

Mr. Witty.

LAND AGENTS.

ANALYSIS.

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A BILL INTITULED

AN ACT to provide for the Licensing of Land Agents.

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

Title.

5 1. This Act may be cited as the Land Agents Act, 1907.

Short Title.

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

Interpretation.

“Land agent” means a person whose business, either alone or as part of or in connection with any other business, is to sell land on commission otherwise than by auction; but does not include a licensed auctioneer or a person acting under the Land Transfer Act, 1885, as a licensed land broker:

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“License” means a license granted under this Act:

“Local authority” means the Council of a borough or county, or the Board of a town district; and within a county where there is no County Council includes the Board of a road district.

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3. (1.) From and after the first day of January, nineteen hundred and *eight*, no person shall carry on the business of a land agent unless he is the holder of a license under this Act. Land agents to be licensed.

(2.) Where a firm carries on the business of land agents it shall be sufficient if one member of the firm is the holder of a license on behalf of the firm.

(3.) Where a registered company carries on the business of land agents it shall be sufficient if some person appointed in writing by the company is the holder of a license on behalf of the company.

4. (1.) Every person who desires to obtain a license shall lodge with the Clerk of the local authority in the district wherein he resides an application in the form numbered (1) in the *First* Schedule hereto, together with a fidelity bond for *five* hundred pounds from some approved insurance company. Application for license.

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(2.) Such application shall at the next ensuing meeting of the local authority be dealt with and granted, unless the members of the local authority, by resolution of a majority of two-thirds of those present and voting, declare that the applicant is not a fit and proper person to receive a license. 5

License.

5. (1.) If the application is granted, the Clerk of the local authority shall, on payment of the fee fixed by the local authority, not exceeding *five* pounds, issue to the applicant a license in the form numbered (2) in the *First* Schedule hereto, signed by the Chairman or any two members of the local authority, and countersigned by the Clerk. 10

(2.) Such license shall take effect from the date of the issue thereof, and shall expire on the thirty-first day of December next following, and shall authorise the licensee to act as a land agent in any part of New Zealand during the currency of the license, unless the same is cancelled as hereinafter provided. 15

(3.) The issue of every license shall, within ten days after the issue thereof, be publicly notified by the local authority in some daily newspaper circulating in the district; and the local authority shall keep a register of all licenses issued by it. 15

Licensee may appoint substitute.

6. A licensee may at any time during the currency of his license appoint in writing as his substitute any person approved by the local authority, and such substitute may, on payment to the local authority of a fee of *ten* shillings, act as such substitute during the period for which he was appointed or upon the licensee resuming business, but not exceeding the currency of the license, and while so acting shall be deemed to be the holder of a license. 20 25

Death or bankruptcy of licensee.

7. Where a land agent dies or becomes bankrupt his executors or administrators or the Official Assignee, as the case may be, may transfer his license to any person approved by the local authority, and such transferee shall, on payment to the local authority of a fee of *ten* shillings, be deemed to be the holder of the license, and may act as a land agent during the currency thereof. 30

Application of trust moneys.

8. (1.) All moneys received by a land agent in respect of any sale of land shall be applied as follows:—

(a.) In payment of the expenses, commission, and other charges of or incidental to the sale: 35

(b.) In payment of the balance (if any) to such person, or as he may direct; and until such payment such balance shall be paid into a bank to a separate trust account.

(2.) Every land agent who commits a breach of this section is liable to a fine not exceeding *fifty* pounds. 40

(3.) Moneys paid into such trust account shall not be available for payment of the debt of any other creditor of the land agent, or be liable to be attached or taken in execution under the order or process of any Court at the instance of any such creditor. 45

Account of moneys received, and their application.

9. (1.) Within fourteen days after the completion of any sale of land by a land agent he shall render to the person on whose behalf the sale was made an account in writing of all moneys received by him in respect of such sale and of the application thereof, and shall within such period of fourteen days pay to such person the balance (if any) of such moneys as provided in the *last preceding* section. 50

(2.) For the purposes of this section a sale of land shall be deemed to be complete when the agreement for the sale is signed by both parties, or by the purchaser and the agent on behalf of the vendor, and the deposit (if any) is paid.

5 (3.) Every land agent who, after a written demand by such person in that behalf, fails for seven days to render such account, or to pay such balance to such person or as he directs, is liable to a fine not exceeding *ten* pounds.

10 10. Every land agent is liable on indictment to *two* years' imprisonment with hard labour who—

Wrongful conversion and false accounts.

(a.) Fraudulently converts to his own use the balance of any moneys received by him in respect of any sale of land or any part thereof, or fraudulently fails to pay such balance or any part thereof to the person entitled thereto; or

15 (b.) Fraudulently renders an account of any such moneys knowing the same to be false in any material particular.

20 11. If any land agent is convicted of a breach of section *eight* hereof or of the *last preceding* section his license shall be deemed to be *ipso facto* cancelled; and if any land agent who has been convicted of any other offence against this Act is within twelve months thereafter convicted of a second or any subsequent offence of any kind against this Act, the Court may, if it thinks fit, in addition to any other penalty, cancel his license.

When license may be cancelled.

25 12. Nothing in this Act shall affect any civil remedy that any person may have against a land agent in respect of any matter.

Civil remedies not affected.

30 13. Every person (not being the holder of a license) who carries on business as a land agent, or who has any words painted or written, or allows to remain unobliterated any words that have been painted or written, over or about his house, window, or premises that lead to the belief or supposition that he is a land agent, or who places or causes to be placed any placard, board, writing, or thing in the public view to the intent that it may be believed or supposed that he is a land agent, is liable to a fine not exceeding *fifty* pounds.

Carrying on business without a license.

35 14. In all proceedings against any person for having carried on business as a land agent without a license such person shall, unless he produces his license or brings other satisfactory proof of his having been licensed at the time when the offence was alleged to have been committed, be deemed to have been unlicensed.

Onus of proof that person is licensed.

40 15. (1.) All offences against this Act, except under section *ten* hereof, may be heard and determined in a summary way by any two Justices.

Offences, fines, and fees.

(2.) All fines shall, when recovered, be paid into the Public Account and form part of the Consolidated Fund.

45 (3.) All license fees shall be paid to the local authority of the district and form part of its ordinary fund.

Schedule.

SCHEDULE.

(1.) APPLICATION FOR LICENSE.

I, A. B., of , hereby make application for a land agent's license. My sole [or principal] place of business is in the County [or Borough, or Town District] of

Dated this day of , 19 .

(Signed)

A. B.

To the Clerk of the County [or Borough, or Town District].

(2.) LAND AGENT'S LICENSE.

County of [or Borough of , or Town District].
IN pursuance of the Land Agents Act, 1907, the [Name of local authority] hereby issues this license to A. B., whose place of business is within the said county [or borough, or town district], to carry on business as a land agent in New Zealand.

This license shall continue in force until the thirty-first day of December next after the date hereof, unless it is cancelled in the meantime.

Dated at , the day of , 19 .

For the local authority.

(Signed) C. D., Chairman [or Mayor], or
E. F., }
G. H., } Two members.

(Countersigned) : I. J., Clerk.