

## FREMANTLE LITERARY INSTITUTE MORTGAGE.

1<sup>o</sup> EDWD. VIII., No. III.

No. 3 of 1936.

**AN ACT to enable The Fremantle Literary Institute Incorporated to borrow money by means of mortgage of Land, and for other purposes.**

[Assented to 3rd November, 1936.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Fremantle Literary Institute Mortgage Act, 1936.* Short title.

2. (1.) Notwithstanding the provisions of any other Act or law, or the trusts affecting any land standing in the name of The Fremantle Literary Institute Incorporated, it shall be lawful for The Fremantle Literary Institute Incorporated, with the concurrence of the majority of its members present and voting at a properly constituted meeting of such members, from time to time to borrow and take up at interest for all or any of the purposes mentioned in subsection (2) of this section any sum or sums of money on mortgage or charge of the whole, or any portion of its lands: Provided, however, that no mortgage or charge granted by the said institute over any lands acquired directly or indirectly by grant from the Crown and without valuable consideration shall be valid and binding, unless the consent in writing of the Governor shall be obtained to the granting thereof. Power to borrow money on mortgage.

(2.) The purposes for which money may be borrowed under this section shall be—

- (a) the repayment of any money previously borrowed, whether under this section or otherwise;
- (b) the payment of any interest owing in respect of any money borrowed and not repaid;
- (c) the payment of the expense of maintaining, renovating, altering, amending, enlarging, rebuilding, or replacing any buildings on the lands of the said institute; and
- (d) the purchase of furniture, fittings, and equipment and of books for the library of the said institute.

Powers,  
clauses, and  
provisions in  
mortgages.

3. (1.) Any such mortgage or charge may contain such terms, conditions, powers, covenants, and provisions as the mortgagee may require, including a power to sell and lease the mortgaged lands or any part thereof, in case of default being made in the payment of principal or interest moneys at the time or times therein appointed for the payment thereof, or in the observance of any of the covenants contained or implied in any such mortgage or charge; and, in the case of the mortgagee being an incorporated bank, such mortgage or charge may be granted on the basis of a security for repayment of an overdraft on a current account, and may contain all such covenants, provisos, conditions, and powers as are usual in securities of a like nature given to the bank or as the bank and the said institute may mutually agree.

(2.) On any sale or lease of the mortgaged land which may be made by the mortgagee in exercise of his powers under the mortgage or charge, any purchaser or lessee from the mortgagee shall hold the said land free and absolutely discharged from any trusts or restrictions as to the user thereof to which the same may have been subject prior to the date of such sale or lease.

(3.) It shall not be necessary for any mortgagee or any purchaser or lessee from a mortgagee to inquire whether the concurrence of a majority of members of the said institute was duly and regularly obtained as provided for in section two of this Act, or for any mortgagee to see to the application of any moneys borrowed under

the authority of this Act or to inquire into the necessity, regularity, or propriety of any such mortgage or charge; and a mortgagee shall not be affected by notice actual or constructive of the misapplication of any moneys borrowed by the said institute as aforesaid.

4. The provisions of this Act shall apply to any moneys borrowed by the said institute prior to the commencement of this Act for any of the purposes mentioned in subsection (2) of section two of this Act to the intent that in accordance with this Act any mortgage already given by the said institute as a security for the repayment of such money shall be and is hereby validated, and also that the said institute may hereafter borrow money by means of a mortgage or charge as aforesaid for the purpose of the repayment of the money already borrowed prior to the commencement of this Act as aforesaid.

Application of  
this Act to  
moneys bor-  
rowed prior  
to the com-  
mencement of  
this Act.