

No. XXVIII.

An Act to facilitate the granting of Leases. [1st October, 1847.]

LEASES
SIMPLIFICATION.

WHEREAS it is expedient to facilitate the leasing of lands and tenements. Be it enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That whenever any party to any deed made according to the tenor and effect of the form set forth in the first Schedule to this Act or whenever any party to any other deed which shall be expressed to be made in pursuance of this Act shall employ in such deed respectively any of the forms of words contained in column I. of the second Schedule hereto annexed and distinguished by any number therein such deed shall be taken to have the same effect and be construed as if such party had inserted in such deed the form of words contained in column II. of the same Schedule and distinguished by the same number as is annexed to the form of words employed by such party but it shall not be necessary in any such deed to insert any such number.

Where the words of column I. of the second Schedule employed the deed to have the same effect as if words of column II. were inserted.

2. That every such deed unless any exception be specially made therein shall be held and construed to include all out-houses buildings barns stables yards gardens cellars ancient and other lights paths passages ways waters watercourses liberties privileges easements profits commodities emoluments hereditaments and appurtenances whatsoever to the lands and tenements therein comprised belonging or in anywise appertaining.

3. That in taxing any bill for preparing and executing any deed under this Act or which might be prepared under this Act it shall be lawful for the proper taxing officer of the Supreme Court and he is hereby required in estimating the proper sum to be charged for such transaction to consider not the length of such deed but only the skill and labor employed and responsibility incurred in the preparation thereof.

4. That any deed or part of a deed which shall fail to take effect by virtue of this Act shall nevertheless be as valid and effectual and shall bind the parties thereto so far as the rules of Law and Equity will permit as if this Act had not been made.

Leases Simplification.

Construction clause.

5. That in the construction and for the purposes of this Act and the Schedules hereto annexed unless there be something in the subject or context repugnant to such construction the word "lands" shall extend to all tenements and hereditaments or any undivided part or share therein respectively and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing and the converse and every word importing the masculine gender only shall extend and be applied to a female as well as a male and the word "party" shall mean and include any body politic or corporate or collegiate as well as an individual.

Schedules &c. part of Act.

6. That the Schedules and the directions and forms therein contained shall be deemed and taken to be parts of this Act.

SCHEDULES REFERRED TO.

The First Schedule.

THIS Indenture made the day of one thousand eight hundred and forty (or other year) in pursuance of an Act to facilitate the granting of leases between (here insert the names of the parties and recitals if any) witnesseth that the said (lessor) or (lessors) doth or doth demise unto the said (lessee) or (lessees) his (or their) heirs or executors administrators and assigns as the case may be all &c. (parcels) from the day of for the term of thence ensuing yielding and paying therefor during the said term the rent of (state the rent and mode of payment).

In witness whereof the said parties hereto have hereunto set their hands and seals.

The Second Schedule.

Directions as to the Forms in this Schedule.

1.—Parties who use any of the forms in the first column in this Schedule may substitute for the words "lessee" or "lessor" any name or names and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.

2.—Such parties may substitute the feminine gender for the masculine or the plural number for the singular in the forms in the first column of this Schedule and corresponding changes shall be taken to be made in the corresponding forms in the second column.

3.—Such parties may fill up the blank spaces left in the forms 4 and 5 in the first column of this Schedule so employed by them with any words or figures and the words or figures so introduced shall be taken to be inserted in the corresponding blank spaces left in the forms embodied.

4.—Such parties may introduce into or annex to any of the forms in the first column any express addition to exceptions from or express qualifications thereof respectively and the like additions exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

5.—Where the premises demised shall be of freehold tenure the covenants 1 to 10 shall be taken to be made with and the proviso 11 to apply to the heirs and assigns of the lessor and where the premises demised shall be of leasehold tenure the covenants and proviso shall be taken to be made with and apply to the lessor his executors administrators and assigns unless otherwise stated.

Column 1.

1. That the said (lessee) covenants with the said (lessor) to pay rent

Column 2.

1. And the said lessee doth hereby for himself his heirs executors administrators and assigns covenant with the said lessor that he the said lessee his executors administrators and assigns will during the said term pay unto the said lessor the rent hereby reserved in manner hereinbefore mentioned without any deduction whatsoever.

2. And to pay taxes

2. And also will pay all taxes rates duties and assessments whatsoever now charged or hereafter to be charged upon the said demised premises or upon the said lessor on account thereof.

*Leases Simplification.*Column 1—*continued.*

3. And to repair

4. And to paint outside every year

5. And to paint and paper inside every year

6. And to insure from fire in the joint names of the said (*lessor*) and the said (*lessee*.)7. And that the said (*lessor*) may enter and view state of repair and that the said (*lessee*) will repair according to notice.Column 2—*continued.*

3. And also will during the said term well and sufficiently repair maintain pave empty cleanse amend and keep the said demised premises with the appurtenances in good and substantial repair together with all chimney-pieces windows doors fastenings water-closets cisterns partitions fixed presses shelves pipes pumps pales rails locks and keys and all other fixtures and things which at any time during the said term shall be erected and made when where and so often as need shall be.

4. And also that the said lessee his executors administrators and assigns will in every year in the said term paint all the outside wood-work and iron-work belonging to the said premises with two coats of proper oil colors in a workmanlike manner.

5. And also that the said (*lessee*) his executors administrators and assigns will in every year paint the inside wood iron and other works now or usually painted with two coats of proper oil colors in a workmanlike manner and also to re-paper with paper of a quality as at present such parts of the premises as are now papered and also wash stop whiten or color such parts of the said premises as are now plastered.

6. And also that the said lessee his executors administrators and assigns will forthwith insure the said premises hereby demised to the full value thereof in some respectable Insurance Office in the joint names of the said lessor his executors administrators and assigns and the said lessee his executors administrators and assigns and keep the same so insured during the said term and will upon the request of the said lessor or his agent shew the receipt for the last premium paid for such insurance for every current year and as often as the said premises hereby demised shall be burnt down or damaged by fire all and every the sum or sums of money which shall be recovered or received by the said (*lessee*) his executors administrators or assigns for or in respect of such insurance shall be laid out and expended by him in building or repairing the said demised premises or such parts thereof as shall be burnt down or damaged by fire as aforesaid.

7. And it is hereby agreed that it shall be lawful for the said lessor and his agents at all seasonable times during the said term to enter the said demised premises to take a schedule of the fixtures and things made and erected thereupon and to examine the condition of the said premises and further that all wants of reparation which upon such views shall be found and for the amendment of which notice in writing shall be left at the premises the said lessee his executors administrators and assigns will within three calendar months next after every such notice well and sufficiently repair and make good accordingly.

*Leases Simplification.*Column 1—*continued.*

8. That the said (*lessee*) will not use premises as a shop

9. And will not assign without leave

10. And that he will leave premises in good repair.

11. Proviso for re-entry by the said lessor on non-payment of rent or non-performance of covenants.

12. The said (*lessor*) covenants with the said (*lessee*) for quiet enjoyment.

Column 2—*continued.*

8. And also that the said lessee his executors administrators and assigns will not convert use or occupy the said premises or any part thereof into or as a shop warehouse or other place for carrying on any trade or business whatsoever or suffer the said premises to be used for any such purpose or otherwise than as a private dwelling-house without the consent in writing of the said lessor.

9. And also that the said (*lessee*) shall not nor will during the said term assign transfer or set over or otherwise by any act or deed procure the said premises or any of them to be assigned transferred or set over unto any person or persons whomsoever without the consent in writing of the said (*lessor*) his executors administrators or assigns first had and obtained.

10. And further that the said (*lessee*) will at the expiration or other sooner determination of the said term peaceably surrender and yield up unto the said lessor the said premises hereby demised with all buildings erections and fixtures now or hereafter to be built or erected thereon in good and substantial repair and condition in all respects reasonable wear and tear and damage by fire only excepted.

11. Provided always and it is expressly agreed that if the rent hereby reserved or any part thereof shall be unpaid for fifteen days after any of the days on which the same ought to have been paid (although no formal demand shall have been made thereof) or in case of the breach or non-performance of any of the covenants and agreements herein contained on the part of the said lessee his executors administrators and assigns then and in either of such cases it shall be lawful for the said lessor at any time thereafter into and upon the said demised premises or any part thereof in the name of the whole to re-enter and the same to have again re-possess and enjoy as of his or their former estate anything hereinafter contained to the contrary notwithstanding.

12. And the lessor doth hereby for himself his heirs executors administrators and assigns covenant with the said lessee his executors administrators and assigns that he and they paying the rent hereby reserved and performing the covenants hereinbefore on his and their part contained shall and may peaceably possess and enjoy the said demised premises for the term hereby granted without any interruption or disturbance from the said lessor his executors administrators or assigns or any other person or persons lawfully claiming by from or under him them or any of them.