

STIRLING'S TRUSTS.

An Act to enable the Trustees of a Settlement made by Frederick Henry Stirling and Helen Cecilia Deas-Thomson to join with other persons in the leasing and sale of lands subject of the said Settlement.
[19th August, 1884.]

WHEREAS by an indenture bearing date on or about the seventeenth day of September one thousand eight hundred and thirty-three and made between Richard Bourke a Major-General in the British Army and Governor-in-Chief of the Territory of New South Wales of the first part Edward Deas-Thomson Esquire of the second part Anne Maria Bourke daughter of the said Richard Bourke of the third part and the Honorable William Westbrooke Burton and George Macleay Esquire of the fourth part certain freehold lands situated respectively in the city of Sydney called Barham and at Jervis Bay in the said Colony called South Huskisson were conveyed to the use of the said William Westbrooke Burton and George Macleay upon certain trusts during the respective lives of the said Edward Deas-Thomson and Anne Maria Bourke and of the life of the survivor and from and immediately after the decease of the survivor of them the said Edward Deas-Thomson and Anne Maria Bourke then to the use of all and every the child and children male and female of the said Anne Maria Bourke and Edward Deas-Thomson in such shares parts and proportions as the said Edward Deas-Thomson should by deed or will appoint And whereas certain portions of the said settled estates were from time to time sold by the trustees of the said settlement under the authority of a private Act of the Legislature of the said Colony passed in the thirteenth year of the reign of Her Majesty and part of the proceeds were invested upon mortgage of freehold lands situated in the county of Gloucester in the said Colony called Bulladeelah And whereas the equity of redemption of and in and such last-mentioned lands was after the death of the said Edward Deas-Thomson hereinafter mentioned vested in the trustees of the said settlement upon the trust thereof And whereas by an indenture bearing date on or about the fourteenth day of July one thousand eight hundred and seventy-four made between Frederick Henry Stirling of the first part Helen Cecilia Deas-Thomson a daughter of the said Edward-Deas Thomson of the second part and William Alexander Dumaresq and Arthur Alexander Walton Onslow of the third part being a settlement in contemplation of the marriage of the said Frederick Henry Stirling and Helen Cecilia Deas-Thomson which was shortly thereafter duly solemnized all that and those the part share estate and interest of her the said Helen Cecilia Deas-Thomson of and in the trust estates real and personal the subject of the first-mentioned settlement were conveyed and assured unto the said William Alexander Dumaresq and Arthur Alexander Walton Onslow upon certain trusts for the benefit of the parties to the said intended marriage and their issue And the said Frederick Henry Stirling covenanted with the said William Alexander Dumaresq and Arthur Alexander Walton Onslow that all the lands tenements and hereditaments and real estate then vested in or which should at any time during the said marriage descend devolve or come to the said Helen Cecilia Deas-Thomson or to the said Frederick Henry Stirling in her right under the said Indenture of Settlement of the seventeenth day of

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September one thousand eight hundred and thirty-three or under the will of her father should from time to time be by him either alone or together with the said Helen Cecilia Deas-Thomson conveyed to the use of the said William Alexander Dumaresq and Arthur Alexander Walton Onslow or their successors in the trusts and to their heirs upon the same trusts. And whereas by his last will and testament bearing date on or about the eleventh day of July one thousand eight hundred and seventy-two the said Edward Deas-Thomson appointed and devised the estate called Barham being the then unsold residue of that portion of the settled estate to his daughters Mary Jane Frances Deas-Thomson the said Helen Cecilia Stirling and Eglantine Julia Deas-Thomson in equal shares and proportions as tenants in common. And the testator after certain specific devises of parts of the said South Huskisson and Bulladeelah Estates in favour of his sons Edward Richard Deas-Thomson and Richard Bourke Deas-Thomson appointed and devised the then unsold residues thereof unto and between all his children excluding the said Edward Richard Deas-Thomson and Richard Bourke Deas-Thomson in equal shares and proportions as tenants in common. And whereas the lands passing by the will of the said Edward Deas-Thomson are more particularly described in the Schedule hereto. And whereas the said Edward Deas-Thomson departed this life on or about the sixteenth day of July one thousand eight hundred and seventy-nine without having revoked or altered his said will. And whereas the said Anne Maria Deas-Thomson departed this life on or about the third day of February one thousand eight hundred and eighty-four. And whereas the said Mary Jane Frances Deas-Thomson and William Robert Campbell and Eglantine Julia Campbell his wife formerly Eglantine Julia Deas-Thomson are desirous of selling the estate called Barham and the said Frederick Henry Stirling and Helen Cecilia Stirling his wife concur in such desire. And whereas Charles James Manning and George Miller are the present Trustees of the settlement of the said Frederick Henry Stirling and Helen Cecilia Stirling his wife and they are desirous of giving effect to such desire but the said last-mentioned indenture of settlement does not contain any power of leasing or sale. And whereas certain of the said lands other than Barham aforesaid are supposed to contain valuable deposits of minerals but not any power exists on the part of the said Trustees to grant mining and other leases thereof. And whereas it is desirable that the Trustees for the time being of the settlement of the said Frederick Henry Stirling and Helen Cecilia Stirling his wife should be empowered to join with the other persons interested in granting mining and other leases of the settled lands and also in selling and disposing of the same or such parts thereof as may from time to time be deemed saleable under proper supervision for the investment of the net proceeds thereof. 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:—

1. It shall be lawful for the Trustees or Trustee for the time being of the marriage settlement of the said Frederick Henry Stirling and Helen Cecilia Stirling his wife hereinafter called the said Trustees or Trustee from time to time to join with the other persons entitled to lease in granting leases by deed for such terms as they shall agree not exceeding the term of ninety-nine years of the said trust estates or any part thereof and also subject and without prejudice to the reservations and conditions (if any) contained in the grants under which the said lands are held in executing leases of all and every and any of the mines lodes ores quarries veins strata and seams of copper lead iron stone clay and all other minerals whatsoever

Trustees empowered
to join in granting
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in one or more block or blocks unopened as well as opened in under or upon the said lands together with any part of the surface of the said lands which may be thought necessary or convenient to be held for buildings roads or ways or other purposes with such mines quarries or premises together with full liberty and authority for the lessee or lessees to search for work win take use and dispose of all such coal ores and minerals as shall be found therein and to sink and make shafts levels pits drives trenches air-gates way-gates and water-courses and to erect and use any smelting refining or other furnaces or mills fire steam or other engines and machinery workmen's and other houses buildings sheds or other conveniences and to use all other lawful means and ways whatsoever not only for finding separating and cleaning such ores or other minerals but for converting any of them into a manufactured and merchantable condition and also to take and use sufficient ground-room heap-room and pit-room for placing or manufacturing any of such coals ores or other minerals and for laying the waste refuse or rubbish to be from time to time produced from the said mines quarries and premises and also with full and free liberty to use or make and use all proper and convenient railways and other ways for the carriage of materials and articles to such mines quarries or premises and for the carriage or delivery of any of the said coals ores and minerals with horses carts waggons and other carriages and generally upon such terms and with such stipulations as shall be reasonable necessary or usual for the purposes aforesaid so that in every such lease there be reserved and made payable the best yearly rent dues duties tolls or royalties which can be reasonably obtained without taking any fine premium or forfeit for the granting thereof and so that there be contained in every such lease proper and reasonable covenants and agreements by the lessee or lessees for the due payments of the rents dues duties tolls or royalties thereby reserved and for the proper working construction and management of the said mines quarries and works and a power of re-entry for non-payment of such rents dues duties tolls or royalties and so that every lessee duly execute a duplicate or counterpart of the lease granted to him.

Trustees empowered
to join in selling and
conveying.

2. It shall be lawful for the said Trustees or Trustee to join with other persons entitled to sell in the sale and disposal of the unsold portions of the lands mentioned and particularly described in the Schedule hereto either by public auction or private contract in such lot or lots at such time or times subject to such terms and conditions as to evidence of title time and manner of payment and to such other stipulations as the said Trustees or Trustee shall in their discretion think fit for such price or prices as can be reasonably obtained for the same and when sold to join in conveying the same or any part or parts thereof to the purchaser or purchasers as the case may be his or their heirs and assigns freed and discharged from the trusts of the said settlement and the receipt or receipts in writing of the said Trustees or Trustee shall absolutely discharge the purchaser or purchasers of the said lands or any part or parts thereof from so much of the purchase money as shall be payable by him or them respectively in respect of their shares or interests in the said lands subject to the trusts of the said settlement and shall exonerate him or them from seeing to the application of such purchase money or from being liable for any loss non-application or misapplication of the same.

Power to give credit
to purchasers.

3. It shall be lawful for the said Trustees or Trustee to give credit to any purchaser or purchasers of the said lands or of any part or parts thereof for any number of years not exceeding seven years for the payment of so much of the purchase money as shall not exceed two-thirds of the whole upon such terms as to interest as the said Trustees or Trustee shall deem proper Provided that the lands in respect

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respect of the sale of which such credit is given as aforesaid shall remain unconveyed or be otherwise rendered a security for so much of the said purchase money as shall remain unpaid together with interest upon the same until the same shall have been wholly paid.

4. The said Trustees or Trustee shall stand seized and possessed of the said lands or of such portion thereof as shall from time to time remain unsold subject to any leases granted under the power herein-before contained upon the trusts and subject to the directions and declarations in the said settlement expressed and declared concerning the same. And from and after any sale made under the power herein-before contained shall stand possessed of the moneys arising from such sale upon trust to pay all their or his costs and expenses of and incidental to the procuring and passing of this Act and also of and incidental to such sale and after such payment as aforesaid to invest the net surplus of such moneys in and upon the investments authorized by the said settlement with power from time to time to vary or transpose any such investment or security for others of like kinds. And shall stand possessed of the said investments and the income dividends and annual produce thereof upon the like trusts as shall then be subsisting in respect of the personal estate other than personal effects brought and covenanted to be brought into settlement by the said Helen Cecilia Stirling or as nearly thereto as the circumstances will admit and shall stand possessed of the rents of the said real estate upon the like trusts as shall from time to time be subsisting in respect of the income of the real estate brought and covenanted to be brought into settlement by the said Helen Cecilia Stirling or as nearly thereto as the circumstances will admit and shall stand possessed of all royalties to be derived from the working of minerals upon trust as to one moiety thereof upon the like trusts as are hereinbefore declared with reference to the rents of lands leased and as to the other moiety thereof upon trust to accumulate and invest the same for the benefit of the persons who shall ultimately become entitled to the *corpus* of the trust properties under the provisions of the said settlement.

SCHEDULE.

All that piece or parcel of land situate and lying in the parish of Alexandria city of Sydney in the county of Cumberland Colony of New South Wales and be the hereinafter mentioned dimensions all more or less and containing by admeasurement one acre three roods ten perches. Commencing on the east side of Bourke-street ninety feet nine inches southerly from the alignment of St. Peters-street (lately called Ann-street) and bounded on the west by Bourke-street bearing southerly sixty feet six inches on the south by a line at right angles bearing easterly one hundred feet on the west by a line parallel to Bourke-street bearing southerly twenty-five feet on the north by a line bearing westerly twenty feet again on the west by the allotment facing Bourke-street by lines bearing southerly twenty-five feet south thirty-one degrees fifty-eight minutes west twenty-nine feet one inch south twenty degrees eleven minutes west twenty-four feet four inches south twenty-four degrees eleven minutes west thirty feet five inches south fifteen degrees thirty-one minutes west twenty-eight feet eleven inches southerly thirty feet south fifty-seven degrees twenty-four minutes east forty-nine feet seven inches and southerly seventy-six feet nine inches on the south by a line bearing easterly and crossing the termination of Thomson-street in all two hundred and four feet to Forbes-street on the east by that street bearing northerly three hundred and forty-five feet six inches and lastly on the north by a lane and a line in continuation bearing westerly two hundred and eighty-four feet to the point of commencement.

Two thousand five hundred and sixty acres of land more or less situated in the county of Saint Vincent on the west side of Jervis Bay. Commencing at the mouth of the Moona Moona a creek running into the said bay and bounded on the north by that creek to its source on the west by a line south one hundred and sixty chains on the south by a line bearing east two hundred and seventeen chains to Jervis Bay and on the east by that bay to the mouth of the Moona Moona Creek.

That piece of land situated near Bulladelah in the county of Gloucester containing one thousand and sixty acres or thereabouts and delineated in the public map of the said county deposited in the office of the Surveyor-General as originally granted to Joseph North by Crown grant dated the thirtieth day of May one thousand eight hundred and forty.