

## New Zealand.



### ANALYSIS.

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### 1897, No. 5.

- Title.** AN ACT to empower the Court of Appeal of New Zealand to determine certain Questions of Law relating to the Representation of the Awarua Electoral District in the Present Parliament.  
[13th October, 1897.]
- Preamble.** WHEREAS during the present session of Parliament it was referred to a Committee of the House of Representatives to inquire and report (*inter alia*) as to whether under the existing law the seat of the member for the Awarua Electoral District had become vacant :  
And whereas on the eighth day of October, one thousand eight hundred and ninety-seven, the Committee in its report recommended that the opinion of the Court of Appeal of New Zealand should be taken as to whether upon the facts stated in the report (being the facts hereinafter specified) the seat was vacant ; and, if so, on what date the vacancy occurred :  
And whereas it is expedient to give effect to such recommendation :
- BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—
- Short Title.** 1. The Short Title of this Act is “The Awarua Seat Inquiry Act, 1897.”
- Reference to Court of Appeal.** 2. The Court of Appeal of New Zealand (hereinafter called “the Court”) is hereby empowered and directed to determine whether under the existing law, and upon the facts hereinafter specified, the seat of the member for the Awarua Electoral District in the present Parliament has become vacant ; and, if so, on what date the vacancy occurred.
- Statement of facts of case.** 3. The facts hereinbefore referred to are :—  
(1.) That on the eighth day of July, one thousand eight hundred and ninety-seven, the person now claiming to be the

member was adjudicated a bankrupt under "The Bankruptcy Act, 1892";

- (2.) That on the fifth day of August, one thousand eight hundred and ninety-seven, an election for the Awarua Electoral District took place, and he was a candidate for the seat, and was duly declared to be elected;
- (3.) That on the ninth day of August, one thousand eight hundred and ninety-seven, the writ was duly returned with his name indorsed thereon as the member for that district;
- (4.) That on the twenty-eighth day of September, one thousand eight hundred and ninety-seven, he took the oath and his seat in the House of Representatives as the member for that district, the bankruptcy remaining unannulled, and no order of discharge under the said Act having been obtained;
- (5.) Except in so far as his position may have been affected by his bankruptcy, he possessed all necessary qualifications as a candidate and a member.

4. For the purposes of obtaining the determination of the Court, this Act shall be deemed to be a special case, and with respect thereto the following provisions shall apply:—

Setting down for hearing as a special case.

- (1.) The special case shall be forthwith set down by the Crown Solicitor at Wellington, and shall be heard on such day as is fixed by the Court, being the earliest convenient day.
- (2.) On the hearing of the special case, the person claiming to be the member shall be entitled to appear and be heard by counsel, and the Speaker of the House of Representatives shall also nominate counsel who shall be entitled to appear and be heard *contra*.
- (3.) The costs of the proceedings, including the fees of counsel on both sides, shall be fixed by the Court, and shall be payable out of moneys to be appropriated by Parliament.

Counsel.

Costs.

5. After argument on the special case has been heard, the determination of the Court thereon shall be forthwith forwarded to the Speaker of the House of Representatives by certificate under the hands of two of the Judges before whom the case is heard, and such certificate shall be final and conclusive.

Determination of Court to be forwarded to Speaker.

6. For the purpose of enabling the Court to effectively dispose of the special case and carry out the intention of this Act, the Court shall have in respect of such case all the powers and jurisdictions possessed by it in respect of any proceedings lawfully brought before it.

Powers and jurisdictions of Court.