. Act, s. 184.
 Subsec. (3). N.Z. Act, s. 185.
 Subsec. (4). N.Z. Act, s. 186.
 Subsec. (5.)

This is new.

Subsec. (6). N.Z. Act, s. 187.

(5.) *Witnesses and Evidence.*

Clause 156—

- Subsec. (1). N.Z. Act, s. 200 ; Eng. Act, s. 135.
 Subsec. (2). N.Z. Act, s. 202 ; Eng. Act, s. 136.
 Subsec. (3). N.Z. Act, s. 203 ; Eng. Act, s. 134.
 Subsec. (4). N.Z. Act, s. 204.
 Subsec. (5). N.Z. Act, s. 205 ; Eng. Act, s. 132, subsec. (2).
 Subsec. (6). N.Z. Act, s. 206.
 Subsec. (7). N.Z. Act, s. 206.
 Subsec. (8.)

This is new, and has been referred to before in the remarks on the Interpretation-clause.

(6.) *Notice and Service of Documents.*

Clause 157—

- Subsec. (1). N.Z. Act, s. 208, and 1884, s. 13 ; Eng. Act, s. 142.
 Subsec. (2). N.Z. Act, s. 209.
 Subsec. (3). N.Z. Act, s. 209 ; Eng. Act, s. 148.
 Subsec. (4). N.Z. Act, s. 210.
 Subsec. (5). Eng. Act, s. 11.
 Subsec. (6).
 Subsec. (7).

The first and second subsection of this clause has been slightly added to, giving power to the Court to direct the mode of service on absentees.

(7.) *Miscellaneous Provisions.*

Clause 158. N.Z. Act, s. 211.

Clause 159. N.Z. Act, s. 212.

Clause 160. N.Z. Act, s. 213.

Clause 161. N.Z. Act, s. 215.

Clause 162. N.Z. Act, s. 216; Eng. Act, s. 143, subsec. (1).

Clause 163. N.Z. Act, s. 217.

(8.) *Protection of Persons in Execution of this Act.*

Clause 164—

Subsec. (1).

This is new, and is necessary if the onus of instituting criminal proceedings is to be thrown upon the Assignee.

Subsec. (2). N.Z. Act, s. 222.

Subsec. (3). N.Z. Act, s. 223.

Subsec. (4). N.Z. Act, s. 224.

Subsec. (5). N.Z. Act, s. 225.

Subsec. (6). N.Z. Act, s. 226.

Subsec. (7). N.Z. Act, s. 227.

Subsec. (8). N.Z. Act, s. 218.

Subsec. (9). N.Z. Act, s. 218.

Subsec. (10). N.Z. Act, s. 218.

Subsec. (11). N.Z. Act, s. 219.

Subsec. (12). N.Z. Act, s. 220.

Subsec. (13). N.Z. Act, s. 221.

It is worthy of note that no such protection as is given by this clause to Assignees and their officers is given under the English Act to the Trustees.

(9.) *Stamps.*

Clause 165. N.Z. Act, s. 228; Eng. Act, s. 144.

Receipts have been added to the list of exemptions.

(10.) *Commission.*

Clause 166. N.Z. Act, s. 229; Eng. Act, s. 128, subsec. (1).

(11.) *Court Fees remitted.*

Clause 167. See note to clause 30.

(12.) *Advertisements and Postages paid out of Consolidated Fund.*

Clause 168. See note to clause 30.

(13.) *Costs.*

Clause 169—

Subsec. (1). N.Z. Act, s. 230.

This subsection provides for a scale of costs being fixed by the rules.

Subsec. (2). N.Z. Act, s. 230.

Subsec. (3). N.Z. Act, 1885, s. 8.

Ten pounds has been inserted here instead of five pounds, as in the present Act, and provision is made compelling Solicitors to render their costs within a month.

Subsec. (4). N.Z. Act, s. 231.

Subsec. (5). N.Z. Act, s. 232.

Subsec. (6). N.Z. Act, s. 233.

(14.) *Repeals.*

Clause 170. N.Z. Act, s. 234; Eng. Act, s. 149.

Clause 171. N.Z. Act, s. 235; Eng. Act, s. 169.

Schedules.