

(No. 105.)



1880.

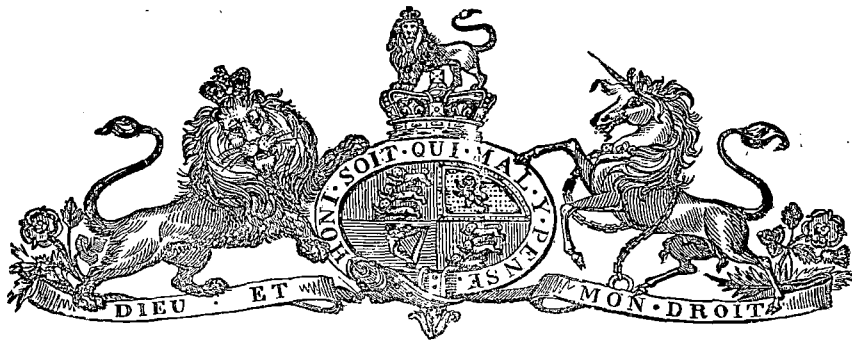
T A S M A N I A .

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

G O L D F I E L D S R E G U L A T I O N B I L L :

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 22, 1880.



REPORT of Select Committee appointed to consider a Bill to make provision for the Management of Auriferous Crown Lands, and for regulating Mining for Gold in Tasmania.

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,
22nd September, 1880.*

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

C. O'REILLY, *Chairman.*

A
B I L L

TO

Make provision for the Management of Au- A.D. 1880.
riferous Crown Lands, and for regulating
Mining for Gold in *Tasmania*.

WHEREAS it is expedient to repeal "The Gold Fields Regulation Act, 1870," and to make other provision in lieu thereof: PREAMBLE.
34 Vict. No. 6.

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:—

Preliminary.

1 In referring to this Act it shall be sufficient to use the expression Short title.
"The Gold Fields Regulation Act, 1880."

2 This Act shall commence and take effect on the First day of Commencement
of Act.
October, 1880.

Interpretation.

3 In this Act, unless the context otherwise determines— Interpretation.

10 "Business" shall mean and include any profession except that of a Medical Practitioner, Minister of Religion, or Schoolmaster; and any trade, calling, or occupation except that of mining; and any vending or disposing of any goods, wares, merchandise, or chattels, except the sale of milk, butter, vegetables,

15 or other farm or garden produce by the producers thereof:

"The said Act" means "The Gold Fields Regulation Act, 1870:"

"Claim" shall mean the portion of land which each person, mining partnership, or company is entitled to occupy, or to occupy and mine in under any Miner's Right, Licence, or Lease issued under the provisions of this Act or of the said

20 Act:

[Bill 11.]

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- “Road” shall mean any Road, Street, or public way :
- “Commissioner” shall mean one of the Commissioners of Gold Fields for *Tasmania* :
- “Gazette” shall mean *The Hobart Town Gazette* :
- “Gold” shall signify as well any gold, as any earth, clay, quartz, 5
stone, or other mineral containing gold or having gold mixed
therein, or set apart for the purpose of extracting gold
therefrom :
- “Gold Field” shall mean any part of the Waste Lands of the
Crown on which persons are or may be actually engaged in 10
mining for gold, and also any Gold Field duly proclaimed
under this Act :
- “Mine,” used as a verb, shall extend to and include any mode or
method whatsoever whereby the soil or earth, or any rock or
stone may be disturbed, removed, carted, carried, washed, 15
sifted, smelted, refined, crushed, or otherwise dealt with for
the purpose of obtaining gold, whether the same may have
been previously disturbed or not, as well as the appropriation
of such gold by the finder thereof to his own use :
- “Mining purposes” shall mean the purpose of obtaining gold by 20
any such mode or method :
- “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 : 25
- “Prescribed” means prescribed by Regulations under this Act :
- “The Minister” means the Minister of Lands and Works for the
time being :
- “Waste Lands of the Crown” shall mean any lands in this Colony
which are or may become vested in the Crown, and have not 30
been and are not dedicated to some public use, and shall
include all Lands of the Crown which are or may be occupied
for pastoral purposes under any Lease or Licence from the
Crown.

Proclamation of Gold Field.

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Gold Field may
be proclaimed

- 4 The Governor in Council may proclaim such portion of the
Waste Lands of the Crown as he sees fit as and to be a Gold Field for
the purposes of this Act, and may revoke any such Proclamation ; and
any Gold Field proclaimed under the said Act shall, if such Proclamation
remains unrevoked when this Act takes effect, be deemed to have been 40
proclaimed under this Act. .

*As to Waste Lands of the Crown.*Governor em-
powered to except
defined area of
Crown Land from
operation of
Sect. 24 of *The
Waste Lands Act*,
1870.

- 5 It shall be lawful for the Governor in Council from time to time,
by Proclamation in the *Gazette*, to except for the purposes of this Act
any area of the Waste Lands of the Crown described in such Proclamation 45
from the operation of Section Twenty-four of *The Waste Lands Act*,
1870, and any such Proclamation from time to time in like manner to
revoke as to the whole or any portion of such area ; and as to the area
in respect of which any such Proclamation is so revoked, the same may
be dealt with as if it had never been included in any such Proclamation. 50

- 6** It shall be lawful for the Commissioner of Crown Lands to decline to accede to any application, or to enter into any contract, for the purchase of Waste Lands of the Crown in any case in which the land selected is known or supposed to be auriferous. A.D. 1880.
Applications to purchase auriferous Crown Land may be refused.
- 5 7** When any Gold Field shall have been proclaimed upon any of the Waste Lands of the Crown held under Lease or Licence for Pastoral purposes, the Governor in Council may suspend such Lease or Licence so far as may be necessary for the accommodation of the horses, cattle, and sheep required for the subsistence and convenience of all persons residing on any such Gold Field, and for the supply of water and timber and otherwise for effectually working the said Gold Field, and shall thereupon return or remit to the Lessee or Licencee such portion of the rent of such lands as may be reasonable and just. Partial suspension of Pastoral Leases extending over Gold Fields.
- 15 8** It shall be lawful for the Governor in Council, by notice published in the *Gazette*, to exempt any Waste Lands of the Crown from the operation of this Act, and in like manner to revoke any such notice in whole or in part as to him seems fit from time to time. Governor empowered to exempt land from operation of this Act.
- 20 9** It shall be lawful for the Governor in Council to authorise the holders of Miners' Rights or Consolidated Miners' Rights to occupy any Waste Lands of the Crown which may have been so exempted as aforesaid, subject to such conditions and restrictions as the Governor in Council sees fit to impose. Certain lands exempted from mining.

Unlawfully Mining upon Crown and Private Land.

- 10** Any person not being the holder of a Miner's Right, Consolidated Miner's Right or Lease, under this Act or the said Act, who mines for gold upon any Waste Lands of the Crown other than and except land held by any other person under a Lease under this Act or the said Act, or as a claim under a Miner's Right or Consolidated Miner's Right for mining purposes, and any person not being the holder of a Miner's Right, Consolidated Miner's Right, Business Licence, or Lease duly empowering him in that behalf, who occupies any Waste Lands of the Crown in or upon any Gold Field, shall incur a penalty not exceeding Ten Pounds. Penalty for unlawfully mining, &c.
- 35 11** Any person who mines or employs any person to mine for gold in any land belonging to a private individual without the consent of the owner thereof, or his duly authorised agent, shall incur the like penalty as is mentioned in the last preceding Section. Penalty for mining on private property.
- 40 12** Any person, not being the holder of a Business Licence, who occupies Waste Lands of the Crown upon or at any Gold Field, and carries on any business there, shall incur a penalty not exceeding Ten Pounds. Penalty for conducting business without licence.

Mining upon and under Roads, &c.

- 13** For the purposes of the next three Sections, the expression "Trustees" means the Trustees of a Road District, or a Main Road District Board, or where there is no Road District, or Main Road District Board, then the persons or body of persons having the care and management of streets, roads, and highways, and where there are no such persons or body of persons then the Commissioner of Gold Fields. Meaning of "Trustees" in next 3 Sections.

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Mining upon or
under public
roads.

14 The holder of a Miner's Right, Consolidated Miner's Right, or Lease under this Act or the said Act, may mine upon or under any street, road, or highway, provided that he applies in writing for permission so to do, to, and obtains from the Trustees of the Road District in which the street, road, or highway sought to be mined 5 upon or under is situate, an order in writing signed by the Trustees permitting him so to do upon such terms and conditions and subject to such restrictions as they see fit; and such Trustees shall, before they grant such permission, enquire and determine whether such mining can be carried on without injury to adjoining property, or injury 10 or obstruction to such street, road, or highway; and such Trustees may, if they see fit, refuse any such permission.

Trustees may
allow sluice-boxes,
tramways, and
culverts on or
under public
roads.

15 Upon the application of any holder of a Miner's Right, Consolidated Miner's Right, or of a Lease under this Act or the said Act, and upon the report of any Engineer or Surveyor that a sluice-box, 15 tramway, or culvert can be laid or constructed on or under any such street, road, or highway, without any substantial injury to, or obstruction of, the traffic thereon, and that such sluice-box, tramway, or culvert is necessary for the due and proper working of any mine, or for the conveyance of water for mining purposes, it shall be lawful for the Trustees, by order in writing made after inspection by some officer of 20 such Trustees of the street, road, or highway mentioned in such report, subject to the rights of occupiers of adjoining or contiguous lands, to allow such sluice-box, tramway, or culvert to be laid or constructed by any holder of a Miner's Right, Consolidated Miner's Right, or Lease under this Act or the said Act, for the purpose of conveying any water, 25 tailings, sludge, or waste water, or earth: Provided that such works shall be so constructed as not to substantially injure such street, road, or highway, or obstruct the traffic thereon; and if after the construction of any such sluice-box, tramway, or culvert under such order it is made to appear to such Trustees that the same does so injure such street, road, 30 or highway, or obstruct the traffic thereon, it shall be lawful for such Trustees to order that the obstruction be removed, and if after Seven days from the date of such last-mentioned order the obstruction caused by such sluice-box, tramway, or culvert is not removed or remedied, the same shall be deemed a nuisance, and the person who obtained the 35 said first-mentioned order, or the owner or occupier, shall be liable to a penalty not exceeding Twenty Pounds; and the said nuisance may be abated by an order of any Justice upon proof of the said last-mentioned order, and of the disobedience thereof.

Trustees may
authorise roads,
&c. across works.

16 It shall be lawful for the Trustees to authorise any person to make 40 or construct any roads or temporary or permanent ways or other works over, across, or through any part of such works made or constructed by the holder of a Miner's Right, Consolidated Miner's Right, or Lease under this Act or the said Act: Provided that, before such Trustees shall give such authority, Seven days' notice thereof shall be given to 45 the person lawfully interested in such last-mentioned works.

Miners' Rights and Consolidated Miners' Rights.

Miners' Rights
may be issued.

17 It shall be lawful for the Governor in Council to cause documents, to be called Miners' Rights, to be issued in such form as may be prescribed; and every such Miner's Right shall be in force for any period not exceeding Ten years from the date thereof, and shall be 50

granted to any person applying for the same upon payment of a sum at the rate of Five Shillings for every year for which the same is to be in force; and where such Miner's Right shall be applied for to be in force from the date thereof to the Thirty-first day of *December* then next ensuing, the same may be granted to the person applying therefor between the first day of *January* and the thirtieth day of *June* in each year upon payment of a fee of Five Shillings, and after such last mentioned day upon payment of a fee of Two Shillings and Sixpence: Provided that every such Miner's Right shall be deemed to expire on the Thirty-first day of *December* in the year or last year of the period for which it shall have been granted.

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Every Miner's Right shall be subject to such conditions as may be prescribed.

18 It shall be lawful for the Governor in Council to cause other documents to be issued, each of which shall be called a Consolidated Miner's Right and shall be in force for any period not exceeding Ten years; and any such document shall, on the application of the Manager of any company of persons who shall have agreed to work in partnership any claim or claims registered as may be prescribed, be granted to such Manager, on behalf of the persons who shall from time to time be members of such company or partnership; and such Consolidated Miner's Right shall be in lieu of and shall represent and be of the same force and effect as a number of Miners' Rights granted for the same period of time equal to the number of Miners' Rights by virtue of which the said claim or claims shall have originally been taken possession of, and the same shall be subject to such conditions and be granted to any such Manager as aforesaid so applying by such persons and upon payment of such fee or fees as hereinbefore mentioned.

Consolidated Miners' Rights may be issued.

19 If any person or body of persons who shall be the holder or holders of a Miner's Right or Consolidated Miner's Right shall before the expiration of such Miner's Right or Consolidated Miner's Right make application to the proper officer to take out a new Miner's Right or Consolidated Miner's Right, as the case may be, such officer shall issue to the applicants a new Miner's Right or Consolidated Miner's Right, as the case may be, dated the day following the day of such expiration, upon payment of such sum as may be prescribed.

Renewal of Miner's Right or Consolidated Miner's Right.

20 No person shall at one time hold more than One Miner's Right, and every person holding a Miner's Right shall produce the same upon demand to a Commissioner, or Registrar, or any person authorised by a Commissioner in writing to demand the same, or any Bailiff of Crown Lands, or any Constable duly authorised by Commissioner, and if such person shall not produce the same when demanded he shall, upon conviction, be liable to forfeit and pay a penalty not exceeding Five Pounds.

No person to hold more than One Miner's Right, and to produce the same on demand.

21 Any person or body of persons who shall be the holder or holders of a Miner's Right or Consolidated Miner's Right shall, subject to the provisions of this Act and to the Regulations made hereunder, be entitled (except as against Her Majesty)—

Privileges conferred by a Miner's Right or Consolidated Miner's Right.

To take possession of, mine, and occupy for mining purposes any Waste Land on any Gold Field or any other Waste Lands, except such land in respect of which an application to lease may be pending:

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To cut, construct, and use races, dams and reservoirs, roads and tramways which may be required for gold-mining purposes through and upon any Waste Lands of the Crown on any Gold Field and any claim or claims :

To take or divert water from any spring, lake, pool, or stream 5 which Her Majesty can lawfully take and divert, and to use such water for mining purposes, and for his or their own domestic purposes ;

To cut, construct, and use any tail race, drain, or other easement through or upon any Waste Lands of the Crown, or any claim 10 or claims :

To take possession of and occupy the surface of any Waste Lands of the Crown on any Gold Field for the purpose of residence :

To put up and to remove any building or other erection :

To cut timber on and to remove the same, and to remove any 15 stone, clay, or gravel from any Waste Lands of the Crown upon any Gold Field for the purpose of building for himself or themselves any place of residence, or for mining purposes.

And any person or body of persons so taking up and occupying Waste Lands of the Crown as aforesaid shall, subject as aforesaid, be deemed in 20 law to be possessed (except as against Her Majesty) of such lands so taken up and occupied ; and the property therein, and every share or interest which may be created therein under this Act or the Regulations, shall be deemed a chattel interest ; and the holder or holders of any such land taken up and occupied as aforesaid for mining purposes and 25 for the purpose of residence, may transfer, assign, or encumber the same.

Mining under
Residence and
Business Areas.

22 Any person or body of persons being the holder or holders of a Miner's Right or of a Consolidated Miner's Right may, subject to the provisions of this Act and of the Regulations made hereunder, mine at 30 such depth below the surface as shall be prescribed under and in any land held as a Residence Area or under a Business Licence.

Prospectors' Rights.

Prospecting for
gold, protection
area.

23 Any Miner or party of Miners prospecting for an auriferous quartz reef or alluvial deposit of gold at a place distant not less than Five miles from any previously known auriferous quartz reef or alluvial 35 deposit of gold, shall be entitled to such area of ground, not exceeding Fifty acres, as the Commissioner deems requisite for the purposes of protection ; and such protection shall hold good, provided ground is being actually prospected, for a period not exceeding Six months against all persons until a discovery has been made and reported to the Commis- 40 sioner and a claim laid off by the prospectors. And such protection may be renewed by the Commissioner at his discretion for a further period not exceeding Six months.

Prospect Claims.

24 Any Miner or party of Miners prospecting for and discovering any auriferous quartz reef shall be allowed a prospector's claim of 300 45 yards along the reef ; and any Miner or party of Miners prospecting for and discovering an alluvial deposit of gold shall be allowed a prospector's claim of Five acres, provided that the discovery is made known to the

Commissioner without unnecessary delay, and that it is distant not less than Five miles from any claim previously marked upon any known reef or alluvial deposit as the case may be; and such claim shall be subject to the regulations applying to ordinary claims for mining purposes, except that it shall not be liable to forfeiture for non-performance of work until the Commissioner shall have received from the owner the report of his discovery, and a reasonable time in the opinion of the Commissioner shall have elapsed, taking into consideration the situation of the ground and the other circumstances connected therewith, to enable the owner to commence mining operations.

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Business Licences.

25 It shall be lawful for the Governor in Council to cause documents to be issued each of which shall be called a Business Licence, which shall be in force until the Thirty-first day of *December* then next ensuing, or for any period not exceeding Ten years; and any such document shall be granted to any person applying for the same, by such persons, for such period, and upon payment of such fee as may be prescribed.

Business Licences may be issued.

26 If any person holding a Business Licence shall before the expiration of such licence make application to the proper officer to take out a new licence, such officer shall issue to the applicant a new Business Licence dated the day following the day of such expiration upon payment of the sum of Four Pounds.

Renewal of Business Licence.

27 Every Business Licence shall, subject to the provisions of this Act and of the Regulations made hereunder, entitle the holder thereof during the continuance of such Licence to occupy on any Gold Field, for the purpose of residence and carrying on his business, so much of the Waste Lands of the Crown as may be prescribed, and for either of the purposes aforesaid to put up any building or other erection, and to remove the same; and every such holder shall, during the continuance of such Business Licence, be deemed in law to be possessed (except as against Her Majesty) of the surface of the land which he shall occupy by virtue of such Licence, and the property in such land shall be deemed a chattel interest.

Privilege conferred by Business Licence.

28 The holder of any Business Licence may transfer the same to any other person by endorsement thereon signed by him in the presence of and attested by a witness; and another Business Licence shall be granted to the person named in such endorsement upon production and surrender of such Licence so endorsed, and upon payment of a fee of Two Shillings and Sixpence; and every such last-mentioned Business Licence shall be dated of the day and at the place of the issuing thereof, and shall be in force for the then unexpired period of the Licence first endorsed as aforesaid; and every such endorsement shall contain the christian name and surname and the occupation and residence of the person in whose favour the same shall be issued.

Business Licences may be transferred.

Leases.

29 It shall be lawful for the Governor in Council to grant to any person, Mining Partnership, or Company, subject to the provisions of this Act and the Regulations made hereunder, a Lease of any such area

Leases may be granted for mining purposes; races, drains, &c.

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of the Waste Lands of the Crown as may be prescribed, not exceeding Twenty acres, for mining purposes, and for cutting or constructing thereon races, drains, dams, reservoirs, roads, or tramways to be used in connection with any such mining, or for erecting thereon any building or machinery to be used for mining purposes, for pumping or raising 5 water from any land mined or intended to be mined, or for any or all of those purposes, and also for residence in connection with any of such purposes, for any such term not exceeding Ten years, as required by the proposed lessee.

Provided always that no such Lease shall be granted until the ex- 10 piration of One month after notice of the intention to grant the same has been published by the Minister in the *Gazette*. And provided also that a Commissioner may, upon payment in advance by such applicant of the rent for such Lease, grant to such applicant permission in writing in such form as may be prescribed to erect works and remove any Gold 15 from the land subject to such application; and it shall be lawful for such 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 subsequent to the issue of such permission.

Renewal of lease. 30 Any lessee desirous of obtaining a renewal of his Lease shall 20 make application in writing to the Minister for renewal, at least Twelve calendar months before the expiration of the current term of such lease; and in default of such application the right of the lessee to a renewal shall be forfeited.

Privileges conferred by a lease.

31 Any person or body of persons who shall be the holder or holders 25 of a Lease under this Act, or any former Act, shall, subject to the provisions of this Act and to the Regulations made hereunder, be entitled (except as against Her Majesty)—

To put up and remove any building or other erection :

To cut timber on and to remove the same, and to remove any 30 stone, clay, or gravel from any Waste Lands of the Crown upon any Gold Field for the purpose of building for himself or themselves any place of residence, or for mining purposes.

And any person or body of persons so taking up and occupying Waste Lands of the Crown as aforesaid shall, subject as aforesaid, be deemed in 35 law to be possessed (except as against Her Majesty) of such lands so taken up or occupied; and the property therein, and every share or interest which may be created therein under this Act or the Regulations, shall be deemed a chattel interest; and the holder or holders of any such land taken up and occupied as aforesaid for mining purposes and 40 for the purpose of residence, may transfer, assign, or encumber the same.

Mining under Residence and Business Areas and Reserves.

32 Any person or body of persons being the holder or holders of a Lease may, subject to the provisions of this Act and of the Regulations made hereunder, mine at such depth below the surface as shall be pre- 45 scribed under and in any land held as a Residence Area or under a Business Licence or Public Reserve.

Leases of lands reserved for Roads, &c.

33 It shall be lawful for the Governor in Council to grant leases for mining purposes, for such period as shall be prescribed not exceeding 50 Ten years, on such terms and conditions, subject to the provisions of this Act, as the Governor in Council sees fit, of

Any lands reserved by the Governor in Council for roads or other internal communication, whether by land or water : A.D. 1880.

Any land reserved along the margin of any river or stream or along the sea shore :

- 5 Any land forming part of the sea shore, and any land below low water mark adjacent to the sea coasts of this Colony :

Any land reserved by the Governor in Council for any public purpose.

- 10 But no such lease shall extend to the total obstruction of any road or reservation, or the endangering or preventing the use or enjoyment thereof; and every such lease shall contain a clause in the nature of a condition of forfeiture in case of the breach or non-performance of any of the conditions to be contained in such lease.

- 34 The rent which shall be paid for land leased under the authority of this Act shall be One Pound a year for every acre or part of an acre comprised within the lease; and the same shall be payable in advance. Rent.

- 35 Every lease granted by the Governor in Council under this Act shall be in such form and to such effect, and shall contain such reservations, covenants, and provisoes and particulars as shall be prescribed, or with such modifications and additions as the circumstances of the case may require and as the Governor in Council may think proper. Form of Lease.

Each lease shall be by Deed and shall be in duplicate, one part whereof shall be signed, sealed, and delivered by the Minister, and the other part shall be signed, sealed, and delivered by the lessee.

- 25 36 In any case in which it is made to appear to the satisfaction of the Governor in Council by any Mining Company that greater facilities for the working of adjoining claims for which applications for leases have been made would be ensured by the issue of one lease for the whole of the said claims, it shall be lawful for the Governor in Council to authorise the issue of one lease for the whole of the said claims if the same shall not exceed in the whole Sixty acres of land, upon the payment of such fee for each such claim as may be prescribed, and the lease so granted shall be subject to all the provisions of this Act. Amalgamation of leases.

- 37 Any lessee under this Act or the said Act may, upon payment of all such fees and expenses as may be prescribed, transfer or assign his interest in the lease to any other person, mining partnership or company, who shall for all purposes be deemed to be the lessee of the land described in such lease; and such transfer or assignment shall be by deed, and in such form as may be prescribed, and shall be registered or recorded in the office of the Minister, and no assignment or transfer shall be binding on the Minister until the same shall have been so registered or recorded. Lease may be transferred.

- 38 It shall be lawful for the Governor in Council, on the application of the Minister, to declare any lease issued under this Act or the said Act to be void and forfeited if it be proved to the satisfaction of the Governor in Council that default has been made by the lessee in any or all of the conditions of such lease; that is to say,— Leases may be declared void in certain events.

If the rent is not paid yearly in advance to the Colonial Treasurer: or [Bill 11.]

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If the conditions of Lease with respect to the employment of labour have not been complied with :

If the lessee permits any portion of the land to be occupied for other than mining purposes without the permission in writing of the Minister. Provided always, that nothing herein contained shall prevent the said lessee from allowing any and every miner employed by such lessee on such land occupying at a pepper-corn rent a portion of such land for the purpose of residence, garden, yard, and other conveniences, not exceeding in any case one acre, or from depasturing cattle used in connection with the working or mining of such land.

It shall also be lawful for the Governor in Council on the application of the Minister to declare any lease to be void and forfeited—

If the lessee is convicted, under the Twenty-ninth Section of the Act of the Parliament of *Tasmania* of the 27th *Victoria*, No. 8, of having feloniously stolen or severed with intent to steal any mineral or metal from or under any land not leased to or owned by him.

Provided that no lease shall be declared void and forfeited under this section until Thirty days' notice of the intention of the Minister to apply to have such lease declared void and forfeited has been given in the *Gazette*.

Notice of voidance
of lease to be
published.

39 When any lease is declared void and forfeited by the Governor in Council there shall be published in the *Gazette*, under the hand of the Minister, a notice to the effect that such lease has been declared by the Governor in Council to be void and forfeited, and such notice shall be conclusive evidence that such lease has been lawfully declared void and forfeited, and thereupon the land described in such lease may be dealt with as if no lease had been granted of such land, or such land may be put up for lease by auction if the Minister sees fit.

Buildings, &c. to
vest in Her
Majesty, but may
be renewed by
consent of
Minister.

40 Upon the publication of any such notice in the *Gazette*, all buildings, mining plant, and machinery erected and being on the land described in the lease which has been declared void and forfeited shall vest in Her Majesty, but may be removed therefrom by the late lessee or any person interested in such lease within Three months after the publication of such notice with the consent in writing of the Minister : Provided that such late lessee or any person interested in such lease desiring to obtain such consent shall within One month after publication of such notice make application to the Minister for such consent, and shall pay up all rent which may be in arrear at the time such lease was declared void and forfeited before such consent shall be granted.

If the Minister shall not within Three months after the publication of such notice consent to any person removing such buildings, mining plant, and machinery, the same shall be sold by auction, and the proceeds of such sale shall be paid into the Colonial Treasury and form part of the Consolidated Revenue Fund.

Bankrupt lessee.

41 If any lessee becomes bankrupt under "The Bankruptcy Act, 1870," his interest in the land leased shall pass to his Trustee.

Interest of lessee
may be seized and
sold.

42 The interest of any lessee in any land held under this Act or the said Act may be taken in execution and sold by the proper officer, under any Writ of Execution issued out of any Court of competent jurisdiction, or under any Warrant of Distress issued by a Justice or by a Commissioner under this Act.

43 It shall be lawful for the Governor in Council to resume any portion of the lands comprised in any lease, Miner's Right, Miner's Consolidated Right, Business Licence, or any other right under this or the said Act, held under this Act or the said Act for the purpose of laying out a Town, for constructing Roads, Railways, or Tramways, or for other purpose of public convenience; and at any sale that may be made of any of the lands so resumed the right of mining for gold thereon may be reserved to the Crown or to the lessee from whom the land so sold may have been resumed, who shall be entitled to compensation out of the Consolidated Revenue Fund for all buildings and mining works on such lands when resumed, such compensation to be ascertained by arbitration in such manner as may be prescribed.

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Lands may be resumed for towns and roads.

Commissioners.

44 It shall be lawful for the Governor in Council to appoint Commissioners of Gold Fields for *Tasmania* and its Dependencies, who shall have power and authority—

Commissioners may be appointed.

To hear and determine in a summary manner all questions arising as to the extent and position of the claim to which any person, Mining partnership, or company is entitled under any Miner's Right, Consolidated Miner's Right, Business Licence, or Lease; and

Their powers and authority.

Any dispute which may arise between any two or more persons touching the right or title to, or any interest in, any Waste Lands of the Crown upon any Gold Field under this Act or the said Act or the Regulations made hereunder:

To receive applications for leases under this Act, and any objections thereto, and to hear and determine the same; to uphold any application and dismiss any objection thereto; or to uphold any objection to any application for a lease and to reject such application; and to make such order in reference to any application for a lease as under this Act and the Regulations the circumstances of the case shall require:

To perform any other duty or act which he may be authorised or required to perform by this Act or as prescribed.

45 It shall be lawful for any Commissioner, upon the complaint of any person holding a Miner's Right, Business Licence, or Lease, and of any duly authorised person on behalf of any body of persons holding any Consolidated Miner's Right, under the provisions of this Act or the said Act, that any other person has encroached or trespassed upon, or in any manner unlawfully interfered with, the claim of the complainant or complainants, to enquire into the case and determine the same in a summary way; and if it appears to the Commissioner that the defendant has so encroached, trespassed, or unlawfully interfered with the claim of the complainant or complainants, he may order such defendant, his servants, implements, goods, and chattels, to be removed from such claim, or may direct the discontinuance of such encroachment, trespass, or unlawful interference.

Complaints of trespass, &c.

46 It shall be lawful for any Commissioner, upon the complaint of any person holding a Miner's Right or Lease, and of any duly authorised person on behalf of any body of persons holding any Consolidated

Complaints of trespass, with unlawful removal of gold, or damages.

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Miner's Right, or Business Licence, under this Act or the said Act, that any other person has unlawfully trespassed or encroached upon or in the claim of the complainant or complainants and unlawfully and improperly removed Gold not exceeding in value Fifty Pounds from such claim, or caused any damage or injury to such claim to an extent not exceeding Fifty Pounds, to hear and determine the same in a summary manner, and to order any such Gold which may have been so removed to be seized and delivered to the complainant or complainants, or to order the value thereof, and also such further sum of money as shall appear to the Commissioner to be a reasonable compensation for the damage or injury so committed not exceeding the sum of Fifty Pounds, to be paid by the defendant to the complainant or complainants; and in case of non-payment thereof, within such period as the Commissioner shall appoint, the Commissioner shall have and may exercise all the powers conferred upon a Justice of the Peace by *The Magistrates' Summary Procedure Act*.

Commissioner may prohibit mining until case heard and determined.

47 Whenever any claim shall be in dispute between any two or more persons, or any question shall arise touching any right, title, or interest to or in any claim, it shall be lawful for the Commissioner by his order to prohibit the occupation of such claim, or any mining therein, by any or either party until the dispute or question shall be finally settled; and any person who wilfully disobeys or infringes any such order, shall forfeit and pay a penalty not exceeding Twenty Pounds.

Assessors may be called in.

48 It shall be lawful for any Commissioner upon the hearing of any complaint or matter before him, or for any complainant or defendant, or for any person being a party in any matter about to be heard and determined by such Commissioner, to require that two persons holding Miners' Rights or Leases, or residing on any proclaimed Gold Field, shall assist such Commissioner as Assessors; and thereupon such Commissioner shall either select two persons duly qualified from amongst those who are present and willing to act as such Assessors, or shall summon any number of persons, not exceeding four, duly qualified as aforesaid, and shall select two from amongst those who may attend at the time appointed; and the persons so selected shall be and act as Assessors for the purpose aforesaid: and before any such person acts as such Assessor the Commissioner shall and he is hereby authorised to administer to such person an oath to the effect that such person will well and truly enquire into the matter then submitted, and a true finding and decision give according to the evidence; and the decision of the Commissioner and one Assessor shall be binding upon all parties, and may be enforced in any manner authorised by law.

Penalty for non-attendance as Assessor.

49 If any person holding a Miner's Right or Lease, or residing on any proclaimed Gold Field, having been duly summoned to act as an Assessor, disobeys such summons and fails to attend at such time and place as may be named therein, or duly attends but refuses to be sworn as aforesaid, every such person shall, upon proof that such person was duly summoned, or upon such person refusing to be sworn, unless some reasonable cause for such non-attendance or refusal is made to appear to such Commissioner, be liable to a penalty not exceeding Five Pounds, which penalty may be recovered before such Commissioner, and be levied in a summary way; and for the purpose of enforcing payment of any such penalty, the Commissioner shall have the powers of a Justice of the Peace for enforcing payment of a penalty recovered before such Justice; and every such person who attends in obedience to

any such summons, and is sworn to act as Assessor, shall be entitled to demand and receive the sum of Five Shillings for the hearing of every such complaint, which shall be paid by such of the parties as the Commissioner may determine and order to pay the same. A.D. 1880.

5. **50** It shall be lawful for a Commissioner upon complaint made by the holder of a Miner's Right, Lease, or Licence under this Act or the said Act, to inquire 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 at such times and in such manner as to such Commissioner seems fit, or to make such other order as to such Commissioner seems meet, provided that the amount payable to any one person does not exceed Fifty Pounds. Partnership questions.

- 51** For the purpose of hearing and determining any matter brought before him under this Act and the Regulations made hereunder, every Commissioner shall have and may exercise all the powers conferred upon a Justice of the Peace by *The Magistrates' Summary Procedure Act* for the purpose of hearing and determining any matter brought before him, for procuring and enforcing the attendance of defendants and witnesses, for hearing evidence and for enforcing compliance with any order made by him under this Act or the Regulations. And such Commissioner may award and order that one party shall pay to the other party such costs and expenses as to such Commissioner shall seem just and reasonable; and the amount thereof shall be recoverable in the same manner as costs ordered by a Justice of the Peace to be paid may be recovered under *The Magistrates' Summary Procedure Act*. Commissioners may exercise powers conferred on Justices.

52 Every person appointed a Commissioner of Gold Fields under the said Act, and in office when this Act takes effect, shall continue in office and be deemed to have been appointed a Commissioner under this Act, and shall be subject to its provisions. Commissioners, continued.

Legal Procedure.

- 53** In any proceedings brought before any Commissioner under this Act or the Regulations made hereunder 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. Agreement to bar appeal.

- 54** In any proceedings brought before any Commissioner under this Act or the Regulations, such Commissioner shall upon the application of either party made in writing within seven days after the determination of the Commissioner 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. Commissioner may state special case for opinion of Supreme Court.

55 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, &c. In case of a special case an injunction, &c.

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and stay of proceedings may be had.

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.

Supreme Court to determine the questions on the case.

56 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.

Its decision to be final.

Case may be sent back for amendment.

57 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.

Powers of Court may be exercised by a Judge at Chambers.

58 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.

20

Judges to make rules.

59 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*.

Registrars.

Registrars may be appointed.

60 It shall be lawful for the Governor in Council to appoint a Registrar or Registrars of Gold Fields for the Colony or any part thereof as he shall think fit, and such Registrar or Registrars shall have and exercise such powers and perform such duties as shall be prescribed.

Fees.

Fees payable in advance, and appropriation thereof.

61 All Fees payable by virtue of this Act, or as prescribed, shall be payable in advance, and, if not otherwise directed by this Act or the Regulations, shall be paid to Her Majesty, Her Heirs and Successors.

Regulations.

Regulations.

62 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 :—

35

For prescribing the form of Business Licences, Miners' Rights, and Consolidated Miners' Rights, and the mode of issuing the same, the persons by whom the same shall be issued; the manner in which claims thereunder shall be taken possession of, the terms and conditions upon which such claims shall be held, registered, or amalgamated, and the events in which they shall be liable to forfeiture :

For prescribing the manner in which applications for Leases shall be made, entertained, and dealt with, the manner in which

objections to such applications shall be made and investigated, A.D. 1880.
and for defining the circumstances under which an application
for a Lease shall be deemed to be pending :

- 5 For prescribing the shape and position, and for regulating the
survey of claims, and defining the privileges of claimholders :
- For fixing the amount of the fees to be paid upon the applications
for Leases, for the registration, amalgamation, and transfer of
Miners' Rights, Consolidated Miners' Rights, and the claims
held thereunder, and other matters required to be done under
10 this Act or the regulations made hereunder :
- For prescribing the forms which shall be used in carrying out the
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, and for water rights, and for
15 residence areas and business sites :
- For regulating the cutting, construction, use, and maintenance of
roads, tramroads, races, dams, sluice heads, and reservoirs, tail
races, drains, and other easements :
- 20 For enforcing and regulating the drainage of claims, the baling
and pumping of water from mines, and regulating the areas
which shall form drainage areas, and fixing the amounts payable
in respect of claims situated therein, and the proportion in
which the expense of such drainage, baling, and pumping shall
be borne by the claims benefited thereby :
- 25 For preventing the accumulation of, and for the removal to, some
convenient place of sludge, tailings, and other mining refuse :
- For the protection from injury and destruction of roads, tramroads,
races, drains, dams, and reservoirs, and other mining works :
- 30 For regulating the mode of construction, and materials and strength
of embankments of dams, reservoirs, and other mining works :
- For the construction and keeping in repair suitable bridges or
other crossings where required :
- For regulating the practice and procedure before a Commissioner :
- 35 For defining the duties and powers of Commissioners and Regis-
trars :

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
40 Twenty Pounds as may be prescribed.

63 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
such Regulations ; and all such Regulations shall be laid before both
45 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 Par-
liament.

64 All Regulations made under the said Act and in force when
this Act takes effect, shall be deemed to have been made under this
50 Act, and shall remain in force until rescinded by any Regulations made
under this Act.

Regulations
under "The Gold
Fields Regulation
Act, 1870," to
remain in force.

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Offences.

Assault on Commissioner and other offences.

65 The following persons shall, upon conviction, be liable to a penalty not exceeding Fifty Pounds:—

Every person who insults, assaults, obstructs, or resists any Commissioner, or any person duly authorised by a Commissioner to enter any Claim or Land or to perform any other lawful act: 5

Every person who insults, assaults, obstructs, or resists any other person in the performance of his duty or in the exercise of his powers under this Act:

Every person who, after being removed by the order of any Commissioner from any Claim or other place, forcibly or clandestinely retakes or endeavours to retake possession thereof, or of any portion thereof, or of any share therein: 10

Every person who shall neglect or refuse to comply with any notice, or to obey any order lawfully given or made under this Act or the regulations made hereunder, such neglect, refusal, or disobedience not being punishable or enforceable in any other way: 15

Every person who, upon or in consequence of any decision by any competent authority under this Act, assaults or threatens to assault any person in whose favour such decision has been made. 20

Nuisances, &c.

66 Every person occupying or holding a claim or residing upon any gold field shall make such arrangements for the prevention of nuisance and for the observance of decency, and shall adopt such sanitary measures generally as the Commissioner may from time to time approve of and order, or as may be prescribed; and if any person fails or neglects to comply with this provision, he shall be liable to a penalty not exceeding Five Pounds. 25

Claim-holders to furnish information.

67 Every claim-holder or person in charge of the workings of any claim shall, when called upon, in writing, by the Registrar for the District in which such claim is situate, furnish full and accurate information as to the working of such claim, the number of men employed, and any other information necessary to enable any Commissioner to ascertain if the provisions of this Act and the Regulations made hereunder, or of any Lease, are being complied with; and shall also, when called upon, in writing, by such Registrar, furnish such returns of operations on the claim and the results thereof as shall be authorised and required by such Commissioner for statistical purposes; and if any person fails, neglects, or refuses to comply with this provision, he shall be liable to a penalty not exceeding Five Pounds. 35

Persons to remove stakes, notices, &c. not authorised on ground.

68 Every person who wilfully permits any stake, post, notice, or other thing indicating occupation by him of a claim, or of any ground held under application for lease, to remain on any land on any gold field, when in fact he has not taken the further steps prescribed to secure such claim, shall forfeit and pay a fine not exceeding Five Pounds. 40

Penalty for permitting sludge, &c. to flow, and for defacing marks, &c.

69 Every person who shall cause or permit sludge or tailings to flow from any claim, or to accumulate so as to cause injury to any public road, or to any claim, drive, water-race, dam, puddling-machine, or other machinery belonging to any other person or persons, or shall displace, deface, injure, or destroy, or in any way interfere with any notice, 45

notice-board, post, peg, trench, or reference-mark, made or used by any person or persons making any survey or marking any claim, or doing any act proper to be done, or holding any privilege under this Act, he shall forfeit and pay a penalty not exceeding Five Pounds. A.D. 1880.

- 5 **70** If any person forges or alters any document or Lease authorised to be issued under this Act, or uses or utters any such forged or altered document or Lease knowing the same to be forged or altered, with intent in any of the cases aforesaid to defeat the provisions of this Act or the Regulations, or to defraud, he shall be guilty of a misdemeanor, and shall on conviction before the Supreme Court be liable to be imprisoned 10 for any period not exceeding Three Years. Forgery of mining documents or Leases.

71 If any person steals or severs with intent to steal any Gold from any claim, every such offender shall be guilty of felony, and being convicted thereof shall be liable to be punished in the same manner as in cases of simple larceny. Stealing Gold.

- 15 **72** If any person with intent to defraud his co-partner, co-adventurer, joint tenant or tenant in common in any claim or in any share or interest in any claim, secretly keeps back or conceals any gold found in or taken from such claim, every such person shall be guilty of felony, and being convicted thereof shall be liable to be punished in the same 20 way as if he had feloniously stolen the same. Fraudulently concealing gold from partner.

- 73** All offences against this Act or the Regulations shall, where no other mode is provided, be heard and determined, and all orders shall be made by and before any Two or more Justices of the Peace in the mode prescribed by *The Magistrates' Summary Procedure Act*; and any 25 person aggrieved by any such summary conviction or order may appeal against the same in the mode prescribed by *The Appeals Regulation Act*. Offences to be dealt with summarily. Appeal.

Limitation of Actions.

- 74** No plaintiff shall recover in any action commenced against any person for anything done in pursuance of this Act or the Regulations 30 made hereunder unless such action is commenced within Four months after the cause of action has accrued, and unless notice in writing of such intended action, signed by the plaintiff or his attorney, specifying the cause of action, has been given to the defendant, One month at least before such action is commenced: nor shall the plaintiff recover in any 35 such action if tender of sufficient amends has been made to him or his attorney by or on behalf of the defendant before such action brought; and in case no such tender is made, it shall be lawful for the defendant in any such action, at any time before issue joined, to pay into Court such sum of money as he thinks proper; and the defendant in every 40 such action may plead the general issue, and give the special matter in evidence, and that the same was done in pursuance and under the authority of this Act or the said Regulations; and if the same appears to have been so done, or if such action or suit has been brought before the expiration of One month next after such notice has been given as 45 aforesaid, or after sufficient satisfaction made or tender as aforesaid, or after the time limited for bringing the same as aforesaid, then and in every such case the jury shall find a verdict for the defendant; and upon such verdict, or if the plaintiff is nonsuited or discontinues his action, or if upon demurrer or otherwise judgment is given against the plaintiff,

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Repeal.

75 Upon the commencement of this Act the Acts set forth in the Schedule shall be repealed, but such repeal shall not affect any thing 5 duly done, or any rights acquired thereunder, before the commencement hereof, except so far as by this Act is provided; and every Miner's Right, Business Licence, and Lease issued or granted and in force when this Act takes effect under any Act repealed by this Act or the said Act, shall remain good and valid in law, and may be dealt with in all respects 10 as if issued or granted under this Act.

SCHEDULE.

ACTS TO BE REPEALED.

| <i>Date and Number of Act.</i> | <i>Title of Act.</i> |
|--------------------------------|--|
| 26 Vict. Sess. 2, No. 6. | An Act to secure the Payment of a Reward of not more than £5000 to any Person who discovers a profitable Gold Field in <i>Tasmania</i> . |
| 34 Vict. No. 6. | "The Gold Fields Regulation Act, 1870." |