



ANNO VICESIMO QUARTO ET VICESIMO QUINTO

VICTORIÆ REGINÆ.

A.D. 1861.

No. 18.

*An Act to facilitate the Drainage from Mines in South Australia.*

[Assented to, 29th November, 1861.]

WHEREAS great public advantage would arise from the construction of works for draining and conveying away the water to be raised from mines in the Province of South Australia, and it is desirable to facilitate the construction, by private enterprise, of works for the purposes aforesaid, under proper stipulations and restrictions for the protection of the interests of the public—Be it therefore Enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province in this present Parliament assembled, as follows:

1. It shall be lawful for the Governor, with the advice and consent of the Executive Council, by Proclamation in the *Government Gazette*, to resume possession of such portions of any lands demised by any mineral leases granted, or to be hereafter granted, of any waste lands of the Crown within the said Province which shall be required or desirable for the purpose of constructing any drainage works under the authority of this Act, saving, nevertheless, the rights of the lessees, if any, of the said lands, or any part or parts thereof, to the minerals under the said lands so resumed as aforesaid.

Governor may resume lands comprised within mineral leases required for purpose of construction of public drainage works.

2. It shall be lawful for the Governor, in manner aforesaid, by Proclamation in the *Government Gazette*, to constitute a district or districts for the purposes of this Act, and to define the boundaries of such district or districts, and such boundaries, from time to time, to alter or vary, and to withdraw from the operation of this Act any lands

Governor may proclaim districts for purposes of Act.

lands comprised within any mineral lease, and included in any proclaimed district: Provided always, that the intention to constitute a district or districts for the purposes of this Act shall be notified by four consecutive advertisements in the *Government Gazette*, accompanied by a report from the Inspector of Mines, stating, that in his opinion, all the land proposed to be included in any such district, by its natural conformation, properly belongs to and ought to be included in such district.

Governor may withdraw any lands in proclaimed districts from operation of Act.

3. It shall be lawful for the Governor, in manner aforesaid, to grant licences to any person or company for the occupation of the said lands, the possession of which shall have been resumed as aforesaid, and of sufficient portions of waste lands of the Crown, within any district so proclaimed as aforesaid, for any term not exceeding fourteen years, for the purpose of constructing works for drainage, as aforesaid, on and through the portions of the lands so resumed, as aforesaid, and on and through other waste lands of the Crown within the said Province.

Licences may be granted to persons or companies for construction of public drainage works.

Power to cross roads and railways.

4. It shall be lawful for any person or company to whom any licence shall have been granted as aforesaid to enter and to construct works for drainage as aforesaid, on, under, over, through, or across any railway, and lands used for the purpose of any railway, and any road, doing no unnecessary damage thereby, and making compensation for any damage to be done or occasioned thereby.

Incorporation of Lands Clauses Act.

5. The Lands Clauses Consolidation Act shall be incorporated with, and form part of this Act.

Conditions to be inserted in licence for protection of interests of public.

That other persons shall be at liberty to lead water into drains on paying toll. Proviso for maximum of toll; And define method of calculating amount of tolls.

6. In every such licence to be granted, in pursuance of this Act, shall be inserted a proper description of the works to be undertaken and completed, and proper clauses and stipulations for the protection of the interests of the public, and providing that all other persons in addition to the person or company to whom the said licence shall be granted, shall be at liberty to lead water into any public drainage works in operation, on paying therefor tolls, to be calculated on the following principle, that is to say, that the total amount of tolls in any year, including therein such tolls as would be paid by the person or company constructing such works if such person or company had not constructed the same, shall not exceed such amount as shall after paying the cost of maintenance and management be sufficient to pay interest on the gross outlay not exceeding Fifteen Pounds per centum per annum, and that each person or company leading water into any drainage works shall pay only in respect of that portion of the drainage works lying between the point of ingress and outlet, and in proportion only to the quantity of water led by such person or company into such drainage works.

Licences to be numbered with consecutive numbers, and when works completed

7. Every licence to be granted in pursuance of this Act shall be numbered with a consecutive number, and as soon as the works stipulated to be executed by the said licence shall be completed and ready

ready for operation a Proclamation shall be published as aforesaid of the particular number of each work, and thereupon the said work shall be called "Public Drainage Work No. [    ]."

shall be proclaimed as "Public Drainage Works, No.   ."

8. The last-mentioned Proclamation shall specify the area from the lands comprised within which it is intended that the water shall be drained into the public drainage work specified in the said Proclamation: Provided that any of the lands aforesaid within the said area may be withdrawn from the operation of the said last-mentioned Proclamation by a Proclamation published as aforesaid: And provided also, that nothing in this Act contained shall prevent the said Governor, with the advice and consent of the said Executive Council, granting a licence to the lessee of the lands so withdrawn as last aforesaid, for the construction of independent public drainage works for the lands so withdrawn as last aforesaid.

Proclamation to specify Nos. of leases required to drain into proclaimed work.

Proviso that any of the said lands may be withdrawn from operation by proclamation;

And licence may be granted to lessee of lands so withdrawn for construction of independent public drainage works.

9. If any person, after such public drainage work shall have been proclaimed as last aforesaid, and after one calendar month's notice in writing shall have been given to him that such drainage work has been completed, shall permit or suffer any water pumped or raised from any lands comprised in the area referred to in the said last mentioned Proclamation, to flow into, over, along, or across, or to remain on any lands mentioned or comprised in the said last mentioned Proclamation, so as to impede or injure the working of neighboring mines, such person shall forfeit and pay to the persons who shall have agreed to make the said public drainage work, a penalty or sum of Five Pounds per day for each and every day the said water shall be allowed to flow on to, over, along, or across, or to remain on the said last mentioned lands, such penalty to be recovered by action at law as and for liquidated damages: Provided, nevertheless, that such penalty shall be in addition to any actual damage which may be caused or arise in consequence of the said water having been allowed to flow on to, over, along, or across, or to remain on the said last mentioned lands or any of them.

Penalty on persons allowing water to flow on to, or to remain on, surface.

10. If any person shall wilfully and maliciously remove, destroy, or damage any rails, sleepers, fences, embankments, drains, culverts, carriages, timber, matters, or things, of, or belonging to, or connected with any such public drainage works, as aforesaid, whether constructed or erected, or in process of construction or erection, and every person who shall wilfully or carelessly break, injure, or open any lock, cock, valve, pipe, work, or engine, belonging to such public drainage works, as aforesaid, or shall do any other wilful act whereby such public drainage works, or any part thereof, may be damaged or injured, or whereby the water may be hindered from flowing freely through such public drainage work, shall be guilty of a misdemeanor, and being convicted thereof, shall be subject to be imprisoned, with or without hard labor, for any period not exceeding twelve calendar months.

Penalty for damage to public drainage works.

11. The word "Land" shall extend to land and hereditaments of any

Interpretation clause.

any tenure; the word "Lease" shall include agreements for leases and claims for leases.

Short title.

12. This Act may be cited as "The Drainage from Mines Act, 1861."

In the name and on behalf of the Queen I hereby assent to  
this Act.

RICHARD GRAVES MACDONNELL,  
Governor.

Government House, Adelaide,  
29th November, 1861.