



ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

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No. 217.

An Act to consolidate and amend the Laws relating to the Dedication and Leasing of Lands granted for Educational Purposes.

[Assented to, November 18th, 1881.]

**W**HEREAS it is desirable to consolidate and amend the laws relating to the dedication and leasing of lands granted for educational purposes—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows: Preamble.

1. Section 25 of "The Education Act, 1875," "The Education Act Amendment Act, 1877," and sections 7 and 8 of "The Education Amendment Act, 1878," are hereby repealed, but such repeal shall not affect the validity of any reservation, dedication, or grant, or of any lease or licence, or of any contract, covenant, act, deed, matter, or thing, made, done, granted, or entered into under the enactments hereby repealed, or any of them, or of any rights or liabilities existing or arising out of anything heretofore lawfully done under the said enactments, or any of them. Repeal.

2. Section 24 of "The Education Act, 1875," shall be read and construed as if the word "Commissioner" were inserted in the third and seventh lines thereof, in lieu of the word "Council." Commissioner to be read in lieu of Council in Education Act, 1875.

3. The Commissioner of Crown Lands and Immigration for the time being of the province and his successors shall be a body politic and corporate, under the name or title of "The Commissioner of Educational Commissioner of Crown Lands to be Commissioner of, and have control over educational lands.

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Educational Lands," and shall and may, by that name or title, sue and be sued, plead and be impleaded, in all Courts and before all Justices, and shall have perpetual succession and a common seal.

Lands heretofore granted for endowment of education to vest in Commissioner.

4. Notwithstanding anything contained in section 1 of "The Education Act Amendment Act, 1878," all lands heretofore granted by way of endowment for education, under the authority of section 24 of "The Education Act, 1875," shall, immediately upon the passing of this Act, become, and shall thereafter remain, vested in the Commissioner of Educational Lands (hereinafter called "the Commissioner"), subject, nevertheless, to all leases, licences, contracts, and agreements heretofore lawfully granted or entered into in respect of such lands.

Governor may grant lands for school sites.

5. The Governor may reserve, dedicate, and grant to the Minister Controlling Education any waste lands of the Crown as sites for school buildings, and may also, with the consent in writing of any person holding any of the waste lands of the Crown under agreement or lease under any law for the time being in force respecting the sale upon credit or the leasing of such lands, grant to the said Minister, as a site for school buildings, any land included in any such agreement or lease; and after such grant the agreement or lease in which such land was so included shall be read and construed as if such land had been expressly excepted out of the land described in such agreement or lease.

Commissioner may demise lands and grant licences to search for and remove minerals.

6. The Commissioner may from time to time demise and let any of the lands now or hereafter vested in him as such Commissioner as aforesaid, and may grant licences to any persons to search for and remove minerals and metals from any lands so vested in him as aforesaid, and may charge and recover such fees or other payments and impose such terms and conditions in respect of such licences as may be charged, recovered, and imposed under the laws from time to time in force respecting licences to search for and remove minerals and metals from Crown lands; and all leases of lands so vested in him as aforesaid, (except leases granted for mining purposes), shall be construed as if there were inserted therein an exception of minerals and metals and a power to grant licences to search for and remove the same in the same manner in all respects as is provided with respect to Crown lands and waste lands under the provisions of "The Crown Lands Consolidation Act," and of an Act, No 26, of 1870-71, intituled "An Act to amend the Laws relating to Gold Mining, and for other purposes," and the Regulations made under the said Acts, or either of them, or as near thereto as the circumstances of the case will permit.

Leases to be offered at auction.

7. The right to a lease of land under this Act for other than mineral purposes shall be offered for sale by public auction, at such upset price per acre per annum, and upon such terms with respect to the payment for any improvements on such land as the Commissioner shall in each case direct; and the person to whom such lease

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lease shall be granted shall be the person who at such auction shall offer the highest sum above the upset price for the annual rent of the lands intended to be comprised in such lease. Notice of the time and place at which such auction will be held, and of what lands are to be offered thereat, the amount (if any) to be paid for improvements on such lands, and the purposes for which such lands are to be let, shall be given by advertisement in the *Government Gazette* published not less than one nor more than three calendar months before the day of holding such auction; but the Commissioner may at any time postpone or adjourn any such advertised sale.

8. Every lease under this Act shall be for such term not exceeding twenty-one years in possession as the Commissioner may determine, and shall be granted for the purposes stated in the notice of sale, and shall contain covenants by the lessee to pay the rent thereby reserved half-yearly in advance; to destroy Bathurst bur and all other noxious weeds, and also to destroy all animals required to be destroyed by law; to pay all rates and taxes levied, imposed, or assessed upon the land demised, or upon the landlord or tenant in respect thereof; to repair and keep in repair all buildings, erections, and fences built, erected, or being upon the said land during the term of the lease, and the same so repaired and kept in repair to yield and deliver up at the end or other sooner determination of the lease, and not to assign, sublet, or part with the possession of all or any part of the demised premises without the previous consent in writing of the Commissioner; and shall also contain a proviso for forfeiture on breach or non-observance of any of the covenants therein contained, and such other covenants, terms, and conditions as the Governor may think advisable; and the Governor is hereby empowered from time to time to provide, by regulations to be published in the *Government Gazette*, what other covenants, terms, and conditions shall be inserted in leases to be thereafter granted under the provisions of this Act.

Term and conditions  
of lease.

9. In every case where the whole or any part of the rent of any land heretofore leased under "The Education Act, 1875," or any Act incorporated therewith, or hereafter leased under this Act, shall not have been paid or shall not be paid on the day when such rent became or shall become payable, the lessee or person liable for the payment of such rent shall, in addition to the amount of the rent in arrear, pay into the Treasury a penalty, if such rent shall be paid within one month after the day on which the same became due, of Five Pounds per centum; or, if such rent shall not be paid within one month from the day on which the same became due, of Ten Pounds per centum upon the amount of such rent: And the Commissioner is hereby authorised to recover the amount of rent in arrear, together with the penalty hereinbefore imposed for the non-payment thereof, by action in any Court of competent jurisdiction, or by distress upon the goods and chattels of the lessee or person liable for the payment of such rent and penalty, wheresoever such goods and chattels may be found.

Penalties for non-  
payment of rent  
on due dates.

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Forfeiture of leases for non-payment of rent.

**10.** In every case where the whole or any part of the rent of any such leased land shall have been or shall be in arrear and unpaid for three months after the day on which the same became or shall become payable, it shall be lawful for the Commissioner to cancel the lease of such land by inserting a notice in the *Government Gazette* declaring such lease to be forfeited; and every such notice shall be taken to be conclusive evidence that the lease therein mentioned was legally cancelled and forfeited: Provided that the Commissioner may in any case waive the forfeiture of any lease upon such terms and conditions as he may deem advisable: And provided also that notwithstanding any such forfeiture as aforesaid the Commissioner may recover the amount of rent in arrear (calculated up to the time of such forfeiture as accruing due day by day) by action in any Court of competent jurisdiction, or by distress upon the goods and chattels of the lessee in arrear, wheresoever such goods and chattels may be found, and may also proceed for recovery of damages for breach of any covenant or agreement contained in such lease.

Power to accept surrenders.

**11.** The Governor may at any time accept the surrender of any lease upon such terms and conditions as he may think fit.

Holder of forfeited or surrendered lease disqualified from again holding same land.

**12.** No person who shall have held a lease forfeited or surrendered under the provisions of this Act shall again become the lessee, or become the under-lessee or assignee, of the land or any part of the land included in such forfeited or surrendered lease; and if any person shall hold any land contrary to this provision, the lease of the land so held by him shall become at once absolutely forfeited and void, except in so far as may be necessary to support any action against him for the breach previous to such forfeiture of any covenant or agreement contained in such lease.

Commissioner may contract with lessees under existing or future leases for the payment for improvements.

**13.** The Commissioner may contract or covenant respectively with the lessee under any existing lease, or with the lessee of any lease to be hereafter made under the authority of this Act, for the payment by the said Commissioner, on the expiration of any such lease, for any permanent and substantial improvements made by any such lessee on the demised lands; and all moneys so contracted or covenanted to be paid shall be paid by the Treasurer out of the moneys paid into the Treasury, under the authority of this Act.

Application of income.

**14.** All rents, royalties, fees, penalties, and annual or other payments received in respect of any lease or licence heretofore granted under the authority of "The Education Act, 1875," or of any of the Acts incorporated therewith or hereafter to be granted under the authority of this Act, shall be paid into the Treasury, and shall be applied by the Treasurer towards the erection of schoolhouses, payment of salaries, and other expenditure in carrying out the provisions of "The Education Act, 1875," and of this Act, but so that no such moneys, other than payments for improvements as hereinbefore mentioned, shall be expended without the sanction of Parliament.

**15.** Notwithstanding

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**15.** Notwithstanding anything hereinbefore contained, the lessees whose names, the dates of whose leases, the extent of land held by whom, the hundreds in which such lands are situate, the value of whose improvements on such lands, and the arrears of rent due by whom are set forth in the Schedule hereto, may (subject to the provisions hereinafter contained), within three months from the passing of this Act, surrender their respective leases mentioned in the said Schedule, and shall thereupon respectively be released and discharged from the payment of two years' rent due by them respectively under such leases: Provided always that no such lessee shall become entitled to avail himself of such right to surrender his lease until he shall have paid into the Treasury such sum in respect of the rent due beyond the two years' rent to be remitted under this section as the Commissioner shall in each case deem to be fair and equitable.

Lessees enumerated in Schedule may have two years' rent remitted on surrender of leases.

**16.** Except in so far as the same are inconsistent herewith, "The Education Act, 1875," and all Acts incorporated therewith, shall be read and incorporated herewith as forming one Act.

Incorporation.

**17.** This Act may be cited for all purposes as "The Educational Lands Act, 1881."

Short Title.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

W. F. DRUMMOND JERVOIS, Governor.

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## THE SCHEDULE REFERRED TO.

Names of Lessees.	Date of Lease.	Extent of Land in Acres.	Hundred.	Value of Improvements.			Arrears.			Number of Sections.
				£	s.	d.	£	s.	d.	
James Howe .....	March 1, 1877	1,281	Pirie	245	9	0	733	17	11	262
“ .....	“	259	Wandearah	216	0	0	259	0	0	6
E. J. Hector .....	“	889	Pirie	85	15	3	463	0	5	263
“ .....	May 1, 1877	742	“	84	13	1	146	17	1	266
Edward Sinclair .....	March 1, 1877	998	“	393	13	9	216	4	8	265
J. G. Magarey .....	“	1,122	“	338	7	6	813	9	0	268W & 269N
R. & C. Butler .....	“	1,281	“	155	18	9	974	1	8	268E & 270N
“ .....	May 1, 1877	1,325	“	161	8	9	317	8	9	267
“ .....	March 1, 1877	1,027	{ Pirie and Wandearah }	186	16	3	952	2	1	270s, 2N, & 3
“ .....	“	1,357	Wandearah	217	0	3	1,187	7	6	9
Seth Ferry .....	“	1,176	“	294	17	6	551	5	0	5
James Lewis .....	“	1,064	“	307	3	9	1,436	8	0	7
William Thomson ..	“	1,247	“	692	5	0	987	4	2	8
H. Strange .....	“	913	“	215	6	6	798	17	6	10
H. D. Cowled .....	May 1, 1877	941	“	189	7	6	225	8	9	1