ORDER OF REFERENCE.—I. 5.

Extract from the Journals of the Legislative Council.

TUESDAY, THE 30TH DAY OF MAY, 1882.

Ordered, "That a Select Committee be appointed, to consist of nine members, to inquire into and report on the operations of the present bankruptcy law, and whether it requires any further, and, if so, what, amendment; or whether any, and, if so, what, other system would, in the opinion of the Committee, be more effective for the objects to be attained; the Committee to have the power to call for persons and papers, and also to confer with any similar Committee appointed by the House of Representatives; to report within a month. The Committee to consist of the Hon. Mr. Wilson, the Hon. Mr. Hart, the Hon. Mr. P. A. Buckley, the Hon. Mr. Holmes, the Hon. Mr. Miller, the Hon. Mr. McLean, the Hon. Mr. Stevens, the Hon. Mr. Reynolds, and the mover."—(*Hon. Mr. Oliver.*)

1882.

NEW ZEALAND

JOINT BANKRUPTCY LAW COMMITTEE

(REPORT OF THE).

Brought up 6th July, 1882, and ordered to be printed.

ORDERS OF REFERENCE.

Extracts from the Journals of the House of Representatives.

FRIDAY, THE 26TH DAY OF MAY, 1882.

Ordered, "That a Select Committee be appointed, to consist of nine members, to inquire into and report on the operation of the present bankruptcy law, and whether it requires any further, and, if so, what, amendment; or whether any, and, if so, what, other system would, in the opinion of the Committee, be more effective for the objects to be attained; the Committee to have power to call for persons and papers, and also to confer with any similar Committee appointed by the Legislative Council; three to form a quorum; to report within a month. The Committee to consist of Mr. Dargaville, Mr. Fish, Mr. Holmes, Mr. Levin, Mr. Montgomery, Mr. Peacock, Mr. Shrimski, Mr. H. Thomson, and Mr. Wynn-Williams."—(*Hon. Mr. Dick.*)

TUESDAY, THE 27TH DAY OF JUNE, 1882

Ordered, "That the Bankruptcy Law Committee have leave to postpone the bringing up of their report for a fortnight."—(*Mr. Wynn-Williams.*)

REPORT

THE Joint Committee have had before them the English Bankruptcy Act of 1869, the Amendment Bill, 1879, and the Amendment Bill, 1881; as well as the interim report of the Joint Committee of the two branches of the Legislature in 1880; also the questions and answers thereto forwarded by their Honors the Chief Justice, Mr. Justice Richmond, Mr. Justice Johnston, and Mr. Justice Williams, of the Supreme Court; and the answers received from the various Judges of the District Court; and they have also read the letters from Mr. T. B. Craig and others, and also a voluminous report from the delegates appointed by the various Chambers of Commerce.

The Committee consider, looking at the numerous attempts which have been made since 1825 in England, and for many years in this and neighbouring colonies, to establish a sound principle for bankruptcy proceedings, and the utter failure even of the last and most carefully-prepared Act—namely, the English Act of 1869 and the amendments thereto—to effect this desired end, that it is most difficult to provide against the frauds and various other contingencies which arise out of the reckless, or at least too easy, trading which is carried on under a system of indiscriminate credit, especially with regard to the smaller class of tradespeople and their poorer customers. It becomes therefore almost an impossibility to frame an Act which will meet all the various phases of bankruptcy arising from such causes as these.

The above views with regard to Bankruptcy Acts are confirmed by the various and conflicting opinions of the Judges and others, given in the report referred to. (Journals and Appendix, Legislative Council, 1880, No. 2.)

A reference to the report above referred to will show that even the Judges of the Supreme Court, whom it might be expected would be the most competent to offer opinions on the subject of bankruptcy, have found it difficult to answer satisfactorily many of the questions put to them, and in some instances have not answered them at all. There are various and conflicting opinions on that much-vexed question, viz., the desirability of doing away with bills of sale, and the learned Judges have not given much assistance in enabling the Committee to arrive at a satisfactory conclusion on this subject.

In the answer of one of the learned Judges as to punishing fraudulent bankrupts, it is recommended that creditors should prosecute by leave of the Court, a course which appears to your Committee to be almost prohibitive, as it involves the necessity for indicting a bankrupt and proceeding according to the usual costly and dilatory process of the Courts; and it has therefore been recommended that the Court should deal with certain cases summarily.

Another very important feature in bankruptcy, upon which there appears to be a great diversity of opinion, is that of the discharge of a bankrupt; and we venture to say that the suspension of the discharge has been found in most cases a farce. It is true that in one or two cases it has called forth assistance from a kind friend of a bankrupt in an offer to pay a composition, and therefore the power to suspend should be maintained; but, unless something more is added, it will, as we have said, in a large number of cases, prove a farce, and we have therefore made a recommendation especially bearing on this point.

Looking, therefore, as a whole, on the various proceedings, Acts of Parliament, Judges' opinions, &c., to which we have referred, and at the unsatisfactory and contradictory character of the views and opinions of many persons of great experience in administering the bankruptcy laws, it will not be surprising to find that the Committee have arrived at the conclusion that it is an almost impossible task to prepare a Bill that will meet the wishes and views of creditors generally, but that much may be done towards facilitating the protection of the assets of an insolvent person, and procuring a speedy realization and distribution of them at as little cost and within as short a period of time as possible, and also to a certain extent to prevent fraudulent transactions.

Your Committee, with that view, therefore, beg to present the following recommendations:—

1. As substantial alterations are called for in the policy of the existing bankruptcy laws, especially as to the appointment of official assignees and one or two other cardinal points, we recommend very strongly that the Government should at once instruct their draftsman to prepare a consolidation of the Acts now in force, and so altered as to accord with and include the amendments which we now suggest—namely, that section 8 of the Act of 1876 should be repealed, and a new clause inserted to be founded on section 72 of the English Bankruptcy Act of 1869, vesting full powers in a Judge sitting in bankruptcy to try all cases (*vide* section 12 of the English Bankruptcy Consolidation Act of 1849); and it should be made perfectly clear and distinct and beyond argument that the Judge of the Court shall have all the same powers as the Supreme Court in all matters arising out of the bankruptcy, whether for setting aside of alleged fraudulent deeds or other transfers of property or in any matter whatever in which the official asignee claims any property from third parties; and that such proceedings shall be taken on simple procedure without pleadings, with the usual right of appeal, when amount exceeds £300, to the Court of Appeal, whose decision shall be final.

2. Section 9 of the New Zealand Act of 1876 is useless in practice.

3. We would suggest that there should be official assignees appointed as officers of the Court, who should give security to the extent of £5,000 at least, and the creditors should have power to also appoint one or two of their number to advise with the official assignee in the dealing with and realization of the estate,—such creditor or creditors for the purposes of the Act should be called supervisors; that official assignees shall, under liability of a penalty for omission, file a statement of the accounts of a bankrupt and pay a dividend once at least every three months, unless such period shall be enlarged by consent of a meeting of creditors; that any creditor may at any time apply to the Court upon good cause shown, to order an official assignee to pay any money into Court, or to proceed with the distribution of the estate forthwith, or to make any such order in the matter as the Court may consider the exigencies of the case require; and that the Court, if satisfied such application is frivolous, may order the persons applying to pay such costs as the Court may fix.

4. That section 22 of "The Bankruptcy Amendment Act, 1879," English, be embodied in the new Act, and be altered so as to give a Judge power to order the discharge of a bankrupt on the condition that he shall pay such sum in the pound as the Court may fix; and also giving the Court further power to rescind or alter such order, but so as not to increase the amount to be paid.

5. That a Judge sitting in bankruptcy should have full power to hear and try all cases of fraudulent bankruptcy under the Act, providing the trial take place in open Court, and that witnesses may be examined and cross-examined in the usual manner; and if, upon such trial, the Court shall be satisfied that the persons charged with any fraudulent act under the bankruptcy laws have been guilty of such act, or if they shall have been guilty, in the opinion of the Court, of gross misconduct in their business, the Court may sentence such persons to imprisonment for a period not exceeding twelve calendar months, and with or without hard labour.

6. Section 29 of New Zealand Act, 1876: Possession being taken under writ and execution should be an act of bankruptcy, and the debtor's estate should immediately vest in the official assignee. The expenses incurred by the creditor who shall have issued execution shall be a first charge on the estate, unless the Judge shall order otherwise.

7. As to the costs of counsel and solicitors, the Committee strongly recommend that the costs should be fixed by a scale similar to that in force in the District Court, arranged, as a matter of course, according to amount of estate; and particularly that, under no circumstances, should there be costs as between solicitor and client.

8. That no solicitor or counsel should be allowed to take from the debtor any sum of money on account of costs, excepting such amounts as are actually payable for fees of Court, advertising, &c.; that, if any dispute shall arise between any official assignee or supervisor and a solicitor as to the amount of any costs claimed, the matter shall be referred to the Judge, and he shall thereupon fix the amount which shall be paid according to the scale; that a scale of charges to be allowed to counsel and solicitors for opposing creditors should also be fixed, and for counsel and solicitors of debtors; and that the Judge should also have the power to fix such charges in case of disagreement with the supervisor or official assignee.

9. That the official assignee should be compelled to pay all moneys in his hands in each estate at once to a separate account, to be kept at such bank as, on application by the official assignee, the Judge may appoint, in the joint names of himself and the supervisors, if any, or in his own name when there is no supervisor.

10. Section 29 should be altered so as to make the acts therein mentioned *actual acts* of bankruptcy, and not conditional, as is the effect of the above section.

11. Alteration in above section to six months.

12. Subsections (1), (2), and (3) stand.

13. Subsection (4) should be altered to carry the recommendation that possession being taken under writ and execution, shall be an act of bankruptcy; but, on payment of such execution and costs, the act of bankruptcy to be annulled.

14. The bankruptcy and title of assignee to bankrupt's estate shall relate back to any prior act of bankruptcy within six months.

15. Section 11 of English Act, 1869, to be adapted. The amount in section 30 to be altered to £25.

16. Section 64 to be altered by striking out the words "with a view of giving such creditor a preference over the other creditors." After the word "shall," add "unless protected as hereinafter provided."

17. In this section it is suggested that after the word "suffered," in the third line, the following words shall be added: "whether the act be voluntary or under pressure from a creditor."

18. Section 65. In cases of bills of sale: They should be unavailable if made within three months of bankruptcy, as against the creditors, excepting as to actual cash advanced at the time of execution of bill of sale and secured thereby; and any other moneys secured shall be provable under the bankruptcy. This clause not to affect the purchase-money, or any balance thereof, for any machinery over which the bill of sale may have been taken at the time of purchase and given to the vendor.

19. Part 2 of section 67 will have to be omitted. It should be made clear by the Act that the assignment by a debtor of all his property for the benefit of one or more of his creditors shall be an act of bankruptcy, whether made fraudulently or otherwise.

20. Section 119. Change from bankruptcy to arrangement: Sections 119 to 127 should stand; the previous consent of the Judge to be obtained before change from bankruptcy to arrangement.

21. Sections 128 and 159. Arrangement by deed: The Committee recommend that this part of the Act be repealed entirely, assuming that the official-assignee system is adopted.

22. A scale of costs is recommended; and that the Judge shall fix the costs at the time of hearing in all matters, when not fixed by the Act.

23. Official assignees' costs and fees to be fixed—on estate realized up to £1,000, at 5 per cent.; on second £1,000, 2½ per cent.; on all above £2,000, 1 per cent., unless a Judge shall otherwise order.

24. Creditors' supervisors may be paid as per arrangement with creditors, but the payment must not exceed 2½ per cent in all.

25. Costs of bankrupt in no case to exceed £10 in addition to Court fees, but no costs to be paid without order of a Judge.

26. Costs of solicitor to official assignee, up to debtor's discharge, are not to exceed £20. Judge to have power to order payment of additional costs if considered absolutely necessary.

The Committee make the following suggestions:—

27. Solicitors should not exercise any lien on deeds in their possession belonging to a bankrupt for any amount beyond the costs involved in the preparation of such deeds.

R. OLIVER,
Chairman.

H. WYNN-WILLIAMS,
Chairman of the Committee of House of Representatives.

APPENDIX.

REPORT OF A CONFERENCE FROM CHAMBERS OF COMMERCE ON THE BANKRUPTCY LAWS.

SIR,— Chamber of Commerce, Wellington, 27th June, 1882.

I have the honor to hand you the enclosed report on the Bankruptcy Laws, drawn up by a Conference of Delegates from the Chambers of Commerce throughout the colony, held here yesterday.

I am requested by the Conference to ask if you would be good enough to peruse this report, and I am also desired to express the earnest hope that Government will not delay longer the introduction of such measures as are detailed by the Conference, so that the urgently-required amendment may be effected in the existing imperfect Acts.

I have, &c.,
J. E. NATHAN,
Chairman of the Conference.

The Hon. Thomas Dick, Minister of Justice,
Wellington.

(Enclosure.)

BANKRUPTCY LAW.

CONFERENCE of Delegates from the Chambers of Commerce throughout the Colony, held at Wellington, 26th June, 1882.

Present: Captain Sutter, M.H.R. (Timaru), Mr. Peacock, M.H.R. (Auckland), Mr. Sutton, M.H.R. (Napier), Hon. Mr. Reynolds (Dunedin), Mr. Nathan (Wellington), and Mr. Chrystall (Christchurch).

Mr. Nathan was voted to the chair.

The Conference having been formed for the purpose of recommending to Government measures for the amendment of the existing bankruptcy Acts, begs to report as follows:—

1. That a salaried public officer, as assignee or administrator, should be appointed by Government for each bankruptcy district, and that all estates should vest in such public officer immediately upon the filing of a declaration of insolvency or the granting of an adjudication: That creditors should have the power to appoint a trustee or trustees of their own, to act as a board of advice with such public officer; and that the creditors should arrange among themselves for the payment out of the estate of remuneration to such trustee or trustees as they may so appoint: That the control of the debtor over any portion of his estate should cease absolutely immediately on his filing a declaration of insolvency, or on the granting of an adjudication, as before mentioned: That the said public officer should be a competent man of good position, possessing a knowledge of the usages of trade, and that he should receive a liberal salary: That, in consideration of the payment of such salary by Government, a commission by a sliding scale of percentage should be charged on the assets realized, and that such commission on any total not exceeding £1,000 should not exceed 5 per cent.; on the second £1,000, 2½ per cent.; and on all above £2,000, 1 per cent: That the said public officer should find adequate security, and should, in respect of each estate, pay all funds realized into a separate banking account, at one bank; and that he should keep the affairs of each estate, with vouchers, entirely distinct, and open to the inspection of any proved creditor at any time: That such public officer should, at intervals of not less than six months, prepare a statement of each estate, and submit the same to the creditors: That it should be the duty of such public officer to investigate the circumstances that have led to the insolvency of the debtor, and to report to the Judge in Bankruptcy any default on the part of, or complaint against, the bankrupt.

In making recommendations under this head, the Conference has not overlooked the strong arguments that could be advanced from one point of view in favour of the creditors having complete control of the estate and of the debtor's affairs, and the probability that in some instances a more economical and satisfactory realization of assets could be made by a creditor's trustee or trustees acting alone, without the intervention of a public officer. But the Conference has concluded that there is another consideration which, from a legislative point of view, should receive even as much prominence as the payment of the largest possible dividend out of the estate: namely, the policy in the interest of the community generally of making the operation of the law deterrent. Creditors, for social reasons or want of time, and almost always because the process affects their own pockets, refrain from taking any steps to expose or punish fradulent or reckless bankrupts; and in this way, while the administration of the estate is left entirely in the hands of the creditors, gross cases of fraud and recklessness on the part of the debtor are passed over, and such encouragement consequently given to unprincipled men as to induce them to make a trade of bankruptcy, because it pays. Insolvencies of the worst kind are doubtless greatly multiplied by the apathy of creditors in the matter of inquiring into the history and position of the debtor's business, and by their readiness to effect any compromise on being offered a reasonable dividend. An independent salaried officer, whose special duty it would be to investigate and report to the Judge upon the conduct of the debtor, would therefore seem to be a necessity in the public interest.

2. That there should be four bankruptcy districts—namely, Auckland, Wellington, Dunedin, and Christchurch, and that there should be a public officer or assignee appointed for each.

3. That there should be two Judges in Bankruptcy appointed for the colony, whose status should be equal to that of Judges of the Supreme Court, and who should make a special study of commercial and trade usages (see section 72, English Act, 1869): That such Judges in Bankruptcy should hold periodical sittings in the districts within their respective circuits.

4. That any of the following acts or circumstances should disentitle a bankrupt to his discharge—namely: that, being a trader, he has failed to keep proper books of account; destroying or falsifying books of account; reckless or fraudulent disposal of property; that he has failed to keep a proper record of his receipts and expenditure; that he has failed to keep an account in his ledger showing what proportion of his income has been devoted to trade expenses and what to personal expenditure; that he has failed to prepare a balance-sheet at least once every year, embracing such details as are customary in the trade or profession of the bankrupt: That default in any of these cases shall be deemed an offence under the Act: That a debtor should also be disentitled to his discharge if he should fail to pay a dividend of not less than ten shillings in the pound, unless he can prove to the satisfaction of the Judge that his failure to pay such dividend has arisen from circumstances beyond his own control.

Under this head the Conference would transcribe and indorse the following extract from the reply of Mr. Justice Williams (page 3, *Replies on Bankruptcy*, 1880):—"Under any state of the law there must be hardship on one side or the other, and it is far better in my opinion that on rare occasions an honest debtor should have to suffer by the refusal of his discharge than that encouragement should be given by the law to the fraudulent and the reckless. In England bankruptcy is still thought a disgrace. Here it appears to be considered by many more in the light of a good joke. Our present system is thoroughly demoralizing; it encourages rascality, it places the honest trader at a disadvantage, and causes enormous pecuniary loss to the community."

5. That a fraudulent or culpable bankrupt should be prosecuted by the Crown Prosecutor, instructed by the public officer or assignee, and at the public expense, and in the same manner as other indictable offences. There would seem to be no valid reason why offenders against the Bankruptcy Acts should not be prosecuted in the same manner and at the cost of the same fund as persons offending against other statutes (see Reply from Mr. District Judge Ward, page 4, and Mr. District Judge Broad, page 7, *Replies on Bankruptcy*, 1880).

6. The Conference is of opinion that no debtor should receive his discharge except after examination in open Court, but that such examination should not necessarily entitle him to his discharge: That the assignee or any creditor should be entitled in person, or by his solicitor, to oppose the application for discharge without notice (see "Insolvent Act, 1860," South Australia, Division 4).

7. That no debtor should be allowed to file his schedule who shall not have the value of £25 in genuine assets over and above the £25 value of furniture or tools in trade as provided for in the existing Act; and that, in the event of the debtor having no furniture or tools in trade, then he must have the value of £25 in genuine assets in order to entitle him to the protection of the Court.

8. That any insolvent debtor who might not have received his discharge, and who should have, subsequently to his declaration of insolvency, obtained goods on credit without eventually paying for them, should, unless he have informed the creditor previously to the purchase of such goods that he was an undischarged bankrupt, be held guilty of a misdemeanour.

9. That any absconding debtor might be arrested by authority of a telegraphic despatch, signed by a Resident Magistrate, or two Magistrates, after a creditor or creditors shall have made an affidavit to that effect.

10. The Conference would recommend that clause 83 of Act 1876, which refers to distress for rent, should remain as it is.

11. That section 185, Act 1876, which reads as follows, be repealed:—"If no order of discharge shall be made within a period of three years from the date of the bankruptcy, a debtor shall nevertheless be deemed absolutely discharged at the end of that period."

12. That no debtor, who shall have failed to satisfy the Court that his insolvency arose from circumstances beyond his control, should be allowed to occupy any public official position until he shall have paid a dividend of not less than ten shillings in the pound to all his proved creditors.

13. That, in respect of all cases arising out of fraudulent or alleged fraudulent disposal of property by the debtor, the Judges in Bankruptcy should have jurisdiction to deal with the same summarily, on a summons issued by the public officer or assignee against the debtor, or any other person holding property of the debtor's, in the same manner and with the same jurisdiction that the Supreme Court or a Judge now has to make order, decree, or judgment, upon being satisfied on evidence that the public officer or assignee is entitled to such property.

14. The Conference would make a general recommendation, which it regards as of the highest importance, and which the Legislature should keep constantly in view in framing new measures. It is: that the whole machinery of the bankruptcy law should be so devised and regulated as to make proceedings in bankruptcy, from the filing of the declaration of insolvency to the final discharge of the debtor, as simple and as inexpensive as possible; and further, that, in compiling and framing any new Act, Government should seek the assistance of men of large mercantile administrative and legal experience.

15. That the legal charges incurred by the debtor and payable out of the estate should in no case exceed £10 in addition to Court fees: That the costs of the solicitor to the assignee should, in respect of each estate, not exceed £20, but that the Judge might have power to order payment of additional costs if he should consider the same reasonable and necessary: That the Judges in bankruptcy should in all cases decide what expenses, if any, should be payable out of the estate, and that no costs whatever should be paid without the order of the Judge: That at the Registrar's office in each bankruptcy district, and at every post office in towns where there may be no Registrar's office, printed forms, with the necessary stamp, should be obtainable by debtors for filing their declaration and making the requisite statement of their assets and liabilities; any other forms required by a debtor in filing his schedule should also be similarly provided; and the witnessing of the signature of the debtor to the papers by the postmaster or a Justice of the Peace should be deemed sufficient evidence of their legal execution.

16. That the bankruptcy of a debtor should be deemed to have relation back to the first of the acts of insolvency that may be proved to have been committed by the bankrupt within twelve months next preceding to the declaration of insolvency or order of adjudication (see clause 11, English Bankruptcy Act, 1869, and Mr. Judge Ward's reply, page 4, *Replies on Bankruptcy*, 1880).

17. That in the case of any debtor in receipt of a certain income that may come before the Court, the Judge in Bankruptcy should decide what proportion of same should be set aside for the payment of dividend to the creditors of the debtor, and to what time the payment of such instalments shall extend.

18. That the onus of proof should lie with the debtor as to his solvency at the time of making any settlement respecting the validity of which a question may be raised by the assignee.

19. That no solicitor should have any lien on deeds in his possession excepting for the actual costs in respect of the preparation of any deed that he may hold in relation to property of the debtor.

20. In regard to bills of sale the Conference is of opinion that, in practice, the majority of instances where a trader gives such an instrument upon his stock-in-trade, an act of bankruptcy or a fraud is committed by the assignor. But in providing a remedy, if indeed any remedy be possible, for this evil, a clear distinction should be made between bills of sale given by needy traders over goods for which they have not paid, and similar instruments given by farmers, manufacturers, or contractors. Farming and other important industries would be greatly fettered if, in respect of the purchase of any article in the nature of machinery or plant, a bill of sale, given by the buyer to the seller upon such specific article or articles, at the time of the purchase, for any unpaid portion of the purchase-money, should not, if duly registered, be held absolutely valid as against the assignee in bankruptcy or the claims of antecedent creditors. The Conference would deprecate any legislation that would hamper or interfere with legitimate transactions of this nature. The great abuse lies with traders who give to one favoured or pressing creditor a bill of sale for a past debt on stock-in-trade in respect of which they have liabilities to other creditors, or where a trader in desperate circumstances gives a bill of sale over his stock-in-trade (in respect of which he owes money) to a money-lender for a temporary advance at an exorbitant rate of interest; the invariable result is that the trader eventually becomes insolvent, and the creditors find themselves plundered, and powerless, owing to the defects of the existing law, to upset the bill of sale, although the giving of it may be not only an act of bankruptcy, but a gross fraud (for defect of the law, see clause 4, Act 1879). A remedy has been suggested to the effect that all bills of sale given within three months of the bankruptcy of the assignor should be held invalid, unless given for a *bonâ fide* present-cash advance. But any provision of this kind could be easily evaded by the passing of fictitious cheques. The only apparently effectual remedy that the Conference can suggest is, that any

person intending to give a bill of sale for a past debt should be compelled to give fourteen days' notice of his intention so to do, with a statement of particulars of the article or articles proposed to be dealt with in the instrument; that such notice should be recorded in a book kept for the purpose at the office of the Registrar; that any person, on payment of a fee of one shilling, should be at liberty to inspect such book and take a copy of such notice; and that any creditor might at any time within fourteen days enter a caveat against the filing of the bill of sale specified in the notice; and that the bill of sale should not be registered until the caveat be withdrawn. This suggestion is, however, made with the proviso that it should not apply to any lien given over certain specific articles, goods, or chattels, for the purchase-money or balance of purchase-money of the specific articles or goods mentioned in such lien (see Bills of Sale Act of the Colony of Victoria, No. DLVII., 22nd December, 1876).

The Conference would add generally, respecting any measure that may be introduced to amend the bankruptcy laws, that the deterrent element should receive special prominence. In connection with the existing Act, the greatest evils have arisen out of its defective administration. The creditors on whom it has devolved to take the initiative in investigating and exposing the conduct of the culpable debtor have almost invariably passed over gross cases of fraud, where such have occurred, because they have had no mind to sacrifice more money in the payment out of the estate of the heavy legal expenses that the existing defective machinery of the law involves. There is, indeed, scarcely ever an attempt made to expose and have an adequate penalty inflicted upon a fraudulent or otherwise culpable bankrupt. If a man is guilty of petty larceny the State deems it its duty in the public interest to prosecute him, at the cost of the public revenue; and the offence of the respectable bankrupt who has robbed his creditors is surely as much an offence against society, and equally deserving of investigation and punishment at the public expense. The tendency of legislation should therefore be to make insolvency a matter of disgrace; to associate with it a stigma that will have a deterrent effect, and that will raise the tone of commercial morality. To investigate and report the circumstances that have led to cases of insolvency should, as suggested, be the special duty of an independent salaried public officer; and anything that might, under his realization of the estate, be sacrificed in respect of expense, or in perhaps not obtaining the largest possible dividend, would be much more than gained in the advantage that would result to the commercial community at large by the exposure and adequate penalty inflicted on culpable bankrupts.

In conclusion, the Conference would beg to draw the attention of the Government to the great disappointment with which the trading community viewed the omission of the Legislature to introduce any amendment in respect of the bankruptcy laws during the last two sessions of Parliament; and, on behalf of the community, the Conference would earnestly express the hope that the Legislature will not allow another session to pass without introducing the much-needed amendment of the law on this question.

W. Chrystall.
J. E. Nathan.

By Authority: George Didsbury, Government Printer, Wellington.—1882.