

An Act to authorize and empower William Scott and George Scott to grant Leases for Mining and other purposes of certain Lands devised by the Will of the late William Scott. [10th December, 1873.]

SCOTT'S LEASING.

WHEREAS William Scott late of Long Swamp in the Colony of New South Wales farmer deceased being seized of the lands and hereditaments hereinafter mentioned and described duly made and executed his last will and testament in writing dated the first day of October one thousand eight hundred and sixty-eight and thereby devised unto his son George Scott (among other things) All those three hundred and twenty-nine acres or thereabouts of land described in the first schedule to this Act being the southern portion of six hundred and fifty-eight acres of land situate at the Mulloon in the county of Murray in the said Colony granted to the said testator by grant dated the twenty-eighth day of May in the year one thousand eight hundred and thirty-nine to be held and enjoyed by him during the term of his natural life without impeachment of waste and subject thereto unto and to the children of his said son George Scott in such shares and proportions and subject to such restrictions reservations and limitations over as his said son George by any deed or deeds or by his last will and testament in writing or any codicil or codicils thereto might direct limit or appoint the same And in default of such appointment and so far as any such might not extend the testator devised the same lands to and amongst such of the children of his said son George as might be living at the time of his death share and share alike as tenants in common and not as joint tenants to take on their attaining their respective ages of twenty-one years if a son or sons or if a daughter or daughters on attaining that age or marrying which should first happen And the testator also devised unto his son William Scott (among other things) all those six hundred and forty acres of land at the head of the Mulloon aforesaid granted to him on the twenty-eighth day of May in the year one thousand eight hundred and thirty-nine and described in the second schedule to this Act to be held and enjoyed by the said William Scott during the term of his natural life without impeachment of waste and subject thereto unto and to the children of his said son William in such shares and proportions and subject to such powers of appointment by him and with such limitations over in favour of his children in every respect *mutatis mutandis* as are in the said will before declared in respect of the devise made by the testator to his said son George Scott And the said testator also devised unto his son Robert Scott (among other things) all those six hundred and forty acres of land in the county of Murray

Scott's Leasing.

Murray aforesaid granted to him by grant dated the fourth day of May in the year one thousand eight hundred and thirty-six and described in the third schedule to this Act to be held and enjoyed by him during the term of his natural life without impeachment of waste and subject thereto unto and to the children of his said son Robert in such shares and proportions and subject to such powers of appointment and with such limitations over in favour of his children in every respect *mutatis mutandis* as are in the said will before declared in respect of the devises made by the testator to his several sons in the will before mentioned and in default of such children or child of his said son Robert the said testator devised three hundred and twenty acres being the northern half of the said six hundred and forty acres unto his said son George and his children in the same manner for the same estate and with the same power of appointment as are in the said will before declared with respect to the devise thereinbefore made to him and them and the said testator devised three hundred and twenty acres being the southern half of the said six hundred and forty acres unto his said son William and his children in the same manner for the same estate and with the same power of appointment as are in the said will before declared with respect to the devise hereinbefore made to him and them and the testator appointed his said sons George Scott and William Scott executors of his will. And whereas the said William Scott the testator died on the eighteenth day of November one thousand eight hundred and sixty-eight without having altered or revoked his said will leaving the several persons therein named him surviving. And whereas the said George Scott has alienated his said life estate in the lands devised to him by the said will comprising among other lands the land first described in the said first schedule to this Act. And whereas the land first described in the said first schedule (excepting as therein is excepted) is now vested in Edward Smith Hill and William Frederick Cape both of Sydney aforesaid and the land secondly described in the said first schedule to this Act (being the said excepted land) is now vested in William Russell and Wallace Gordon both of Sydney aforesaid. And whereas the said George Scott is married and has issue infants under the age of twenty-one years respectively. And whereas the said William Scott is married and has issue infants under the age of twenty-one years respectively and whereas the said Robert Scott has never married. And whereas the said will does not contain any power or authority to grant leases of the said lands and hereditaments or any part thereof. And whereas the said lands are situate in a neighbourhood abounding in minerals and some valuable copper mines have been discovered upon and under the said lands or some of them but there is no power to grant a lease of the said lands or any of them for any term beyond the life of the respective tenants for life. And whereas it will be greatly for the benefit of all parties interested in the said lands and hereditaments that there should be a power of granting leases of the said lands and hereditaments for mining purposes. Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Power to grant
mining leases.

1. It shall be lawful for the said William Scott and George Scott or the survivor of them as to the land first described in the first schedule to this Act (excepting as in the said schedule mentioned) with the consent in writing of the said Edward Smith Hill and William Frederick Cape or their assigns and as to the lands secondly described in the said first schedule (being the said excepted land) with the consent of the said William Russell and Wallace

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Wallace Gordon or their assigns. And as to the lands described in the second and third schedules to this Act of the sole authority of the said William Scott and George Scott or of the survivor of them to demise by way of lease by deed or deeds for any term of years not exceeding twenty-one years to take effect in possession all or any of the mines lodes ores minerals coals quarries stone clay sand and substances in under or upon the said lands respectively or any part thereof either with or without any messuages buildings lands or hereditaments convenient to be held with the same respectively and either with or without the surface of the lands in or under which the same or any part thereof respectively shall be and whether the same have or have not been hitherto opened or worked together with all such liberties licenses powers and privileges for searching for and working the said mines and lodes and for getting washing smelting burning rendering merchantable and disposing of the said ores minerals coals quarries stone clay sand and substances as to the person or persons for the time being exercising the power hereby given shall seem expedient so as there be reserved in every such lease the best rent or rents tolls duties royalties or reservations by the acre the ton or otherwise to be incident to the immediate reversion that can be reasonably obtained without taking anything in the nature of a fine or premium and so as there be contained in every such lease a condition of re-entry for non-payment or non-delivery within a reasonable time to be therein specified of the rent or rents tolls duties royalties or reservations thereby reserved or for non-observance or non-performance of covenants by the lessees and so as the lessee or lessees do execute a counterpart thereof and do thereby covenant for the due payment or delivery of the rent or rents tolls duties royalties or reservations thereby reserved. Provided always that the reservation of rents tolls duties or royalties shall not be taken to be in the nature of a fine or premium though the effect of such reservation may eventually be disadvantageous to the remainder man. Provided also that at least twenty per cent. of the gross proceeds of the said rent or rents tolls duties and royalties during the currency of any lease that may be granted shall be applied by the said William Scott and George Scott towards the education and advancement in life of their children.

2. Whenever the said William Scott and George Scott or either of them or any trustee or trustees appointed as hereinafter provided shall die or go to reside out of the Colony of New South Wales or desire to be discharged from or refuse or become unfit or incapable to act in the trusts or powers in them or him reposed before the same shall have been fully discharged and performed it shall be lawful for the survivor of them the said William Scott and George Scott or the acting executor or administrator of such survivor or for the surviving or continuing trustee or trustees for the time being or the acting executors or administrator of the last surviving or continuing trustee by instrument in writing to appoint any new trustee or trustees in the place of the person or persons so dying or going to reside out of the said Colony or desiring to be discharged or refusing or becoming unfit or incapable to act as aforesaid and every new trustee or trustees appointed as aforesaid shall have the same powers authorities and dispositions and shall in all respects act as if he or they had been originally nominated in this Act.

3. This Act shall be known and may be cited for all purposes short title. as "Scott's Leasing Act of 1873."

SCHEDULES.

FIRST SCHEDULE.

First—All that parcel of land in the Colony of New South Wales containing by admeasurement three hundred and twenty-nine acres or thereabouts be the same more or less situate in the county of Murray at the Mulloon being the southern half or portion of six hundred and fifty-eight acres or thereabouts granted to the said William Scott by grant dated the twenty-eighth day of May one thousand eight hundred and thirty-nine Commencing at the south-west corner of six hundred and forty acres on the Mulloon granted to the said William Scott and bounded on the east by part of the west boundary of that land being a line bearing north forty-five chains and eighty-five links on the north by the northern half or portion of the said six hundred and fifty-eight acres being a line bearing west sixty-nine chains to the east boundary of another six hundred and forty acres granted to the said William Scott on part of the west by part of the east boundary of the last-mentioned six hundred and forty acres being a line bearing south thirty-four chains and thirty-five links again on the north by a line bearing west eleven chains and on the remainder of the west by a line bearing south eleven chains and fifty links to the north-west corner of another six hundred and forty acres and on the south by the north boundary of that land being a line bearing east eighty chains to the point of commencement excepting therefrom and always reserving thereout the piece or parcel of land next herein mentioned that is to say (secondly) All that piece or parcel of land being portion of the said three hundred and twenty-nine acres hereinbefore described containing by admeasurement forty-seven acres Commencing at a gum-tree marked on four sides on the right bank of the Mulloon Creek in the said county of Murray distant sixteen chains and forty links west from the north-east corner of the said three hundred and twenty-nine acres Bounded thence on the north by a line bearing east eleven chains on the east by a line bearing south nineteen chains on the south by a line bearing west twenty-seven chains to the Mulloon Creek on the west by the right bank of the Mulloon Creek to its intersection with the northern boundary-line of the said three hundred and twenty-nine acres and thence again on the north by that boundary-line bearing east ten chains sixty links to the point of commencement.

SECOND SCHEDULE.

All that piece or parcel of land in the said Colony containing by admeasurement six hundred and forty acres be the same more or less situate in the county of Murray at the head of the Mulloon Commencing at the south-west corner of William Scott's six hundred and forty acres and bounded on the north by that land being a line bearing east eighty chains on the east by a line bearing south eighty chains on the south by a line bearing west eighty chains and on the west by a line bearing north eighty chains to the south-west corner of William Scott's six hundred and forty acres aforesaid being the land sold as lot fifteen in pursuance of the advertisement of 30th January 1839.

THIRD SCHEDULE.

All that parcel of land in the said Colony containing six hundred and forty acres situated in the county of Murray at Mulloon aforesaid bounded on the north by the section-line which forms the south boundary of a measured portion of six hundred and forty acres west eighty chains commencing at the south-west corner of the said six hundred and forty acres on the west by a section line south eighty chains on the south by a section-line east eighty chains and on the east by a section-line north eighty chains to the south-west corner of the six hundred and forty acres aforesaid being the land sold as lot 23 in pursuance of advertisement of 1st December 1835.