

Mr. Savage.

FAIR RENTS.

ANALYSIS.

<p>Title.</p> <p>1. Short Title and commencement.</p> <p>2. Interpretation.</p> <p>3. Application of Act.</p> <p style="text-align: center;"><i>Fair Rents Court.</i></p> <p>4. Constitution of Court.</p> <p>5. Appointment of officers.</p> <p>6. Application to determine rent.</p> <p style="text-align: center;"><i>Powers of the Court.</i></p> <p>7. Evidence.</p> <p>8. Practice of Court.</p> <p>9. Determination.</p> <p>10. Lessee of part of dwellinghouse or building.</p> <p>11. Restriction of lessor's power to determine lease.</p> <p>12. Furnished dwellinghouses.</p> <p style="text-align: center;"><i>Duration and Effect of Determination.</i></p> <p>13. Period for which determination is in force.</p> <p>14. Rent to be as determined.</p>	<p>15. Penalty on lessor.</p> <p>16. Covenants to pay rent in excess of that determined to be void.</p> <p>17. Threats against lessees. Acts to detriment of lessees.</p> <p>18. Bonus for lease unlawful.</p> <p>19. Penalty for refusal to let dwelling to applicant with family.</p> <p>20. Penalty for instructing agent to refuse applicant with family.</p> <p style="text-align: center;"><i>Jurisdiction of the Court.</i></p> <p>21. Determination to be final.</p> <p style="text-align: center;"><i>General.</i></p> <p>22. Contracts limiting right to proceed under this Act to be void.</p> <p>23. Inspection of rate-books.</p> <p>24. Information as to fair rent of dwellinghouse or building.</p> <p>25. Regulations.</p> <p>26. Recovery of penalties.</p>
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A BILL INTITULED

AN ACT to provide for the Determination of Fair Rents for certain Dwellinghouses and other Buildings, to enforce such Determination, and for Purposes consequent thereon or incidental thereto. Title.

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

1. This Act may be cited as the Fair Rents Act, 1927, and shall come into force on the first day of December, nineteen hundred and 10 twenty-seven. Short Title and commencement.

2. In this Act, if not inconsistent with the context,— Interpretation.

15 “Building” means any premises leased wholly or partially for use as an office, or for the manufacture or wholesale or retail sale of any article, and includes any part of premises separately leased, and any land or appurtenances leased with such premises or such part thereof :

“Rates” mean any charges levied by a municipality or other local authority for any rating purpose whatsoever :

“Lease” includes, subject to the limitations of section *three* hereof, every letting of a dwellinghouse or building, whether oral, in writing, or by deed :

“Lessor” and “lessee” mean the parties to a “lease” as herein defined, and respectively include a mesne lessor and a mesne lessee : 5

“Registrar” means Registrar appointed under this Act :

“Rent” includes—

(a) Any bonus paid or to be paid by the lessee to his lessor : 10

(b) The value to the lessor of any covenants or conditions in or relating to the lease to be performed by the lessee other than usual covenants and conditions :

(c) Any rates or taxes payable by the lessee in respect of the dwellinghouse or building : 15

“Tax” includes any tax, whether on land or on income, derived from land imposed by the laws of the Dominion.

Where in any lease made after the first day of August, nineteen hundred and fourteen, it is provided that a reduced amount, as rent, shall be accepted by the lessor upon any condition to be performed by the lessee, such reduced amount shall be taken to be the rent under the lease ; and if any rebate, discount, allowance, or other reduction from any rent is provided for in any such lease, the rent shall be deemed to be the amount payable by the lessee after every such reduction is made. 20 25

Application of Act.

3. (1) This Act shall apply to any dwellinghouse which is subject to a lease, made before or after the commencement of this Act, for any term not exceeding *three* years, at a rent not exceeding *one hundred and fifty-six* pounds a year, or a proportionate sum for a less period, or which at any time during a period of *six* months before the passing of this Act has been let at a rent not exceeding the above-mentioned amount : 30

Provided that nothing herein contained shall apply to dwelling-houses ordinarily leased for summer residence. 35

(2) This Act shall apply to any building which is subject to a lease made before or after the commencement of this Act :

Provided that nothing herein contained shall apply to a building subject to a lease entered into prior to the passing of this Act the unexpired portion of which exceeds *three* years. 40

#### Fair Rents Court.

Constitution of Court.

4. There shall be Fair Rents Courts under this Act, and each shall consist of a Stipendiary Magistrate, who shall be appointed by the Governor-General upon the recommendation of the Minister of Labour. Such Courts shall sit at such times and places as the Governor-General shall direct. 45

Appointment of officers.

5. The Governor-General, upon the recommendation of the Minister of Labour, shall appoint a Registrar of each Court, and such other officers as may be necessary for carrying out the provisions of this Act.

Application to determine rent.

6. (1) Any lessor and any lessee who— 50

(a) Has paid or tendered all rent due and payable under his lease ;  
or

767

(b) Satisfies the Court, in any case where he has not paid or tendered all such rent that such non-payment or non-tender is justifiable or excusable in the circumstances notwithstanding that he

5 (c) Has received from the lessor notice to terminate the tenancy, may apply to the Court to have the fair rent of the dwellinghouse or building leased by or to him determined by the Court :

10 Provided that no application to have such rent determined shall be entertained where such notice to terminate the tenancy has been given prior to the first day of October, nineteen hundred and twenty-seven.

(2) The application shall be made to the Registrar, and shall be in the form prescribed.

15 (3) The Court shall hear the application and determine the fair rent. In all cases the rent so determined shall be the rent of the dwellinghouse or building as from a date not earlier than the date of such application.

(4) If the dwellinghouse or building be subject to any mortgage, the mortgagee shall be entitled to notice of the application and to be a party to the proceedings.

20 (5) Where the dwellinghouse or building is vacated by the applicant lessee at or before the date fixed for the hearing of the application, the Court may strike such application out of its list.

#### *Powers of the Court.*

7. Upon such hearing the Court may receive as evidence statutory  
25 declarations made as prescribed, and shall take the oral evidence of the parties and of witnesses called on their behalf. But the Magistrate may, if he thinks fit, require the attendance of any declarant for the purposes of cross-examination on the contents of his declaration, and failing such attendance the declaration shall not be receivable as  
30 evidence.

8. The practice upon the hearing of any application under this Act shall, in respect of examination and cross-examination of witnesses, and the right of addressing the Magistrate upon the case in reply or otherwise, be as nearly as possible in accordance with that of the  
35 Magistrate's Court upon the trial of an issue of fact in an action at law.

(2) Upon the hearing of any application under this Act any party thereto may be represented by counsel or attorney, or by an agent duly appointed in writing in that behalf.

9. (1) In determining the fair rent the Court shall first ascertain  
40 the capital value of the dwellinghouse or building. Such capital value shall be the unimproved value of the land, being the capital sum which the fee-simple of the land might be expected to realize if offered for sale on such reasonable terms and conditions as a *bona fide* seller would require, assuming that the improvements, if any, thereon or appertaining  
45 thereto had not been made, plus the estimated cost of erecting a similar dwellinghouse or building thereon at the time of the receipt of such application, less such fair and reasonable sum as may be estimated for any depreciation.

(2) The Court shall determine the fair rent at a rate of not less  
50 than the rate of interest which is for the time being charged upon overdrafts by the Bank of New Zealand, and not more than *two and one-half* per centum above such last-mentioned rate, on the capital

value of the dwellinghouse or building determined as aforesaid, plus the annual rates and taxes on the same, plus the amount estimated to be required annually for repairs (including painting), maintenance and renewal, and plus insurance of any buildings, and plus an amount estimated to be the annual depreciation in value of the buildings if such depreciation diminishes their letting-value, and plus such amount (if any) as the Court may deem proper to be allowed for the estimated time per year when the dwellinghouse or building may be untenanted: 5

Provided that, excepting where circumstances which render an increase equitable are proved to the satisfaction of the Court, the fair rent shall not exceed the rent at which the dwelling was let on the first day of October, nineteen hundred and twenty-seven: 10

Provided also that if the Court by its determination increases or decreases the rent of any dwellinghouse or building above or below the rent payable under the lease at the date when the application was made, such increase or decrease shall not take effect until the expiration of *fourteen* days after the date of such determination. 15

(3) Part I of the War Legislation Act, 1916, and the several amendments thereof, in so far as those amendments were in force on the thirtieth day of July, nineteen hundred and twenty-seven, are hereby re-enacted and shall remain in force. 20

Lessee of part of dwellinghouse or building.

10. Where a dwellinghouse or building is occupied by two or more separate lessees the Court shall determine the fair rent of the whole, and then determine the proportion of such fair rent which it shall deem to be the fair rent of the portion of the dwellinghouse or building of the lessee making the application. 25

Restriction of lessor's power to determine lease.

11. Where an application has been made by a lessee to determine the fair rent of a dwellinghouse or building leased to him, then if the lessee has duly paid the rent of the dwellinghouse or building and has otherwise performed the conditions of his lease the lessor shall not without reasonable cause demand any increased rent, or give any notice or take any proceedings to determine the lease during the pendency of the application or during the period of *six* months from the date of such determination. Any lessor contravening any of the provisions of this section shall be liable to a penalty not exceeding *fifty* pounds. 30 35

Furnished dwellinghouses.

12. In any case where the applicant is the lessee of a dwellinghouse and furniture the Court shall determine the fair rent of the dwellinghouse, irrespective of the furniture, and shall also determine in its discretion the amount of rent to be paid for the furniture. 40

#### *Duration and Effect of Determination.*

Period for which determination is in force.

13. (1) The determination of the Court, except as hereinafter provided, shall remain in force for such period, not less than *twelve* months, nor more than *three* years, after such determination as may be therein mentioned; but if no period is mentioned it shall remain in force for *three* years after such determination. Such determination while in force shall apply to any lease of the dwellinghouse or building then current, and to the lessor and lessee thereof, notwithstanding any change of ownership or tenancy. 45

(2) While such determination is in force no application shall be made to vary it, or to determine the fair rent of the dwellinghouse or building, unless where the applicant is the lessor and satisfies the 50

Registrar that substantial alterations or additions have been made to the dwellinghouse or building since the said determination, or that the outgoings of the lessor in respect of the dwellinghouse or building have been increased.

5 14. While any such determination is in force the rent paid by any lessee shall not exceed the fair rent determined by the Court, notwithstanding any term or covenant in any lease current at the time of the application or made at any time thereafter during such period; and any sum paid as rent during such period, or any period  
10 subsequent to the date fixed by the Court, by any lessee in excess of such fair rent may be recovered by the lessee from the lessor to whom it was paid in an action of debt in any competent Court.

Rent to be as determined.

15 15. Any person who during the period while any determination of the fair rent of a dwellinghouse or building is in force lets the said dwellinghouse or building at a rent exceeding the fair rent determined by the Court, or during such period knowingly receives any sum as rent exceeding the fair rent as so determined, shall be liable to a penalty not exceeding *twenty* pounds.

Penalty on lessor.

20 16. While any such determination in respect of a dwellinghouse or building is in force the legal remedies for enforcing any covenant or agreement—

Covenants to pay rent in excess of that determined to be void.

(a) To pay rent for such dwellinghouse or building in excess of that fixed by such determination; or

25 (b) Which directly or indirectly would secure to any person the payment of rent or of money in respect of the occupation of such dwellinghouse or building so that the amount received by such person would exceed the fair rent fixed by such determination shall be limited to enforcing the fair rent so determined.

30 17. (1) Any person who by any threat endeavours to dissuade or prevent a lessee from making or prosecuting any application under this Act shall be liable to a penalty not exceeding *fifty* pounds.

Threats against lessees.

35 (2) Any person who unlawfully does or procures any act or thing to be done for the purpose of imposing any detriment or disadvantage upon a lessee by reason of his having made an application under this Act shall be liable to a penalty not exceeding *fifty* pounds; and if two or more persons concur in the doing of any such act, or in procuring any such thing to be done, they shall each be liable to a penalty not exceeding *one hundred* pounds.

Acts to detriment of lessees.

40 18. (1) Any person who—

Bonus for lease unlawful.

45 (a) Gives or receives, or offers, promises, or agrees to give or receive, any bonus or premium, or any sum of money other than rent, in consideration of the grant or acceptance of any lease or of the renewal thereof, or of an agreement for a lease or for the renewal of a lease of a dwellinghouse or building; or

(b) Makes it a condition of the granting of any lease that the lessee shall purchase any furniture or other article, or pay or give any consideration for obtaining a key of the dwellinghouse or building;

50 shall be liable to a penalty not exceeding *fifty* pounds.

Penalty for refusal to let dwelling to applicant with family.

19. Any person who refuses to let a dwellinghouse to any respectable and responsible applicant who has a child or children shall be liable to a penalty not exceeding *fifty* pounds :

Provided that in any prosecution under this section it shall be a sufficient defence to show that such refusal was not due to the fact that the applicant had a child or children. 5

Penalty for instructing agent to refuse applicant with family.

20. Any person who—

(a) Instructs an agent not to let ; or

(b) States his intention, whether by advertisement or otherwise, not to let a dwellinghouse to any person who has a child or children, 10

shall be liable to a penalty not exceeding *fifty* pounds.

#### *Jurisdiction of the Court.*

Determination to be final.

21. The Court in every case shall have jurisdiction to inquire and decide whether any application or subject-matter is within the provisions of this Act, and whether such application and subject-matter may be considered and determined hereunder ; and every decision, determination, and order of the Court purporting to have been made under the provisions of this Act shall be final, and no writ of prohibition shall lie in respect thereof. 15 20

#### *General.*

Contracts limiting right to proceed under this Act to be void.

22. Any covenant or agreement by which any person purports to limit his right to proceed under this Act for the determination of the fair rent of a dwellinghouse or building, or to affect any rights to which he would be entitled under this Act, shall be void. 25

Inspection of rate-books.

23. The Clerk or other officer having the custody of the rate-books of a municipality or other local authority shall allow the Registrar to inspect and take copies of or extracts from such rate-books, and shall not be entitled to charge any fees in respect of such inspection, copies, or extracts. 30

Information as to fair rent of dwellinghouse or building.

24. Any person on tendering the sum of *sixpence* shall be entitled to obtain from the Registrar information as to the fair rent of any dwellinghouse or building as fixed by the Court.

Regulations.

25. (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following matters, that is to say,— 35

- (a) Regulating the making and receipt of applications to determine fair rent, and prescribing the notices to be given of the same ;
- (b) Prescribing the procedure in respect of such applications ;
- (c) Prescribing the forms which may be used for the purposes of this Act ; and 40
- (d) Prescribing the duties and powers of the Registrar and other officers.

(2) Such regulations shall be laid before the House of Representatives within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. 45

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(3) If the House of Representatives passes a resolution at any time within fifteen sitting-days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.

5      26. Penalties imposed by this Act may be recovered before the Court in a summary way under the Justices of the Peace Act, 1908, and amendments. Recovery of penalties.