

New Zealand.

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1898, No. 6.—*Local.*

- Title.** AN ACT to define the Leasing-powers of the University of Otago with reference to Lands in the City of Dunedin, and to limit and define its Power of mortgaging or charging its Revenues. [13th September, 1898.]
- Preamble.** WHEREAS it is desirable to define the powers of the University of Otago with reference to certain building-lands in the City of Dunedin : And whereas it is also desirable to define the power of the University to give security over its rents and revenues :
- Short Title.** 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 University of Otago Leases and Securities Act, 1898."
- Interpretation.** 2. In the construction of this Act "the University" means the University of Otago, established and incorporated by an Ordinance of the Superintendent and Provincial Council of the late Province of Otago, dated the third day of June, one thousand eight hundred and sixty-nine, and intituled "An Ordinance to incorporate the University of Otago."
- Power to lease** 3. The University shall have power to lease the lands in the First Schedule hereto described, by private contract, public auction, or by tender, in such lots or areas as it shall deem fit, for a period not exceeding fifty years, upon such terms and conditions, and with such covenants on its part and on the part of any lessee thereof, as to it may seem fit, including provisions for the periodical revaluation of rent, and especially shall have power to grant leases similar in terms to that which is set forth in the Second Schedule hereto, with such variations as may appear requisite or desirable in the interests of the University :

Provided that, in granting leases similar in terms to that which is set forth in the Second Schedule hereto, the before-mentioned limit of fifty years shall not apply to restrict the operation of the covenant for renewal therein contained :

Provisoos.

Provided further that any lease granted by the University shall be for the best rent reasonably obtainable, without fine or foregift, but the payment of rent not exceeding one year's rent in advance shall not be deemed a fine or foregift :

Provided further that it shall be lawful for the University to take from any lessee or tenant the fair value of any buildings, fences, or improvements for the time being standing upon any such land, and thereafter to treat such buildings, fences, or improvements as erected by such lessee or tenant.

4. The rents and revenues derived from the leasing of the said land shall form part of the ordinary revenue of the University.

Rents and revenues to be ordinary revenue.

5. The rents and revenues of the University, derivable as well from its endowments and lands held for special purposes or upon special trusts as from lands not so described or held, may form the security for any loan which it may hereafter, with the sanction of the Governor in Council, raise, and such rents and revenues shall form the security for any loan heretofore raised with such consent, and to the extent to which the University has purported to charge the same with the repayment of any such loan or with the payment of interest thereon such rents and revenues shall be and be deemed to have been validly charged :

Rents and revenues may form security for loan.

Provided that in no case shall the fee-simple of the land from which the rents or revenues are derived be mortgaged as security therefor :

Provisoos.

Provided further that, in the event of the Governor in Council granting the sanction to such loan as hereinbefore provided, there shall be no liability on the part of the colony in respect to such loan.

6. Nothing contained in this Act shall be deemed to in any way prejudicially affect or alter any rights which now are or hitherto have been vested in the trustees of the Dunedin Athenæum and Mechanics' Institute by any Act or Acts dealing with the revenues of such University.

Preservation of rights of Dunedin Athenæum and Mechanics' Institute.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

ALL that parcel of land situated in the Town of Dunedin, containing by admeasurement 2 acres, more or less, being sections numbered respectively 11, 12, 13, 14, 15, 16, 17, and 18, Block XXVII., on the record map of the said Town of Dunedin. Bounded towards the north-west by Castle Street, 400 links; towards the north-east by part of area granted by the Crown to the late Superintendent of Otago in trust as a recreation reserve, 500 links; towards the south-east by Leith Street, 400 links; and towards the south-west by Albany Street, 500 links.

SECOND SCHEDULE.

THIS DEED, made the _____ day of _____, one thousand eight hundred and _____, between the University of Otago (hereinafter called "the lessor") of the one part, and _____ (hereinafter called "the lessee") of the other part, Witnesseth that, in pursuance and exercise of the powers in this behalf conferred on the lessor by

“The University of Otago Leases and Securities Act, 1898,” and of every other power enabling the lessor in this behalf, and in consideration of the rent hereby reserved, and of the covenants on the part of the lessee herein contained and implied, the lessor doth hereby demise unto the lessee, his executors, administrators, and assigns, the parcel of land described in the schedule hereto, together with all buildings and improvements, rights, easements, and appurtenances thereunto belonging, to hold the said parcel of land and premises hereby demised unto the lessee, his executors, administrators, and assigns, for the term of _____ years, computed from the day of _____, one thousand eight hundred and _____, yielding and paying therefor the yearly rent or sum of _____, by a payment on the day of _____ next of so much rent as shall then have accrued, and thereafter by equal half-yearly payments on the _____ day of _____ and the _____ day of _____ in each year, of which the first shall be made on the _____ day of _____ next. And the lessee doth hereby, for himself, his executors, administrators, and assigns, covenant with the lessor, its successors and assigns, that he, the lessee, his executors, administrators, or assigns, will, during the said term, pay the said rent on the above-mentioned days at the University Buildings, in Dunedin, and will pay and discharge all existing and future taxes, rates, and assessments whatsoever chargeable in respect of the said demised premises or on the landlord or tenant thereof, including the cost of erecting and maintaining all party, dividing, and boundary fences: And will bear and perform all other burdens or duties in any way incumbent on the owner or occupier thereof: And also will not, without the previous consent in writing of the lessor, its successors or assigns, mortgage, assign, sublet, or part with the possession of the said demised premises or any part thereof, nor remove or take away any building for the time being standing on the said demised land: And will at his or their expense keep the said buildings in a good state of repair: And will at the like expense insure the same against loss or damage by fire in a sum not less than two-thirds of the full insurable value thereof, in the joint names of the lessor, its successors or assigns, and of the lessee, his executors, administrators, or assigns: And will, whenever required by the lessor, its successors or assigns, produce the policy or policies for every such insurance, and the receipts for the premiums payable thereunder, or furnish other good and sufficient evidence that such insurance exists: And that if default shall be made in effecting or keeping on foot any such insurance, or in producing when so required as aforesaid any such policy or receipt as aforesaid, or furnishing such evidence as aforesaid, it shall be lawful for the lessor, its successors or assigns, to insure the said buildings in such sum as it or they shall think fit, and recover the amount expended in effecting such insurance from the lessee, his executors, administrators, or assigns, in the same manner as if it were rent in arrear.

And it is hereby agreed and declared as follows:—

1. All moneys received under or by virtue of any insurance of buildings on the demised premises shall, unless otherwise agreed, be laid out in rebuilding or reinstating the buildings destroyed or damaged, and if in any case such moneys shall be more than sufficient for that purpose, the surplus shall belong to the lessee, his executors, administrators, or assigns.

2. Within six calendar months previous to the expiration of the term hereby created, two separate valuations shall be made—namely, one, of all the buildings and improvements then on the parcel of land hereby demised, and whether erected or made during the term hereby granted by the lessee, his executors, administrators, or assigns, or his or their immediate predecessors in title; and the other, a valuation of the fair annual ground-rent of the said parcel of land only without such buildings or improvements, for a further term of _____ years from the expiration of the term hereby granted, so as such rent shall be an even annual sum payable throughout the term, without increasing or decreasing during the term.

3. The valuations shall be made by two indifferent persons as arbitrators, appointed in writing: one by the lessor, its successors or assigns, and the other by the lessee, his executors, administrators, or assigns. The arbitrators shall, before entering upon the valuations together, appoint in writing, under their respective hands, a third person, who shall be an umpire as between them. The decision of such two first-appointed arbitrators, if they agree, or in such respects as they agree, or of such umpire, if the arbitrators do not agree, or in such respects as they do not agree, shall be binding on all parties. The duty of such umpire on reference to him of any question shall be to analyse the respective valuations of the two arbitrators in the matters in which their valuations shall not agree, and then to make an independent and substantive valuation, and the last-mentioned valuation shall be the decision of the umpire: Provided always that in making such decision on any

question referred to him the umpire shall in every case be bound to make a valuation not exceeding the higher or less than the lower of the valuations made by the arbitrators respectively.

4. The provisions herein contained for determination of annual ground-rent and value of buildings and improvements respectively shall be deemed to amount to a submission to arbitration under and within the meaning of "The Arbitration Act, 1890," or any enactment for the time being in force in substitution therefor or amendment thereof; and the provisions of the said Act and of any such enactment (all hereinafter referred to as "the said Act") shall apply accordingly except in any particular in which they are varied by the provisions contained in these presents.

5. Before the expiration of the term hereby granted, the right to a lease of the said land and premises for a further term of _____ years from the expiration of the term hereby granted, containing the same covenants and provisions as are contained in these presents (including the provisions herein contained for valuation and renewal, and all clauses auxiliary or in relation thereto), shall be put up by the lessor, its successors or assigns, to public auction in Dunedin, at the upset annual rent of the said land fixed by the arbitrators or the umpire as aforesaid, without buildings and improvements, subject to the payment by the purchaser of such right of the value of the said buildings and improvements as fixed by the arbitrators or the umpire as aforesaid; and in the event of any person, other than the lessee, his executors, administrators, or assigns, becoming the purchaser at such auction of the right to such lease for the said further term of _____ years, such person shall forthwith pay in cash to the lessor, its successors or assigns, in trust for the lessee, his executors, administrators, or assigns, the amount of the value of the buildings and improvements so fixed as aforesaid, and shall enter into a lease of the said premises for the said further term at the annual ground-rent at which the right to such lease shall have been so purchased: And the lessor, its successors or assigns (all rent and outgoings payable by the lessee, his executors, administrators, or assigns, having previously been paid), shall on demand pay over to the lessee, his executors, administrators, or assigns, the amount of the value of the said buildings and improvements paid to the lessor, its successors or assigns, by the purchaser, without any deduction whatever: Provided always, and it is hereby expressly declared, that nothing in these presents contained shall be deemed to render the lessor, its successors or assigns, liable to pay to the lessee, his executors, administrators, or assigns, all or any part of the value of any buildings or improvements upon any valuation made under the foregoing provisions, save after having received the amount thereof as aforesaid.

6. Any notice required to be given for the purposes of the said Act, or any such enactment as aforesaid, may be given to the lessor, its successors or assigns, by leaving the same at the University Buildings, Dunedin, addressed to the Registrar, or by advertising the same twice in any daily morning newspaper published in Dunedin, and may be given to the lessee, his executors, administrators, or assigns, by leaving the same at his or their last known place of business or abode in the Colony of New Zealand, or by advertising as aforesaid.

7. Upon any sale as aforesaid of the right of a lease by auction, the lessor, its successors or assigns, shall provide by written conditions of sale for the payment by the purchaser at the auction of a deposit, not being less, unless otherwise agreed, than twenty pounds per cent. on the amount of the valuation of the buildings and improvements so fixed as aforesaid; and that, in the event of the purchaser refusing or neglecting to complete his purchase according to such conditions of sale, he shall forfeit such deposit to the lessor, its successors or assigns, for the benefit of the lessee, his executors, administrators, or assigns: And the lessor, its successors or assigns, may, if it or they think fit, thereby provide in addition that in either of the events last mentioned the purchaser shall pay to the lessor, its successors or assigns, for their own benefit, as liquidated damages, a sum not exceeding one-half of the total deficiency (if any) during the term of years of the rent agreed to be paid by the new purchaser, at a subsequent sale by auction held in consequence of the default of the original purchaser, as compared with the rent that would have been reserved had such original purchaser not made default, together with all expenses attending the sale; and the lessor, its successors or assigns, may make fair and reasonable conditions otherwise for the purpose of carrying into effect the intention of these presents.

8. If, owing to delay on the part of the arbitrators or the umpire or otherwise, the right to a new lease is not put up to auction before the expiration of the said term hereby granted, or if, owing to the purchaser at any auction (whether the original auction or a subsequent one held on account of the default of the purchaser to complete as hereinafter mentioned) refusing or neglecting to complete his purchase accord-

ing to the terms and conditions thereof, the purchase shall not be completed, then and in any of the said cases the right to the new lease shall be put up to auction as soon as conveniently can be after the expiration of the term hereby granted, or (as the case may be) such refusal or neglect to complete, notwithstanding the term hereby granted shall have expired; and if the purchaser at such last-mentioned auction shall make default as aforesaid, the right to such new lease shall again be put up as soon as conveniently can be after such default, and so on, but in every such case the new term shall run from the date of the expiration of the term hereby granted, though the rent shall not begin to run until the purchaser obtains possession.

9. The lessee, his executors, administrators, or assigns, shall have a right to bid for and become the purchaser or purchasers of the right to a new lease at any such auction thereof.

10. If at any auction there shall be no bid of or over the upset annual ground-rent as valued as aforesaid, then at or (as the case may be) as from the expiration of the said term hereby granted, the said land hereby leased, with all buildings and improvements thereon, shall absolutely revert to the lessor, its successors or assigns, free from any payment or compensation whatever.

11. In the event of the term hereby created being determined by forfeiture or otherwise than by effluxion of time, the lessee, his executors, administrators, or assigns shall not, unless relieved from such forfeiture by any Court of competent jurisdiction, be entitled to any compensation whatever for buildings or improvements. And it is hereby agreed and declared that if the rent hereby reserved or any part thereof shall at any time be in arrear for the space of twenty-one days after any of the days hereinbefore appointed for payment thereof, although no formal or other demand for payment thereof shall have been made, or if the lessee, his executors, administrators, or assigns, shall commit a breach of any of the covenants on his or their part herein contained or implied, it shall be lawful for the lessor, its successors or assigns, to re-enter upon the said demised premises, and repossess and hold the same as if this demise had not been made.

In witness whereof these presents have been executed by or on behalf of the said parties hereto the day and year first before written.