

(No. 107.)



1880.

T A S M A N I A .

H O U S E O F A S S E M B L Y .

“THE MINERAL LANDS ACT, 1877 :”

R E P O R T O F S E L E C T C O M M I T T E E .

Brought up by the Minister of Lands ; and ordered by the House to be printed,
September 23, 1880.



*REPORT of Select Committee appointed to consider a Bill to amend
"The Mineral Lands Act, 1877."*

Your Committee have the honor to report that they have carefully considered the Bill referred to them, and have agreed upon and effected certain alterations therein; and now have the honor to submit the Bill as revised by them for the consideration of your Honorable House.

C. O'REILLY, *Chairman.*

*Committee Room, House of Assembly,
23rd September, 1880.*

This Bill is now printed as altered by the Committee to which it was referred.

C. O'REILLY, *Chairman*

A

B I L L

TO

Amend "The Mineral Lands Act, 1877."

A.D. 1880.

WHEREAS it is necessary and expedient to amend "The Mineral Lands Act, 1877," in certain particulars :

PREAMBLE.
41 Vict. No. 7.

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 In this Act—

Interpretation.

"Mining partnership" shall mean and include all partnerships and co-adventures entered into by two or more persons for mining purposes, not being a Company registered under any Act :

10 "The said Act" means "The Mineral Lands Act, 1877 :"

"Prescribed" means prescribed by Regulations made under this Act.

2 Notwithstanding anything to the contrary contained in any former Act; it shall be lawful for the Governor in Council by Proclamation published in the *Gazette* to exempt any Waste Land from the operation of mining or of the said Act and this Act in any case in which such Land is known or supposed to be auriferous, and may revoke any such Proclamation in whole or in part, as to him seems fit from time to time.

Governor in Council may exempt Waste Land from operation of the said Act and this Act.

3 Every person who discovers any mineral at least five miles distant from any place where a mineral of a like kind has before then been found and worked, shall be entitled to a lease under the said Act at a peppercorn rent for a term of Twenty-one years of an area of Eighty acres of land on which such mineral has been found by such person, as a reward for such discovery, with right of renewal for such term and on such conditions as is provided for other lessees under the Thirteenth Section of the said Act ; provided that the Minister may, upon the report of the [Bill 26.]

Discoverer entitled to lease at peppercorn rent in certain cases.

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Commissioner, refuse to grant such lease whenever it shall appear to him that the applicant is not justly entitled to the same.

Pending disposal of application for Lease, Commissioner may grant permission to remove any mineral.

4 When the application of any person for a Lease under the said Act or this Act shall be pending or in abeyance from any cause, not being on account of any act, matter, or thing done or omitted to be done 5 by such person, it shall be lawful for the Commissioner upon payment in advance by such person of the rent for such Lease to grant to such person permission in writing in such form as may be prescribed, to remove any mineral or metal to be named in such permission, from the land the subject of such application, until such application shall be finally 10 dealt with; and when such application shall be finally dealt with such permission shall cease and determine.

It shall be lawful for the Commissioner to suspend by order under his hand the operation of any such permission in any case where any dispute shall arise in respect of such application subsequently to the 15 issue of such permission or where the applicant shall neglect to mark and keep marked the boundaries of the land applied for in manner prescribed.

Term of lease and area of Waste Lands.

5 Any lease granted under the said Act or this Act shall be for a term of Twenty-one years from the making thereof, and of any portion 20 of the Waste Lands of the Crown not less than Ten acres and not exceeding Eighty acres if containing minerals other than those next mentioned, and if containing coal, shale, slate, or limestone, not exceeding Three hundred and twenty acres, with right of renewal from time to time for a period not exceeding on the whole Ninety-nine years. 25

Regulations.

6 It shall be lawful for the Governor in Council from time to time to make Regulations for the following purposes, which shall apply to the whole Colony or such portions thereof as may be prescribed, and any such Regulations may be altered and rescinded from time to time :— 30

For prescribing the manner in which applications for Leases under Section Three of this Act shall be made, entertained, and dealt with, and the manner in which objections to such applications shall be made and investigated :

For prescribing the shape and position, and for regulating the 35 survey of Leases :

For fixing the amount of the fees to be paid upon the applications for Leases under Section Three, and other matters required to be done under this Act or the Regulations made hereunder :

For prescribing the forms which shall be used in carrying out the 40 provisions of this Act, and the Regulations made hereunder :

For regulating the occupation of Waste Lands of the Crown as sites for the erection of machinery, for water rights, and for residence areas :

For regulating the cutting, construction, use, and maintenance of 45 roads, tramroads, races, dams, sluice heads, and reservoirs, tail races, drains, and other easements :

For enforcing and regulating the drainage, baling, and pumping of water from mines, and regulating the areas which shall form drainage areas, and fixing the amounts payable in 50

respect of such claims situated therein, and the proportion in which the expense of such drainage, baling, and pumping shall be borne by the claims benefited thereby : A.D. 1880.

5 For the protection from injury and destruction of roads, tram-roads, races, drains, dams, and reservoirs, and other mining works of any kind whatsoever :

And generally respecting all other matters and things necessary to give effect to the objects and intentions of this Act so far as the same are not herein provided for ; and such Regulations may be enforced in case of any breach or default thereof by such penalty not exceeding 10 Twenty Pounds as may be prescribed.

7 All Regulations made by the Governor in Council under the authority of this Act shall be published in the *Gazette*, and shall take effect from the date of such publication unless otherwise provided in 15 such Regulations ; and all such Regulations shall be laid before both Houses of Parliament within Fourteen days from the making thereof if Parliament is then in Session, and if not then within Fourteen days after the commencement of the next Session.

Regulations to be published in *Gazette*.

Regulations to be laid before Parliament.

8 Where in any case the Lessee of any Land shall discover Gold 20 on his Claim, and shall forthwith give notice to the Commissioner that Gold has been discovered by him on such land, such Lessee shall have a preferential right to take up a Claim on such Land under any Act in force to regulate Mining for Gold and the regulations made thereunder, and the residue of such land, if the same is exempted 25 from the operation of the Lease held by such Lessee and declared to be Waste Land as hereinafter provided, shall be subject to the provisions of any such Act and the regulations made thereunder.

Lessee of Mineral Land discovering Gold to have preferential right to Gold Mining Claim ;

If any Lessee discovering Gold as aforesaid shall not give notice forthwith to the Commissioner as hereinbefore provided, or such Lessee shall 30 not discover Gold on such Land, and the same or some part thereof shall be declared Waste Land as hereinafter provided, then so much of the Land held by such Lessee as shall be declared Waste Land as hereinafter provided, shall be subject to any Act in force to regulate Mining for Gold, and the regulations made thereunder : Provided that any person, 35 other than the Lessee who first discovers Gold upon any Land held by such Lessee, and who immediately reports the same to the Commissioner, shall, upon proof thereof to the satisfaction of the Commissioner, and upon such Land being declared Waste Land as hereinafter provided, have a preferential right to take up a Claim on such land under 40 any such Act and the regulations made thereunder. And provided also that such Lessee shall be paid such sum of money out of the Consolidated Revenue Fund as the Commissioner deems reasonable, as compensation for the present value of his interest for mining purposes in the Land or the portion thereof resumed, and for any loss which 45 may be sustained by him in consequence of the resumption of such land or any portion thereof. But no such valuation shall be made or valuation take place until such Commissioner shall have been authorised thereto by the Governor in Council.

also person other than Lessee discovering Gold.

9 Where Gold is discovered or supposed to exist in any Land leased 50 or held for mining purposes other than for Gold under any former Act or this Act, it shall be lawful for the Commissioner, either in his own discretion, or upon the application of any person, upon giving to the Lessee or holder of such land Ten days notice in writing in that behalf, to

Land held under lease may in certain events be declared Waste Land.

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require such Lessee or holder to show cause at the time and place specified in such notice, why such Land or some portion thereof specified in such notice should not be exempted from the operation of such Lease or holding and declared Waste Lands of the Crown ; and such Commissioner, after hearing any objections thereto made by such Lessee or holder, or, in the absence of such Lessee or holder, upon proof of due service of such notice, may if he sees fit, by order under his hand, declare such Land or some portion thereof to be specified in such order, to be exempted from the operation of such Lease or holding, and to be Waste Lands of the Crown ; and every such order shall be published in the *Gazette* and in one Newspaper published in the City or Town nearest to the Land demised : Provided also that such Lessee shall be entitled to such compensation in manner provided by last preceding Section. 5

The provisions contained in Section Forty of the said Act shall be applicable in all respects to all proceedings under this Section, and all such proceedings shall be deemed proceedings before a Commissioner under the said Act. 15

Commissioner may enter upon land and examine machinery, &c.

10 For the purposes of the last Two preceding Sections the Commissioner, and any persons deputed by him for that purpose, may lawfully enter upon any Land demised as aforesaid and examine such Land and any machinery or workings there. 20

Upon publication of order land to be deemed Waste Land.

11 Upon payment of the sum awarded, and upon publication of any order signed by the Commissioner to the effect that any Land has been exempted from the operation of any such Lease and declared Waste Land of the Crown, the Land mentioned in such order shall, after the expiration of the period limited for giving notice of appeal, forthwith be and be deemed to be Waste Land of the Crown ; and if any notice of appeal shall be given, then such land shall not be deemed to be Waste Land of the Crown unless the Supreme Court or a Judge thereof shall so order ; or if such appeal is not prosecuted within the time limited for that purpose, then the order of the Commissioner shall take effect and be final ; and every order of the Supreme Court or of a Judge thereof shall be published in manner aforesaid. 25 30

Partnership questions.

12 It shall be lawful for the Commissioner upon complaint made by the holder of a Lease under this Act or the said Act or any Act repealed by the said Act, to enquire into and hear and determine such complaint or application, and to order that any amount which such Commissioner shall determine, together with reasonable costs, shall be paid by such persons, and at such times and in such manner as to such Commissioner seems meet, provided that the amount payable to any one person does not exceed Fifty Pounds. 35 40

Agreement to bar appeal.

13 In any proceedings brought before the Commissioner under this Act or any Regulations made under this Act or the said Act, the parties thereto may, previously to the hearing thereof, agree to accept the decision of the Commissioner as final ; and a memorandum of every such agreement shall be entered by the Commissioner, and kept by him ; and no appeal shall in such case be made from the decision of the Commissioner. 45

Commissioner may state special case for opinion of Supreme Court.

14 In any proceedings brought before any Commissioner under this Act or any Regulations made under this Act or the said Act, such Commissioner shall, upon the application of either party made in writing 50

- within Seven days after the determination of the Commissioners in respect of which application is made, and setting forth the grounds of appeal, or such Commissioner may without any such application reserve any question of law or fact arising upon such case in the form of a special case for the hearing and determination of the Supreme Court; and every such special case shall be prepared by such Commissioner, and be transmitted forthwith by the Commissioner to the Clerk of the Supreme Court, who shall cause the same to be set down for argument before the said Court.
- 10 15 Whenever any such special case has been reserved it shall be lawful for the Commissioner who reserved such case, on the application of any of the parties interested in such case, to make such order for an injunction, or receiver, or payment of money into Court, or for stay of proceedings or otherwise, and upon such terms as such Commissioner thinks proper; but without such order no special case shall operate as a stay of proceedings.
- 16 The Supreme Court shall hear and determine any questions, whether of law or fact, arising upon any case transmitted to it under this Act, and shall thereupon reverse, affirm, or amend the determination in respect of which the case has been stated, or remit the matter to the Commissioner with the opinion of the Court thereon, or may make such other order in relation to the matter, and may make such orders as to costs as to the Court may seem fit; and all such orders shall be final and conclusive on all parties.
- 20 17 The Supreme Court shall have power, if it thinks fit, to cause the case to be sent back to the Commissioner for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it has been amended.
- 18 The authority and jurisdiction vested in the Supreme Court under this Act may, subject to any Rules and Orders of such Court in relation thereto, be exercised by a Judge of such Court sitting in Chambers, and as well in Vacation as in Term time.
- 30 19 The Judges of the Supreme Court may from time to time make and alter Rules and Orders to regulate the practice and proceedings of the Supreme Court under this Act, and such Rules and Orders shall be published at least once in the *Gazette*.
- 35 20 Where any persons jointly contribute towards prospecting for minerals, whether such contribution be by way of money, labour, or otherwise, all discoveries made in the course of such prospecting which such persons shall be entitled to take up as a claim under the said Act or this Act shall be, except when otherwise agreed, the joint property in equal shares of the persons so contributing; and in all proceedings relating to such prospecting or discoveries evidence written or verbal may be received.
- 40 21 It shall be lawful for any Bailiff of Crown Lands to seize and detain any mineral which is being or has been unlawfully removed, or which he has good cause to suspect to have been unlawfully removed from any Waste Lands of the Crown or any Crown Reserve; and it shall be [Bill 26.]
- A. D. 1880.
- In case of a special case, an injunction, &c. and stay of proceedings may be had.
- Supreme Court to determine the questions on the case.
- Case may be sent back for amendment.
- Powers of Court may be exercised by a Judge at Chambers.
- Supreme Court may make Rules for proceedings.
- Discoveries made by prospecting parties joint property of prospectors.
- Minerals, &c. unlawfully removed from Waste Land may be seized and forfeited.

A.D. 1880. lawful for any such Bailiff, or any person authorised in writing by the Minister or the Commissioner, to seize and detain any mineral which is being or has been unlawfully removed, or which the Minister or such Commissioner has good cause to suspect to have been unlawfully removed from any Waste Lands of the Crown or any Crown Reserve; and any mineral seized as aforesaid may be forfeited to Her Majesty upon proof to the satisfaction of the Commissioner that it has been unlawfully removed as aforesaid: Provided that the Governor in Council may make such order as to the disposal of such mineral and upon such terms as he sees fit. 5 10

Repeal. **22** Sections Five, Seven, Eight, Twelve, Thirteen, Twenty-two, Thirty, Forty-two, Forty-five, Forty-six, Forty-seven, Forty-eight, Forty-nine, and Fifty of the said Act are hereby repealed save as to all proceedings pending and all things duly done thereunder before the commencement of this Act. 15

Acts to be read together. **23** This Act and the said Act as amended by this Act shall be read and construed together as one Act.

Short title. **24** This Act may be cited as "The Mineral Lands Amendment Act, 1880."