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No. , 1914.

A BILL

To provide for the determination of fair rents for certain dwelling-houses; to enforce such determination; to amend certain Acts; and for purposes consequent thereon or incidental thereto.

[MR. GRIFFITH;— , 1914.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Fair Rents Act, 1913," and shall commence on a date to be proclaimed by the Governor.

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Interpretation

Interpretation and application of Act.

Definitions.

2. In this Act, unless the contrary intention appears,—

“Court” means any court constituted under this Act. 5

“Dwelling-house” means any house used principally for residence by a lessee, and includes any part of any house used for such purpose and separately leased, and any land, premises, or appurtenances leased with such house or 10 such part thereof.

“Rates” mean any charges levied by a municipality or shire or by the Metropolitan Board of Water Supply and Sewerage or the Hunter District Water Supply and Sewerage Board. 15

“Lease” includes, subject to the limitations of section three, every letting of a dwelling-house whether oral, in writing, or by deed.

“Lessor” and “lessee” mean the parties to a “lease” as herein defined and respectively 20 include a mesne lessor and a mesne lessee.

“Registrar” means registrar appointed under this Act.

“Rent” includes—

(a) any bonus paid or to be paid by the lessee to 52 his lessor.

(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. 30

(c) any rates or taxes payable by the lessee in respect of the dwelling-house.

“Tax” includes any tax imposed by the State or Commonwealth Government.

Where in any lease made after the first day of 35 August, one thousand nine hundred and thirteen, 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 40 rebate,

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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.

5 **3.** (1) This Act applies to any dwelling-house which is subject to a lease made before or after the commencement of this Act, for any term not exceeding two years, at a rent not exceeding seventy-eight pounds a year, or a proportionate sum for a less period, or which
10 at any time during the year one thousand nine hundred and thirteen has been let at a rent not exceeding the above-mentioned amount.

Application of Act.

(2) This Act applies within the localities appointed by the Governor and proclaimed in the Gazette.

15 (3) This Act shall bind the Crown.

Fair rents court.

4. There shall be fair rents courts under this Act, and each shall consist of a magistrate who shall be appointed by the Governor for a term of three years.
20 Such courts shall sit at such times and places as the Governor shall direct.

Constitution of court.

5. The Governor shall appoint a registrar of each court and such other officers as may be necessary for carrying out the provisions of this Act.

Appointment of officers.

25 *Application to court.*

6. (1) Any lessor, or any lessee who has paid or tendered all rent due and payable under his lease, may apply to the court to have the fair rent of the dwelling-house leased by or to him determined by
30 the court.

Application to determine rent.

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

(3) The court shall hear the application and determine the fair rent. In all cases the rent so
35 determined shall be the rent of the dwelling-house as from the date of the application.

Powers

Powers of the court.

- Evidence.** **7.** Upon such hearing the court shall receive as evidence statutory declarations made as prescribed, and shall take the oral evidence of the parties and of witnesses called on their behalf. 5
- Audience.** **8.** Neither barristers nor solicitors shall be allowed to appear for any party or upon any application in the court, but the court may, in any case where a party is not able to appear, or to efficiently conduct his case, permit any person, not being a member of the legal 10 profession or employed therein, to appear for such party, but no such person shall be entitled to demand or recover any fee or reward for his attendance at the court or for his services therein.
- Deter-**
mination. **9.** (1) In determining the fair rent the court shall first 15 ascertain the capital value of the dwelling-house. Such capital value shall be the unimproved value of the land, plus the estimated cost of erecting a similar dwelling-house thereon at the time of the receipt of such application, less such fair and reasonable sum as may 20 be estimated for any depreciation which diminishes the letting value of the dwelling-house.
- (2) Where it is proved that the dwelling-house upon purchase within three years before the application, with any additions subsequently made, cost more than 25 the sum representing the capital value under the next preceding paragraph the court may, if satisfied as to the bona fides of such purchase, add to such capital value the whole or any part of such greater cost.
- (3) The current rate books of the municipality 30 or shire in which the dwelling-house is situate shall, as soon as they are available in the year one thousand nine hundred and fourteen, and in every year thereafter, be conclusive evidence of the unimproved capital value of the land. 35
- (4) The court shall determine the fair rent at a rate of not less than five nor more than seven and one-half per centum of the capital value of the dwelling-house determined as aforesaid, plus the annual rates and taxes

taxes on the same, plus the amount estimated to be required annually for repairs (including painting) and plus insurance of any buildings, and plus an amount estimated to be the annual depreciation in value of the 5 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 dwelling-house may be untenanted, but the fair rent shall not in any case exceed ten per centum 10 of the capital value as ascertained under this section.

10. Where a building is occupied by two or more separate lessees, the court shall determine the fair rent of the building, and then determine the proportion of such fair rent as it shall deem to be the fair rent of the 15 dwelling-house of the lessee making the application. Lessee of part of a building.

11. If any applicant being a lessee duly pays the rent of the dwelling-house leased by him, and otherwise performs the conditions of his lease, the lessor shall not demand any increased rent or give any notice or take 20 any proceedings to terminate the tenancy during the pendency of the application. Pendency of application.

12. In any case where the applicant is the lessee of a dwelling-house and furniture, the court shall determine the fair rent of the dwelling-house irrespective of 25 the furniture, and shall also determine in its discretion the amount of rent to be paid for the furniture. Furnished dwelling-houses.

Duration and effect of determination.

13. The determination of the court, except as hereinafter provided, shall remain in force for such period, 30 not less than six 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 35 dwelling-house then current, and to the lessor and lessee thereof, notwithstanding any change of ownership. Period for which determination is in force.

While any such determination is in force, no application shall be made to vary it, or to determine the fair rent.

rent of the dwelling-house, unless where the applicant is the lessor, and satisfies the registrar that substantial alterations or additions have been made to the house since the said determination.

Rent to be as determined.

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 between the dates of application and determination 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.

Penalty on lessor.

15. Any person who, during the period while any determination of the fair rent of a dwelling-house is in force, lets the said dwelling-house 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 *ten* pounds.

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

16. While any such determination in respect of a dwelling-house is in force, any covenant or agreement—

- (a) to pay rent for such dwelling-house in excess of that fixed by such determination; or
- (b) which directly or indirectly would secure to any person the payment of rent or of money in respect of the occupation of such dwelling-house so that the amount received by such person would exceed the fair rent fixed by such determination,

shall be void.

Threats against lessees.

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 *twenty* pounds.

Acts to the detriment of lessees.

(2) Any person who wilfully 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

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of his having made an application under this Act, shall be liable to a penalty not exceeding *twenty* pounds; and if two or more persons concur in the doing of any such act, or in procuring any such thing to be done, 5 they shall each be liable to a penalty not exceeding *one hundred* pounds.

Jurisdiction of the court.

18. The court in every case shall have jurisdiction to inquire and decide whether any application or subject 10 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 15 no writ of prohibition or certiorari shall lie in respect thereof.

Determination to be final.

19. The court shall have the powers conferred by the Royal Commissioners Evidence Act, 1901, on a commissioner appointed thereunder; and the said Act, section 20 nine excepted, shall, *mutatis mutandis*, apply to any witness or person summoned by or appearing before the court.

Powers of the court.

20. No costs shall be allowed in any proceeding under this Act.

Costs.

25 *General provisions.*

21. 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 dwelling-house, or to affect any rights to which he would be 30 entitled under this Act shall be void.

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

22. The clerk or other officer having custody of the rate-books of a municipality or shire shall allow the registrar to inspect and take copies of or extracts from such rate books, and shall not be entitled to charge any 35 fees in respect of such inspection, copies, or extracts.

Inspection of rate books.

23. Any person on tendering the sum of sixpence shall be entitled to obtain from the registrar information as to the fair rent of any dwelling-house as fixed by the court.

Information as to fair rent of dwelling-house.

24.

Regulations.

24. The Governor may make regulations for carrying out the provisions of this Act, and in particular for—

regulating the making and receipt of applications to determine fair rent and prescribing the notices to be given of the same; 5

prescribing the procedure in respect of such applications;

prescribing the forms which may be used for the purposes of this Act; and 10

prescribing the duties and powers of the registrar and other officers.

Such regulations shall be published in the Gazette, and thereupon shall have the force of law.

Penalties.

25. Penalties under this Act may be imposed by and recovered before the court or a stipendiary or police magistrate or any two justices in petty sessions. 15
