

APPENDIX.

REPORT OF THE PRIVILEGES SUB-COMMITTEE UPON PRECEDENTS AND LAW.

HISTORY OF THE LAW OF NEW ZEALAND.

THE New Zealand Constitution Act (15 and 16 Victoria), 1852, section 50, declared: "If any member of the said House of Representatives shall, *inter alia*, become bankrupt, or shall become an insolvent debtor within the meaning of the law relating to insolvent debtors, his seat in such House shall thereby become vacant."

In 1879 the Regulation of Elections Bill was introduced in the House by the Hon. Mr. Hall. It was proposed to amend the electoral law in some material points. Section 50 of the Constitution Act was repeated with verbal alterations, and in the case of a vacancy caused by bankruptcy the words "if he is a bankrupt" were substituted for "or shall become bankrupt." There was no clause providing for the repeal of section 50 of the Constitution Act. This Bill did not pass.

In 1880 a similar Bill was introduced by the Hon. Mr. Hall. The provisions relating to bankruptcy were identical with those of 1879. Again there was no repeal clause, and the Bill did not pass.

In 1881 a similar Bill—the Regulation of Elections Bill—was introduced by the Hon. Mr. Walter Johnston, the clause relating to vacancies (58) being identical with that in the Bill of 1879. A repeal clause was introduced, and, *inter alia*, section 50 of the Constitution Act was repealed. The Hon. Mr. Johnston's speech in moving the second reading of the Bill is to be found in *Hansard*, 1881, Vol. 38, page 220.

In 1893 the Electoral Act repealed "The Regulation of Elections Act, 1881." The clause relating to vacancies (section 58 in the Act of 1881, and 130 in the Electoral Act of 1893) was amended in several particulars. The words of the subsection relating to vacancies caused by bankruptcy were slightly altered by omitting the words "insolvent debtor." The law now reads (section 130 of "The Electoral Act, 1893"): "The seat of any member of the House of Representatives shall become vacant if, *inter alia*, he is a bankrupt within the meaning of the laws relating to bankruptcy."

Legislative Council.

By "The New Zealand Constitution Act, 1852," section 36, it is provided: "If any Legislative Councillor of New Zealand shall, *inter alia*, become bankrupt, or shall become an insolvent debtor within the meaning of the laws relating to insolvent debtors, his seat in such Council shall thereby become vacant."

"The Legislative Council Act, 1891," section 10, repealed this provision, and enacted in lieu thereof, by section 4: "The seat of any member of the Council, whether appointed thereto before the time of the passing of this Act or subsequently thereto, shall, *ipso facto*, be vacated—*inter alia*, subsection (3)—if he is a bankrupt or compounds with his creditors under any Act for the time being in force."

By section 2 of "The Legislative Council Act, 1891": "The Governor may from time to time, in Her Majesty's name, by instrument, or instruments, under the public seal of the colony, summon to the Legislative Council of New Zealand, hereinafter called 'the Council,' such persons as he shall think fit: every person so summoned shall thereby become a member thereof. Provided that no person shall be so summoned—*inter alia*, subsection (2)—who at any time theretofore has been bankrupt and has not received his discharge."

By section 5 of the same Act it is enacted: "Any question which shall arise within the Council as to any vacancy in the Council, or as to the right of any person to sit or vote therein, shall be referred by the Governor to the Council, which shall hear and determine the same: Provided always that either the person respecting whose seat such question shall have arisen, or Her Majesty's Attorney-General for New Zealand on Her Majesty's behalf, may appeal from the determination of the said Council to Her Majesty; and the judgment of Her Majesty, given with the advice of her Privy Council thereon, shall be final and conclusive to all intents and purposes."

LAW OF ENGLAND.

By "The Bankruptcy Act, 1883," section 32, it is enacted: "Where a debtor is adjudged bankrupt he shall be disqualified for (*inter alia*) being elected to, or sitting or voting in, the House of Commons, or on any Committee thereof." The disqualifications to which a bankrupt is subject under this section are removed if the adjudication of bankruptcy against him is annulled, or if he obtains from the Court his discharge, with a certificate to the effect that his bankruptcy was caused by misfortune, without any misconduct on his part. The Court may grant or withhold such certificate as it thinks fit; but any refusal of such certificate is subject to appeal. By section 33 of the same Act: "If a member of the House of Commons is adjudged bankrupt, and the disqualifications arising therefrom under this Act are not removed within six months from the date of the order, the Court shall, immediately after the expiration of that time, certify the same to the Speaker of the House of Commons, and thereupon the seat of the member shall become vacant." By section 35 of the same Act the bankruptcy may be annulled where the Court is of opinion that the debtor ought not to have been adjudged bankrupt, or where he has paid his debts in full.

LAW OF VICTORIA.

"The Constitution Act, 1855" (19 Victoria, section 24): "If any member of the Legislative Council or Legislative Assembly shall become bankrupt or an insolvent debtor within the