

New Zealand.

ANALYSIS

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1882, No. 27.—*Local.*

AN ACT to enable Portions of the Southern Market Reserve in the City of Dunedin to be leased. [13th September, 1882.]

WHEREAS under the provisions of "The Dunedin Reserves Management Ordinance, 1867," the lands comprised in the Schedule hereto, and commonly known as "The Southern Market Reserve," have, *inter alia*, become vested in the Corporation of the Borough of the City of Dunedin and its successors, as a corporate body upon trust for the purposes in the said ordinance mentioned: And whereas it is expedient to alter, amend, and extend the leasing powers conferred by the said ordinance, so far as the same relate to the said Southern Market Reserve described in the Schedule hereto, and to make such other provisions as are hereinafter contained:

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

1. The Short Title of this Act is "The Dunedin Southern Market Reserve Leasing Act, 1882."
2. It shall be lawful for the Corporation of the Mayor, Councillors, and Burgesses of the City of Dunedin (hereinafter referred to as "the Corporation"), with the sanction and consent of the Governor of New Zealand, from time to time to lease by public auction at an upset rental to be fixed by the Corporation the Southern Market Reserve described in the Schedule hereto, or any subdivisions

of such reserve, for any term of years not exceeding twenty-one years, to take immediate effect in possession; and such leases (hereinafter called "original leases") may, in addition to all such covenants, agreements, conditions, and provisions as are usual in such leases, at the option of the Corporation, contain provisions to the following effect—that is to say: That three months previous to the expiration of the respective terms of such original leases, two separate valuations shall be made by three indifferent persons, to be appointed in writing, as follows—one by the said Corporation, one by the lessee, his executors, administrators, or assigns, and the third by the two valuers, to be appointed as aforesaid: That the decision of such three valuers, or any two of them, shall be binding on all parties: That one of such valuations shall be made of all the buildings and improvements then on the land demised, and the other of the fair annual ground-rent of the said lands only, without any building or improvements, for a further term, not exceeding twenty-one years, from the expiration of the term granted by such original lease as aforesaid: That before the expiration of such original lease a new lease of the said land and premises for a further term not exceeding twenty-one years, containing similar covenants and provisions to those contained in such original lease as aforesaid, shall be put up to public auction at the upset price of the annual rent of the said land so valued as aforesaid, without buildings and improvements, subject to the payment by the purchaser of the value of the said buildings and improvements, so fixed by the valuers as aforesaid: That in the event of any person or persons other than the original lessee, his executors, administrators, or assigns, becoming entitled to such new lease, such person or persons shall forthwith pay in cash to the said Corporation for the benefit of the original lessee, his executors, administrators, or assigns, the amount of the value of the buildings and improvements so fixed as aforesaid: and, That the said Corporation shall pay over to the said original lessee, his executors, administrators, or assigns, the amount so paid to them by the purchaser of such new lease, without any deduction whatsoever, provided that the said original lessee, his executors, administrators, or assigns shall have previously paid all rent and other charges payable under the original lease.

Plans to be approved by the Governor.

3. Before the Governor shall give such sanction and consent to any such leases, plans of the buildings to be erected on the said reserve, both by lessees and by the Corporation, shall be submitted for his approval, and he shall prescribe such conditions as he shall think fit for the purpose of securing uniformity of design in such buildings, and shall require that such of the above-mentioned conditions as may be applicable to each lease shall be inserted in such lease and be made binding on the lessee and the Corporation; and also shall require the Corporation to enter into a contract under its corporate seal to observe the aforementioned conditions, which contract shall be as binding on the Corporation as any other contract it may lawfully enter into.

How rents to be dealt with.

4. All rents reserved under the leases authorized by this Act shall, from time to time as they are received by or on behalf of the Corporation, be paid into such bank as the Council of the said borough shall appoint, to an account to be called "The Southern Market

Building and Maintenance Fund Account" (hereinafter referred to as "the said account"), anything in "The Municipal Corporations Act, 1876," to the contrary notwithstanding.

5. The provisions contained in sections one hundred and twenty-six to one hundred and thirty-eight of "The Municipal Corporations Act, 1876," inclusive, so far as they are applicable, shall apply to the said account in the same manner as if such account were a "Separate account," within the meaning of that Act.

Sections 126 to 138
"Municipal Corporations Act, 1876," to apply.

6. All moneys belonging to the said account shall be held in trust for the purpose of providing a commodious market-place for the citizens of Dunedin, and shall from time to time be expended, subject to the conditions hereinbefore mentioned, in erecting, placing, and maintaining in good repair, upon such portions of the said Southern Market Reserve as shall not be leased under the provisions of this Act all such buildings, fences, appliances, and conveniences as shall be needful or expedient for such purpose, and not otherwise.

How moneys to be expended.

7. The Council may from time to time invest the whole or any part of the moneys standing to the credit of the said account in such securities as it directs, and may sell such securities: Provided that all interest accruing therefrom and all moneys arising out of the sale thereof shall be duly paid into the said account.

Moneys may be invested.

8. If any person into whose hands any portion of the moneys mentioned in section four shall at any time come fails to pay the same into the said account forthwith, or if any councillor or officer of the Council shall at any time, directly or indirectly, consent to or in any way authorize or sanction the payment or expenditure of the whole or any portion of the moneys standing to the credit of the said account for any purpose other than those hereinbefore mentioned, he shall be liable to be sued in any Court of competent jurisdiction; or if there be more than one such person, then they shall be liable to be sued jointly or severally, by any burgess of the said borough for any moneys which he or they shall have so failed to pay into the said account, or the payment or expenditure of which contrary to the provisions of this Act he or they shall have so consented to or in any way authorized or sanctioned, together with a penalty not exceeding one hundred pounds and all costs of the proceedings.

Penalty for non-compliance.

9. The amount recovered by a judgment in any such action as aforesaid, less the sum awarded by way of penalty and costs, shall be paid by the defendant into the said account, and unless so paid such judgment shall not be deemed to be satisfied. The residue of the amount so recovered shall be paid to the plaintiff.

How amount recovered to be paid.

10. In case the moneys recovered by a judgment in any such action be paid upon the issue of a writ of *fieri facias*, or distress warrant, the Sheriff or other officer of the Court receiving the same shall thereupon in the first place pay to the plaintiff the amount awarded as costs in the action, and secondly shall pay in to the credit of the said account the moneys which should have been paid by the defendant into, or which were so improperly paid or expended from, the said account. The balance remaining after deducting these amounts shall be paid to the plaintiff.

In case money paid under distress warrant.

Schedule.

SCHEDULE.

ALL that parcel of land in the Province of Otago, containing by admeasurement three acres and six perches, more or less, situate in the Town of Dunedin, and being land reserved for a market, as shown on the map of the said Town of Dunedin, bounded towards the North-west by Manor Place, seven hundred and seventy-nine and three-tenths links; towards the East by Princes Street, eleven hundred and two links; and towards the South-west by sections numbered respectively sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one, and seventy-two, Block III., seven hundred and seventy-nine and three-tenths links.