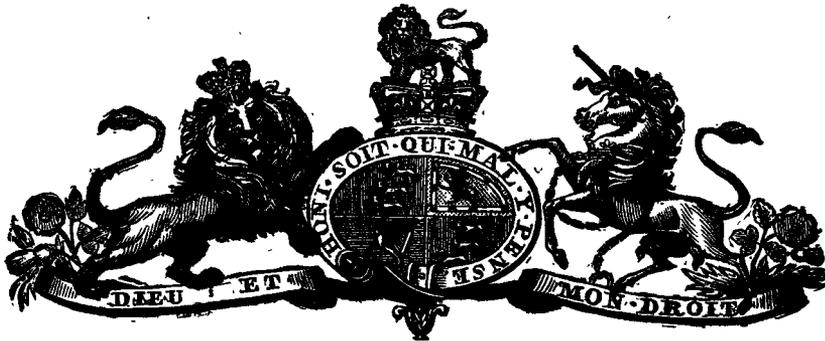


NEW ZEALAND.



TRICESIMO NONO

VICTORIÆ REGINÆ.

No. LXXX.

ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Punishment of fraudulent debtors. 3. Penalty for absconding with property. 4. Penalty on fraudulently obtaining credit, &c. 5. False claim &c. a misdemeanour. 6. Debts incurred by fraud. | <ol style="list-style-type: none"> 7. Order by Court for prosecution on report of trustee. 8. Expenses of prosecutions. 9. Application of Vexatious Indictments Act to offences under this Act. 10. Substance of offence in indictment to be sufficient. |
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AN ACT for the Punishment of Fraudulent Debtors' Title.
and for other Purposes. [18th October, 1875.]

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

1. The Short Title of this Act shall be "The Fraudulent Debtors Short Title.
Act, 1875."

2. Any person whose affairs are liquidated, or are in course of Punishment of
fraudulent debtors.
liquidation, in pursuance of "The Debtors and Creditors Act, 1875,"
shall, in each of the cases following, be deemed guilty of a misde-
meanour, and on conviction thereof shall be liable to be imprisoned
for any term not exceeding two years, with or without hard labour,
that is to say,—

(1.) If he does not, to the best of his knowledge and belief,
fully and truly discover to the trustee administering his
estate for the benefit of his creditors all his property, real
and personal, and how, and to whom, and for what con-
sideration, and when he disposed of any part thereof, except
such part as has been disposed of in the ordinary way of
his trade (if any), or laid out in the ordinary expense of
his family, unless the jury is satisfied that he had no intent
to defraud.

(2.) If he does not deliver up to such trustee, or as he directs,

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- all such part of his real and personal property as is in his custody or under his control and which he is required by law to deliver up, unless the jury is satisfied that he had no intent to defraud.
- (3.) If he does not deliver up to such trustee, or as he directs, all books, documents, papers, and writings in his custody or under his control relating to his property or affairs, unless the jury is satisfied that he had no intent to defraud.
 - (4.) If after the commencement of the liquidation resolution, or within four months next before such commencement, he conceals any part of his property to the value of ten pounds or upwards, or conceals any debt due to or from him, unless the jury is satisfied that he had no intent to defraud.
 - (5.) If after the commencement of the liquidation, or within four months next before such commencement, he fraudulently removes any part of his property of the value of ten pounds or upwards.
 - (6.) If he makes any material omission in any statement relating to his affairs, unless the jury is satisfied that he had no intent to defraud.
 - (7.) If, knowing or believing that a false debt has been proved by any person under the liquidation, he fail for the period of a month to inform such trustee as aforesaid thereof.
 - (8.) If after the commencement of the liquidation he prevents the production of any book document paper or writing affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law.
 - (9.) If after the commencement of the liquidation, or within four months next before such commencement, he conceals destroys mutilates or falsifies, or is privy to the concealment destruction mutilation or falsification of, any book or document affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law.
 - (10.) If after the commencement of the liquidation, or within four months next before such commencement, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs or to defeat the law.
 - (11.) If after the commencement of the liquidation, or within four months next before such commencement, he fraudulently parts with, alters, or makes any omission, or is privy to the fraudulently parting with, altering, or making any omission, in any document affecting or relating to his property or affairs.
 - (12.) If after the commencement of the liquidation, or at any meeting of his creditors within four months next before such commencement, he attempts to account for any part of his property by fictitious losses or expenses.
 - (13.) If, within four months next before the commencement of the liquidation, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same.

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- (14.) If, within four months next before the commencement of the liquidation, he, being a trader, obtains, under the false pretence of carrying on business and dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless the jury is satisfied that he had no intent to defraud.
- (15.) If, within four months next before the commencement of the liquidation, he, being a trader, pawns pledges or disposes of, otherwise than in the ordinary way of his trade, any property which he has obtained on credit and has not paid for, unless the jury is satisfied that he had no intent to defraud.
- (16.) If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to any agreement with reference to his affairs or his bankruptcy or liquidation.

For the purposes of this Act the expression "commencement of the liquidation" shall be read and construed by reference to the sixty-second section of "The Debtors and Creditors Act, 1875," and shall be read as if the said section were expressly repeated in this Act.

3. If any person, whose affairs are liquidated or are in course of liquidation, after the commencement of the liquidation or within four months before such commencement quits New Zealand and takes with him, or attempts or makes preparation for quitting New Zealand and for taking with him, any part of his property to the amount of twenty pounds or upwards which ought by law to be divided amongst his creditors, he shall (unless the jury is satisfied that he had no intent to defraud) be guilty of felony, punishable with imprisonment for any term not exceeding two years, with or without hard labour.

Penalty for absconding with property.

4. Any person shall in each of the cases following be deemed guilty of a misdemeanour, and on conviction thereof shall be liable to be imprisoned for any term not exceeding one year, with or without hard labour, that is to say,—

Penalty on fraudulently obtaining credit, &c.

- (1.) If in incurring any debt or liability he has obtained credit under false pretences, or by means of any other fraud.
- (2.) If he has, with intent to defraud his creditors or any of them, made or caused to be made any gift delivery or transfer of or any charge on his property.
- (3.) If he has, with intent to defraud his creditors, concealed or removed any part of his property since or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him.

5. If any creditor in any liquidation, in pursuance of "The Debtors and Creditors Act, 1875," wilfully and with intent to defraud makes any false claim, or any proof declaration or statement of account which is untrue in any material particular, he shall be guilty of a misdemeanour, punishable with imprisonment not exceeding one year, with or without hard labour.

False claim &c. a misdemeanour.

6. In any case where a liquidation resolution has been passed under the provisions of "The Debtors and Creditors Act, 1875," the debtor shall remain liable for the unpaid balance of any debt which he incurred or increased, or whereof before the passing of the liquidation resolution he obtained forbearance, by any fraud, provided the defrauded creditor has not assented to such resolution otherwise than by proving his debt and accepting dividends.

Debts incurred by fraud.

7. Where a trustee in any liquidation reports to any Court exercising jurisdiction under "The Debtors and Creditors Act, 1875," that

Order by Court for prosecution on report of trustee.

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in his opinion a debtor has been guilty of any offence under this Act, or where the Court is satisfied upon the representation of any creditor or trustee in the liquidation that there is ground to believe that the debtor has been guilty of any offence under this Act, the Court shall, if it appears to the Court there is a reasonable probability that the debtor may be convicted, order the trustee to prosecute the debtor for such offence.

Expenses of prosecutions.

8. Where the prosecution of a debtor under this Act is ordered by any Court, then, on the production of the order of the Court, the prosecution shall be conducted by some barrister or solicitor appointed by the Colonial Secretary for the purpose, and all the expenses of the prosecution shall be allowed and paid as expenses of prosecutions out of any moneys appropriated by the General Assembly for criminal prosecutions.

Application of Vexatious Indictments Act to offences under this Act.

9. Every misdemeanour under this Act shall be deemed to be an offence within and subject to the provisions of "The Vexatious Indictments Act, 1870;" and when any person is charged with any such offence before any Justice or Justices, such Justice or Justices shall take into consideration any evidence adduced before him or them tending to show that the act charged was not committed with a guilty intent.

Substance of offence in indictment to be sufficient.

10. In an indictment for an offence under this Act it shall be sufficient to set forth the substance of the offence charged, in the words of this Act, specifying the offence or as near thereto as circumstances admit, without alleging or setting forth any debt, any act upon which proceedings have been or might have been taken to obtain a liquidation, the passing of a liquidation resolution under "The Debtors and Creditors Act, 1875," or any proceedings in, or order warrant or document of, any Court acting under "The Debtors and Creditors Act, 1875."

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