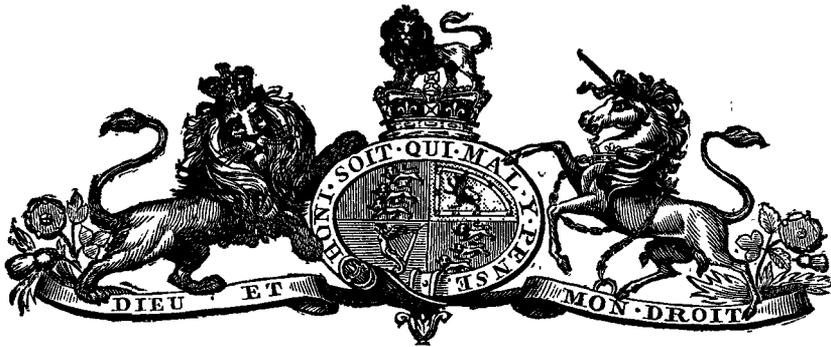


NEW ZEALAND.



ANNO TRICESIMO SECUNDO

VICTORIÆ REGINÆ.

No. XLVII.

ANALYSIS.

<p>Title. Preamble.</p> <p>1. Short Title.</p> <p>2. Act to be read as part of "Bankruptcy Act 1867."</p> <p>3. Judges to appoint <i>Gazettes</i> for purposes of Act.</p> <p>4. On abolition &c. of District Courts cases to be transferred to Supreme Court. When Judge of District Court has made order of discharge and same not sealed Registrar of Supreme Court may seal.</p> <p>5. Declaration out of bankruptcy in certain cases.</p> <p>6. Non-attendance of creditors at meeting to elect trustee &c. Registrar to act.</p> <p>7. Court may appoint a trustee to act in lieu of provisional trustee in such cases.</p> <p>8. Such appointments as trustee to be gazetted.</p> <p>9. Creditor may apply for vesting the estate of debtor in provisional trustee.</p>	<p>10. Notice of such application to be given to debtor.</p> <p>11. Court may make vesting order of estate in the provisional trustee.</p> <p>12. Effect of such vesting order.</p> <p>13. Rates a prior claim.</p> <p>14. Discharge of bankrupt from custody and judgment debt provable.</p> <p>15. Actions for unliquidated damages to be brought within six months.</p> <p>16. Mode of proof.</p> <p>17. Court may discharge bankrupt detained upon final process.</p> <p>18. Bankrupt detained upon mesne process to be discharged.</p> <p>19. Remuneration of acting trustee.</p> <p>20. Trustee to furnish accounts &c.</p> <p>21. In section 295 of said Act "provable" substituted for "probable."</p>
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AN ACT to amend "The Bankruptcy Act 1867." Title.
[20th October 1868.]

WHEREAS it is expedient that "The Bankruptcy Act 1867" Preamble.
 should be amended

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

1. The Short Title of this Act shall be "The Bankruptcy Act Amendment Act 1868." Short Title.

2. This Act shall be read as part of "The Bankruptcy Act 1867" Act to be read as part of "Bankruptcy Act, 1867."
 which said Act is hereinafter referred to as "the said Act."

3. It shall be lawful for the Judge or Judges of each judicial district of the Supreme Court to appoint from time to time by general order any *Gazette* or newspaper published within his or their judicial district to be a *Gazette* for the purposes of the said Act and either for the whole of the judicial district or for any part or parts thereof Judges to appoint *Gazettes* for purposes of Act.

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and publication in such *Gazette* or newspaper is referred to in the said Act as "gazetting."

On abolition &c. of District Courts cases to be transferred to Supreme Court.

4. Upon the abolition or suspension of sittings of any District Court in which proceedings are being taken in any case of bankruptcy all proceedings in such case of bankruptcy shall be deemed to be transferred to the Supreme Court for the judicial district within which such District Court was acting and all future proceedings in every such case shall be carried on as if the petition for adjudication had been presented to the Judge of the Supreme Court for the said judicial district. And whenever any Judge of any District Court shall have made in favour of any bankrupt an order of discharge discharging him from all debts claims and demands provable under his bankruptcy but subsequently to the making of such order and previously to the termination of the time limited by the said Act such District Court shall have been abolished or suspended and in consequence of such abolition or suspension the said order shall not have been sealed or dated the Registrar of the Supreme Court into which the proceedings of the said bankruptcy shall be transferred shall in case no appeal is made within the time limited in that behalf against the said order sign and seal such order of discharge as if it had been originally made in the said Supreme Court.

When Judge of District Court has made order of discharge and same not sealed Registrar of Supreme Court may seal.

Declaration out of bankruptcy in certain cases.

5. The fifty-second section of the said Act is hereby repealed and the following substituted in lieu thereof—Until the expiration of ten days after the notice has been gazetted exclusive of the day of such gazetting the debtor shall not be deemed to have committed an act of bankruptcy by filing the declaration but if within five days after the expiration of that period of ten days proceedings to obtain adjudication against him are taken by a creditor or if proceedings are not so taken by a creditor then if within three days after the expiration of that period of five days such proceedings are taken by the debtor then and in either of those cases but not otherwise the debtor shall be deemed to have committed an act of bankruptcy.

Non-attendance of creditors at meeting to elect trustee &c. Registrar to act.

6. If a sufficient number of creditors of any bankrupt do not attend at the meeting appointed by the order of adjudication it shall be lawful for the Registrar or for the person appointed by him under section ninety-five of the said Act to adjourn such meeting for seven days notice of which adjournment shall be gazetted and if a sufficient number of creditors do not attend at such adjourned meeting the provisional trustee shall then be deemed to be invested with all the powers conferred on trustees and supervisors by the said Act and shall perform all the duties required of them by the said Act and the Court shall forthwith after the said adjourned meeting appoint a day for the bankrupt to pass his last examination in manner required by section one hundred and eleven of the said Act.

Court may appoint a trustee to act in lieu of provisional trustee in such cases.

7. Upon the application of the provisional trustee in any case in which he shall become trustee by reason of the non-attendance of creditors at the meetings appointed for the election of trustee the Court may appoint any other person to be nominated in that behalf by the provisional trustee to be trustee in lieu of the provisional trustee and the trustee so to be appointed shall immediately after his appointment have all the like powers and perform all the like duties as are by this Act or by the said Act conferred or imposed upon the trustee and supervisors.

Such appointments as trustee to be gazetted.

8. Whenever the provisional trustee or any other person nominated by him as aforesaid shall become trustee notice thereof shall forthwith be gazetted and the production of the *Gazette* shall be conclusive evidence of such trusteeship.

Creditor may apply

9. After the gazetting of a declaration of insolvency any creditor

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may forthwith apply to the Court for an order that the estate of the debtor be forthwith vested in the provisional trustee.

for vesting the estate of debtor in provisional trustee.

10. Notice of the intention to make such application shall be given to the debtor not less than one clear day before making the same.

Notice of such application to be given to debtor.

11. The Court may upon such application make an order for vesting the estate in the provisional trustee unless good cause to the contrary shall be shown by the debtor or unless the debtor shall give security to the satisfaction of the Court for the due protection of the estate pending the order of adjudication.

Court may make vesting order of estate in the provisional trustee.

12. Whenever any *interim* vesting order shall be made as aforesaid the effect of such order shall be to vest absolutely in the provisional trustee all the real and personal estate of the debtor whether legal or equitable until the election of a trustee by the creditors or until the provisional trustee or any person to be nominated by him as aforesaid shall become or be appointed trustee as aforesaid and every such vesting order shall be sufficient authority and it shall be the duty of the provisional trustee after the making thereof to seize and if necessary to remove the property of the debtor and for that purpose if necessary to break open any house warehouse shop door trunk or chest of the debtor where the debtor or any of his property is or is supposed to be.

Effect of such vesting order.

13. Where at the date of the order of adjudication the bankrupt was indebted in any sum payable for rates leviable under the provisions of any Act or Ordinance for the time being in force the trustee on proof thereof by the collector or other person authorized by law to collect and receive the same shall pay so much as is due not exceeding the rates due and payable for the then current period and such collector or other person may prove as an ordinary creditor for any sum so due beyond that amount.

Rates a prior claim.

14. Notwithstanding anything in the said Act contained or implied to the contrary any judgment debt in respect of which the bankrupt shall before the making of the order of discharge have been arrested or be detained under any final process shall be a debt provable under the bankruptcy.

Discharge of bankrupt from custody and judgment debt provable.

15. All actions to recover claims in the nature of unliquidated damages arising out of the breach before the order of discharge of any contract or promise made by the bankrupt and in respect of which no proof shall have been tendered under the bankruptcy in manner prescribed by section one hundred and eighty-eight of the said Act shall be commenced within six calendar months after the date of the order of discharge and not afterwards.

Actions for unliquidated damages to be brought within six months.

16. Section two hundred and four of the Act shall be read as if the following words that is to say "made in the presence of a magistrate or a solicitor of the Supreme Court" had been inserted after the word "declaration" in the said section.

Mode of proof.

17. On the application of any debtor detained in custody upon final process after the filing of a petition for the adjudication of such debtor or bankrupt and after notice of such application to the detaining creditor or creditors the Court may order the release of such debtor from such custody unless good cause be shown for continuing the detention and may order that such debtor shall be protected from arrest for such period as the Court shall think fit and after such release the debt in respect of which the bankrupt shall have been detained shall be a debt provable under the bankruptcy but no such debtor so in custody shall be discharged from custody by reason of the filing of a declaration of insolvency.

Court may discharge bankrupt detained upon final process.

18. After the making of any order of adjudication any bankrupt

Bankrupt detained

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upon mesne process
to be discharged.

detained in custody upon mesne process issued prior to such order of adjudication shall be discharged from custody unless the Court shall upon the application of the detaining creditor and upon due cause shown within three days next after making the order of adjudication otherwise direct.

Remuneration of
acting trustee.

19. In all cases where the creditors shall fail to elect a trustee the Court may make such provision out of the estate for the remuneration of the trustee acting in lieu of such elected trustee and for the payment of all costs charges and expenses to be incurred in connection with the estate as it shall deem fit.

Trustee to furnish
accounts &c.

20. The provisional trustee and trustee shall furnish to the Accountant in Bankruptcy such accounts and such information in reference to estates under their charge as the said Accountant may from time to time demand or require.

In section 295 of
said Act "provable"
substituted for
"probable."

21. In the two hundred and ninety-fifth section of the said Act the word "provable" shall be substituted for the word "probable" and the said Act shall be construed as if the said substitution had originally been made in the said Act.

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