

*Moorebank Estate Leasing.*

51/1890  
 AN ORDINANCE to enable The Most Reverend William Saumarez Smith Doctor of Divinity Bishop of Sydney his Successors or assigns to lease the Coal Shale Mineral Oil and Fire Clay and other Minerals in and under the Moorebank Estate situate at Liverpool in the Colony of New South Wales, and to provide for the application of the Royalties or income to be derived therefrom.

*(Assented to 17 November, 1890.)*

WHEREAS by an Indenture of Release dated the second January one thousand eight hundred and thirty-nine and made between Thomas Moore of the one part and The Right Reverend William Grant Broughton Doctor in Divinity Bishop of Australia of the other part, certain hereditaments therein particularly described, subsequently known as the Moorebank Estate situate at or near Liverpool in the said Colony (and which hereditaments are now better described and defined as to area and otherwise in the plan deposited in the Real Property Office and Numbered 2411) were released by the said Thomas Moore unto the said Bishop of Australia and his Successors Bishops of Australia for ever upon trust as to certain portions of the Estate to which reference was therein particularly made to apply the interest dividends or annual produce for the time being in or towards the maintenance or support of the said Bishop of Australia and his Successors. And upon trust as to other portions of the said Estate to which reference was therein more particularly made to apply the interest dividends or annual produce for the time being towards the increase or augmentation of the salaries or allowances of such Clergymen of the United Church of England and Ireland as by law established as should be from time to time duly licensed by the said Bishop of Australia and his Successors discharging the parochial

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duties of Clergymen as aforesaid in the different parishes and places appointed for the celebration of religious worship within the Colony of New South Wales and in such proportion and proportions as the said Bishop of Australia and his Successors might deem fit and necessary Provided that no more than the sum of fifty pounds yearly should be so applied to the augmentation of the salary of any one such Clergyman, and so that no salary of any one such Clergyman should be augmented beyond the sum of four hundred pounds yearly so long as there should be any such Clergyman enjoying a less yearly salary than four hundred pounds. And upon trust as to the remainder of the said Estate to apply the interest dividends or annual produce for the time being to and for the support of the Incumbent of the Church at Holdsworthly in the County of Cumberland. And whereas at the date of the Agreement next hereinafter recited the Minerals (including Shale and Mineral Oil) in and under the said Moorebank Estate with all incidental rights and privileges were legally vested in the Most Reverend Alfred Barry as the Bishop of Sydney for the time being. And whereas by an Agreement dated the seventh February, one thousand eight hundred and eighty-nine, and made between the said Most Reverend Alfred Barry and Augustus Timewell Fleay the said Augustus Timewell Fleay undertook to bore for Coal as therein prescribed and in consideration thereof the said Alfred Barry agreed to use his best efforts to obtain permission under the Settled Estates Act to grant to the said Augustus Timewell Fleay a lease of the Coal Shale Mineral Oil and Fire Clay to be found in and under the said Estate with the privilege of working the same at the royalties of six pence per ton for large coal threepence per ton for small coal, two shillings and six pence per ton for Shale, three half-pence per Gallon for Crude Mineral Oil with permission to work the Fire Clay without charge if used for mining

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operations on the surface of the said Estate, but if used on the rest of the said Moorebank Estate then at the rate of threepence per ton, or if used elsewhere at the rate of sixpence per ton, and in consideration of the obligations assumed by the said Augustus Timewell Fleay as aforesaid the said Alfred Barry agreed at his own expense to apply to the Court of Equity under the Settled Estates Act for permission to grant a mineral lease for the term of forty years to the said Augustus Timewell Fleay of the said minerals as aforesaid and otherwise in accordance with the stipulations and provisions embodied in the said Agreement. And whereas a workable seam of Coal has been found in and under the said Moorebank Estate, but the said Augustus Timewell Fleay is unwilling to take a lease under the said Agreement for any shorter term than ninety nine years. And whereas the maximum period for which Mining Leases can be granted under the Settled Estates Act as aforesaid is expressly limited to forty years, and no lease for any longer term is possible except with the sanction and by the consent of this Synod. And whereas the Minerals in and under the said Moorebank Estate with all incidental rights and privileges as also the benefit of the said Agreement of the seventh February, one thousand eight hundred and eighty-nine, are now by law vested in the Most Reverend William Saumarez Smith Doctor in Divinity as the present Bishop of Sydney. And whereas it is expedient that a lease of the Minerals in and under the said Moorebank Estate should be granted under and in accordance with the provisions of the said Agreement of the seventh day of February, one thousand eight hundred and eighty nine, except that the term to be granted by the said Lease should be for ninety-nine years, and that the proceeds thereof should be applied and dealt with in manner hereinafter provided. Now therefore the Synod of the Diocese of Sydney in pursuance of the powers in that behalf conferred upon it by the Constitutions for

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the management and good government of the United Church of England and Ireland within the Colony of New South Wales, and of all powers vested in the Synod by the "Church of England Property Act of 1889" or otherwise ordains declares and rules as follows.—

1. This Synod declares that it shall be lawful, and that power is hereby given to the Most Reverend William Saumarez Smith Doctor in Divinity Bishop of Sydney his Successors or assigns at any time hereafter subject to the approval of the Standing Committee of the Diocese to lease the Coal Shale Mineral Oil and Fire Clay in and under the Moorebank Estate for any term not exceeding ninety nine years to take effect in possession and to be subject to the payment of the Royalties mentioned and comprised in the Agreement of the seventh February, one thousand eight hundred and eighty nine and otherwise subject to and upon the terms stipulations obligations and conditions embodied or implied in and under the said Agreement or in the alternative and in case the lease hereby sanctioned should not be granted the said William Saumarez Smith his Successors or assigns may from time to time with the sanction and by the permission of the Standing Committee of the Synod of the Diocese of Sydney grant such other lease or leases of the aforesaid Minerals and other Minerals as may be considered expedient.

*Application of proceeds.*

2. The said Bishop of Sydney and his Successors or assigns shall stand possessed of the Royalties and income to be derived under the said lease or leases hereby authorised upon trust to apply the same (after payment thereof of all proper expenses) in accordance in all respects with the trusts and provisions declared and contained in the Indenture of Release of the second day of January one thousand eight hundred and thirty-nine with respect to the Moorebank Estate.

*Short Title.*

3. This Ordinance shall be styled and cited as "The Moorebank Estate Mineral Leasing Ordinance of 1890."