

Hon. Mr. Tole.

BANKRUPTCY ACT 1883 AMENDMENT.

ANALYSIS.

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1. Short Title.	7. Amendment of section 179 of the said Act.
2. Repeal of section 40, "Bankruptcy Act, 1883."	8. Amendment of section 231 of the said Act.
Substituted provision therefor.	9. Where goods of debtor above value of £50
3. Governor may appoint Acting Official Assignee.	taken in execution and sold, proceeds of
4. Amendment of subsection 7 of section 107 of the said Act.	sale to be held in trust for fourteen days.
5. Amendment of section 177 of the said Act.	10. Affidavit or proof of debt may be sworn before
	Official Assignee or Deputy Assignee.
	11. Public examination of bankrupt abolished,
	except in certain cases.

A BILL INTITULED

AN ACT to amend "The Bankruptcy Act, 1883."

Title.

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 Bankruptcy Act 1883 Amendment Act, 1885." It shall come into operation on the day of , one thousand eight hundred and eighty-five.

Short Title.

10 2. Section forty of "The Bankruptcy Act, 1883" (hereinafter termed "the said Act"), is hereby repealed, and in lieu thereof it is enacted that the Governor may, by writing under his hand, appoint a fit person to be deputy of the Assignee in the management of any particular estate, or generally as to any bankrupt estates. Every deputy so appointed shall, with respect to the matters placed under

Repeal of section 40, "Bankruptcy Act, 1883." Substituted provision therefor.

15 his management, have and may exercise all the powers and duties of an Assignee, and shall receive such remuneration and give such security as the Governor may in each case, or the Governor in Council may by any general rules, direct.

20 Every deputy shall act under the control and direction of the Assignee of the district: Provided that nothing herein contained shall affect the status of any Deputy Assignee or other person duly appointed under the said Act, and all proceedings relative to the

property or person of any bankrupt now had, taken, or commenced, may be continued and completed in the same manner as if this Act had not passed.

Governor may
appoint Acting
Official Assignee.

3. In the event of the illness or temporary absence of the Official Assignee, the Governor may appoint any fit person to be Acting Official Assignee during such illness or temporary absence, upon such terms as the Governor may think fit: Any such Acting Official Assignee may exercise all the powers and duties of the Official Assignee. 5

Amendment of sub-
section 7 of section
107 of the said Act.

4. The words "three months," appearing in subsection seven of section one hundred and seven of the said Act, shall henceforth be omitted therefrom, and the words "four months" shall be inserted in lieu thereof. 10

Amendment of
section 177 of the
said Act.

5. Section one hundred and seventy-seven of the said Act shall henceforth be read as if the following words were added thereto, namely, "and shall be accompanied by a report, signed by the Auditor, as to the correctness or otherwise of the accounts set forth in such statement." 15

Amendment of
section 178 of the
said Act.

6. Section one hundred and seventy-eight of the said Act shall henceforth be read as if all the words of the said section following the word "advertised" had been omitted. 20

Amendment of
section 179 of the
said Act.

7. Section one hundred and seventy-nine of the said Act shall henceforth be read as if the following words were omitted therefrom, namely: "upon such report being furnished to the Court by the Auditor." 25

Amendment of
section 231 of the
said Act.

8. So much of section two hundred and thirty-one of the said Act as provides that "no costs shall be paid except upon an order of the Judge" is hereby repealed, and in lieu thereof it is enacted as follows: "The Assignee may, if he think fit, pay any costs relative to proceedings in bankruptcy, not exceeding *five* pounds in amount, but no costs beyond that sum shall be paid, except upon an order of the Court or a Judge thereof." 30

Where goods of
debtor above value
of £50 taken in
execution and sold,
proceeds of sale to
be held in trust for
fourteen days.

9. Where the goods of any debtor have been taken in execution in respect of a judgment for a sum exceeding *fifty* pounds and sold, the sheriff, bailiff, or other officer of the Court out of which such execution shall have issued shall retain the proceeds of such sale in his hands for a period of fourteen days, and, upon notice being served upon him within that period of a petition in bankruptcy having been presented against such debtor, shall hold the proceeds of such sale, after deducting expenses, on trust to pay the same to the Assignee; but if no notice of such petition having been presented be served on him within such period of fourteen days, or if, such notice having been served, the debtor against whom the petition has been presented is not adjudged a bankrupt on such petition or on any other petition of which the sheriff, bailiff, or other officer has notice, he may deal with the proceeds of such sale in the same manner as he would have done had no notice of the presentation of a petition in bankruptcy been served upon him. 35 40 45

Affidavit or proof of
debt may be sworn
before Official
Assignee or
Deputy Assignee.

10. Any affidavit or proof of debt required to be filed, read, or used in relation to any bankrupt estate may be sworn before the Official Assignee or Deputy Assignee administering the estate to which such affidavit relates. 50

11. Upon and after the coming into operation of this Act it shall not be necessary for the Court to hold any public sitting for the examination of any bankrupt, nor for the bankrupt to pass any public examination as in the said Act provided, except in the cases following:—

Public examination of bankrupt abolished, except in certain cases.

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- (a.) If the Official Assignee or Deputy Assignee shall, within month after the making of an order of adjudication against the debtor, file in the Court a statement to the effect that such examination is, in his opinion, desirable;
 - (b.) If the creditors shall, at any meeting of creditors, pass an ordinary resolution to the effect that such public examination is desirable, and file such resolution, or a copy thereof verified by affidavit, in the Court within month after the making of the order of adjudication against the debtor.

In either of such cases the provisions of the said Act, touching the public examination of bankrupts, shall apply *mutatis mutandis*.