

Rt. Hon. R. J. Seddon.

MONEY-LENDERS.

ANALYSIS.

Title.	4. Registration of and restrictions on money-lenders. Penalty.
Preamble.	5. Regulations as to registration.
1. Short Title. Commencement.	6. Penalties for false statements and representations.
2. Definition of money-lender.	Schedule.
3. Reopening of transactions of money-lenders.	

A BILL INTITULED

AN ACT to amend the Law with respect to Persons carrying on Business as Money-lenders. Title.

5 WHEREAS certain persons trading as, and known by the name of, money-lenders inflict by harsh and unconscionable bargains great injury upon those who borrow money from them ; and it is expedient that such money-lenders and their methods of carrying on such business of money-lending should be subject to control : Preamble.

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

1. (1.) The Short Title of this Act is "The Money-lenders Act, 1900." Short Title.

15 (2.) This Act shall come into operation on the first day of January, one thousand nine hundred and one. Commencement.

2. In this Act "money-lender" includes every person (whether an individual, a firm, a society, or a corporate body) whose business is that of money-lending, or who advertises or announces himself or holds himself out in any way as carrying on that business ; but does not include— Definition of money-lender.

20 (1.) Any duly licensed pawnbroker in respect of business carried on by him in accordance with the provisions of "The Pawnbrokers Act, 1868" ; or

25 (2.) Any society registered under "The Building Societies Act, 1880" ;

(3.) Any society registered under "The Friendly Societies Act, 1882" ;

(4.) Any body corporate, incorporated or empowered (before the passing of this Act) by a special Act of Parliament to lend money in accordance with such special Act ; or

30 (5.) Any person *bonâ fide* carrying on the business of banking or
No. 150—1.

insurance or any business not having for its primary object the lending of money, in the course of which and for the purposes whereof he lends money.

Reopening of transactions of money-lenders.

3. (1.) Where proceedings are taken in any Court by a money-lender for the recovery of any money lent after the passing of this Act, or the enforcement of any agreement or security made or taken after the passing of this Act, in respect of money lent either before or after the passing of this Act, and the Court has reason to believe that the interest charged in respect of the sum actually lent exceeds the rate of interest mentioned in the Schedule to this Act, or that the amounts charged for expenses, inquiries, fines, bonus, premiums, renewals, or any other charges, are excessive, and that, in either case, the transaction is harsh and unconscionable, the Court may reopen the transaction, and take an account between the money-lender and the person sued, and may, notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, reopen any account already taken between them, and relieve the person sued from payment of any sum in excess of the sum adjudged by the Court to be fairly due in respect of such principal, interest, and charges as the Court, having regard to the risk and all the circumstances, may adjudge to be reasonable; and if any such excess has been paid, or allowed in account, by the debtor, may order the creditor to repay it; and may set aside, either wholly or in part, or revise, or alter, any security given or agreement made in respect of money lent by the money-lender, and if the money-lender has parted with the security may order him to indemnify the borrower or other person sued.

(2.) Any Court in which proceedings might be taken for the recovery of money lent by a money-lender shall have and may, at the instance of the borrower or surety or other person liable, exercise the like powers as may be exercised under this section where proceedings are taken for the recovery of money lent.

(3.) On any application relating to the admission or amount of a proof by a money-lender in any bankruptcy proceedings, the Court may exercise the like powers as may be exercised under this section where proceedings are taken for the recovery of money lent:

(4.) Provided that nothing in the foregoing provisions of this section shall affect the rights of any *bona fide* assignee or holder for value without notice.

(5.) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any Court.

Registration of and restrictions on money-lenders.

4. (1.) A money-lender as defined by this Act—

- (a.) Shall register himself as a money-lender in accordance with regulations under this Act, under his own or usual trade name, and in no other name, and with the address, or all the addresses if more than one, at which he carries on his business of money-lender; and
- (b.) Shall carry on the money-lending business in his registered name, and in no other name and under no other description, and at his registered address or addresses, and at no other address; and

(c.) Shall not enter into any agreement with respect to the advance and repayment of money or take any security for money otherwise than in his registered name; and

5 (d.) Shall on reasonable request, and on tender of a reasonable sum for expenses, furnish the borrower with a copy of any document relating to the loan or any security therefor.

(2.) If a money-lender fails to register himself as required by this Act, or carries on business otherwise than in his registered name, or in more than one name, or elsewhere than at his registered address, or fails to comply with any other requirement of this section, he shall be liable on summary conviction to a penalty not exceeding *one hundred* pounds, and in the case of a second or subsequent conviction to imprisonment, with or without hard labour, for a term not exceeding *three* months, or to a penalty not exceeding *one hundred* pounds, or to both: Provided that if the offender is a body corporate that body corporate shall be liable on a second or subsequent conviction to a penalty not exceeding *five hundred* pounds.

20 (3.) A prosecution under subsection (1), (a), of this section shall not be instituted except with the consent of the Attorney-General or Solicitor-General.

5. (1.) The Governor may from time to time make regulations respecting the registration of money-lenders, whether individuals, firms, societies, or corporate bodies, the form of the register, and the particulars to be entered therein, and the fees to be paid on registration and renewal of registration, not exceeding *one* pound for each registration or renewal, and respecting the inspection of the register and the fees payable therefor.

(2.) The registration shall cease to have effect at the expiration of three years from the date of the registration, but may be renewed from time to time, and if renewed shall have effect for three years from the date of the renewal.

6. If any money-lender, or any manager, agent, or clerk of a money-lender, by any false, misleading, or deceptive statement, representation, or promise, or by any dishonest concealment of facts, induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed, he shall be liable on indictment to imprisonment, with or without hard labour, for a term not exceeding *two* years, or to a penalty not exceeding *five hundred* pounds, or to both.

SCHEDULE.

Schedule.

RATE OF INTEREST.

In respect of a loan (whether made by one or more advances)—	
Not exceeding forty shillings	... Fifteen per cent. per annum if secured, and twenty-five per cent. per annum if unsecured.
Exceeding forty shillings, but not exceeding ten pounds	... Twelve per cent. per annum if secured, and twenty per cent. per annum if unsecured.
Exceeding ten pounds	... Ten per cent. per annum if secured, and fifteen per cent. per annum if unsecured.