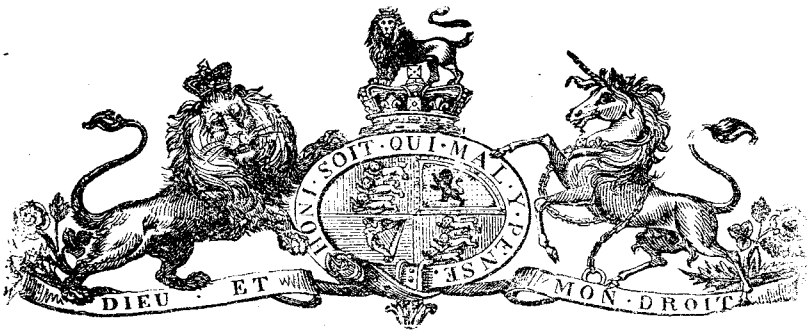


T A S M A N I A.



1900.

ANNO SEXAGESIMO-QUARTO

VICTORIÆ REGINÆ,

No. 61.

AN ACT to consolidate and amend the Law A.D. 1900.
relating to Mines and Mining.
[15 December, 1900.]

WHEREAS it is desirable to consolidate and amend the Law PREAMBLE.
relating to Mines and Mining :

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** This Act may be cited as “The Mining Act, 1900.” Short title.
- 2** This Act shall come into operation and shall take effect on the Commencement
First day of *January*, One thousand nine hundred and one. of Act.
- 3** This Act is divided into Seventeen Parts, as follows :— Division of Act.
 - Part I.—Preliminary. Sects. 4 to 13.
 - Part II.—Prospectors’ Licences and Miners’ Claims. Sects.
14 to 19.
 - Part III.—Leases. Sects. 20 to 48.
 - Part IV.—Water Rights and Easements. Sects. 49 to 57.
 - Part V.—Mining Operations. Sects. 58 to 80.
 - Part VI.—Regulations of Mines. Sects. 81 to 106.
 - Part VII.—Drainage of Mines. Sects. 107 to 115.
 - Part VIII.—Deposit of Tailings. Sects. 116 to 119.
 - Part IX.—Association of Minerals. Sects. 120 to 125.
 - Part X.—Timber Rights. Sects. 126 to 128.
 - Part XI.—Mining Reserves. Sects. 129 and 130.
 - Part XII.—Mining Boards. Sects. 131 to 141.

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- Part XIII.—Administration of Justice. Sects. 142 to 174.
 Part XIV.—Arbitrations. Sects. 175 to 181.
 Part XV.—Caveats. Sects. 182 to 184.
 Part XVI.—Regulations. Sects. 185 and 186.
 Part XVII.—General Provisions. Sects. 187 to 211.

PART I.

PRELIMINARY.

Interpretation.

4 In this Act, and the Regulations made hereunder, if not inconsistent with the context thereof, the following words and terms shall have the respective meanings hereby assigned to them; that is to say:—

- “Alluvial deposit” means ground containing gold or other minerals found in detritus resulting from the disintegration of older deposits whose constituents have been brought into their present position by mechanical agencies:
- “Any former Act” means any Act heretofore in force relating to the leasing or occupation of Crown Lands for mining purposes:
- “Claim” means the portion of land which each person or body of persons is entitled to occupy, or to occupy and mine and work, under the authority of this Act or of any former Act, and includes a Water Right and a Mining Easement:
- “Commissioner” means one of the Commissioners of Mines:
- “Crown Lands” means any lands in *Tasmania* which are or may become vested in the Crown, and have not been and are not dedicated to some public use, and includes all lands of the Crown which are or may be occupied for mining, pastoral, or other purposes under any lease, licence, or other right from the Crown:
- “Earth” includes any rock, stone, quartz, clay, sand, or soil:
- “*Gazette*” means *The Hobart Gazette*:
- “Inspector of Mines” or “Inspector” means any Inspector of Mines appointed under this Act, and shall include the Chief Inspector:
- “Lessee” means any person to whom a lease has been granted, assigned, or transferred, or in whom any lease is vested under this or any former Act:
- “Machinery” shall mean and include steam and other engines, boilers, furnaces, stampers, winding and pumping gear, whims, windlasses, chains, trucks, tramways, tackle, blocks, ropes, tools, and all electric and other appliances of whatsoever kind used in or about a mine or elsewhere for the treatment of mine products or for mining purposes:
- “Mine” shall mean and include any claim, place, pit, shaft, drive, level, or other excavation, drift, gutter, deposit, lead, vein, lode, or reef wherein, or whereby, is or shall be, or has been carried on, any operation for or in connection with the purpose of obtaining any mineral by any mode or method, or of stacking, or otherwise storing any substance as containing any mineral, or wherein operations are carried on for the treatment of mine products:
- “Mine,” used as a verb, extends to and includes any mode or method whatsoever whereby any earth may be disturbed

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- removed, carted, carried, washed, sifted, smelted, refined, crushed or otherwise dealt with for the purpose of obtaining any mineral, whether the same may have been previously disturbed or not, as well as the appropriation of such mineral by the finder thereof to his own use : A.D. 1900.
- “ Mineral ” means any metal or mineral, and the ore of any such metal or mineral :
- “ Mining Field ” shall mean any Crown Land on which persons are or may be actually engaged in mining for gold or minerals, and also any mining field duly proclaimed under this Act :
- “ Mining Manager ” shall mean the person in charge of and having the control and direction of mining operations in a mine, and registered as hereinafter provided, and also any person under whose immediate direction or control contractors or tributors are working in a mine :
- “ Mining partnership ” means and includes all partnerships and co-adventures entered into by Two or more persons for mining purposes, not being a registered company :
- “ Mining purposes ” means the intention to mine and work land for minerals and the ores of minerals :
- “ Mine Owner ” and “ Owner ” means any person who is the immediate proprietor, or lessee, or licensee, or occupier of any mine or any part thereof, and does not include a person who merely receives a royalty, rent, tribute, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or licence for the working thereof ; and, in the case of a company incorporated under any Act relating to Mining Companies or Joint Stock Companies, shall include the manager or agent of such company, and in any other case the person having the management of mining operations carried on in any mine ; but any contractor or tributor for the working of any mine or any part thereof, or for doing any specific work therein, shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability :
- “ Minister ” means the Responsible Minister of the Crown for the time being administering this Act, who shall, when doing or performing any act, matter, or thing hereunder, be styled or called the “ Minister of Mines ” :
- “ Person ” includes any body of persons, whether corporate or unincorporate, and also any mining partnership or co-adventure entered into by two or more persons for mining purposes and not registered as a company :
- “ Prescribed ” means prescribed by Regulations under this Act :
- “ Regulations ” means the Regulations and forms for the time being in force under the provisions of this Act :
- “ Road ” shall mean any road, street, or highway.

5 From and after the commencement of this Act the several Acts mentioned in the Schedule to this Act, to the extent therein mentioned, are hereby repealed. Repeal and saving clause Schedule.

6 Every Miner's Right, Consolidated Miner's Right, Residence Licence, Water Right, Mining Easement, Lease, or Licence issued under any former Act, and in force on the day on which this Act comes into operation, shall respectively continue in force until the Existing rights not affected.

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expiration thereof by effluxion of time, and shall until then confer the same rights and privileges, and entail the same obligations and penalties, as if this Act had not been passed; and all questions arising in relation to any such former Act, or any title acquired thereunder, shall, notwithstanding the repeal of such Act, be determined under such Act, and not under this Act; and any such former Act, so far as may be necessary for the determination of such questions, shall be deemed to be unrepealed and in full force.

Proclamations,
&c., to continue
in force.

7 All proclamations, appointments, awards, orders, and regulations or rules made under any former Act, and in force on the day on which this Act comes into operation, shall, if not inconsistent with the provisions of this Act, be deemed to have been made under this Act, and shall continue and be in force until respectively amended, altered, or revoked under the provisions of this Act.

Officers
continued.

8 Every person who is a Secretary for Mines, Commissioner, Inspector, or Registrar of Mines under any former Act, and in office when this Act comes into operation, shall continue in office and be deemed to have been appointed a Secretary for Mines, Commissioner, Inspector, or Registrar of Mines under this Act, and shall be subject to its provisions.

Proclamations,
&c., may apply to
whole or part of
Colony, and may
be altered.

9 Every Proclamation, Regulation, or Order authorised to be made under this Act may be made from time to time, and may be made applicable to the whole of *Tasmania*, or to such portion or portions thereof as may be mentioned in such Proclamation, Regulation, or Order, and may be made applicable to particular classes of claims within such portion or portions, and may be made to apply in any manner partially or generally in relation to matter, person, or place. And in similar manner may from time to time be amended, altered, revoked, or cancelled, in part or in whole, either in relation to matter, person, or place.

Secretary for
Mines may be
appointed.

10—(1.) It shall be lawful for the Governor-in-Council from time to time to appoint such person as he thinks fit as and to be Secretary for Mines, who shall by virtue of such appointment be also a Commissioner under and for the purposes of this Act, and to revoke any such appointment; and the person so appointed shall carry out the duties imposed upon him by this Act, and such other duties as may be prescribed or may be assigned to him by the Minister.

(2.) It shall be lawful for the Governor in Council from time to time to appoint such person as he thinks fit as and to be Chief Inspector of Mines, and to revoke any such appointment; and the person so appointed shall carry out the duties imposed upon him by this Act, and such other duties as may be prescribed or may be assigned to him by the Minister.

Commissioners,
&c., may be
appointed.

11 It shall be lawful for the Governor in Council from time to time to appoint such persons as he sees fit as and to be Commissioners of Mines, Inspectors of Mines, or Registrars of Mines for *Tasmania*, and to revoke any such appointments.

Officers not
allowed to hold
interest in mine.

12 No person appointed as Secretary for Mines, Commissioner, Inspector, or Registrar shall, during his continuance in office as such, be allowed to hold any interest whatever in any mine in *Tasmania*.

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13 The Governor in Council may proclaim such portion of the Crown Lands of the Colony as he sees fit as and to be a Mining Field for the purposes of this Act: and any Gold Field or Mining Field proclaimed under any former Act shall, if such Proclamation remains unrevoked when this Act takes effect, be deemed to have been proclaimed as a Mining Field under this Act.

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—
Mining Field
may be pro-
claimed.

PART II.

PROSPECTORS' LICENCES AND MINERS' CLAIMS.

(1.) *Prospectors' Licences.*

14--(1.) Prospectors' Licences, each of which shall be in force until the Thirty-first day of *December* next after the date thereof, may be issued to any person applying for the same upon payment of the sum of Ten Shillings.

Prospectors
Licences may
be issued.

Provided that when such Prospector's Licence shall be applied for after the Thirtieth day of *June* in any year, the fee payable for such Prospector's Licence for the remaining portion of the year shall be Five Shillings.

(2.) Any such Prospector's Licence may be issued to the Manager of a Mining Partnership, or to the Manager of a duly registered Mining Company, or the registered Agent of a Mining Company not registered in *Tasmania* for and on behalf of the said Partnership or Company, as the case may be.

(3.) Every Prospector's Licence shall be in such form, and be subject to such conditions, as may be prescribed.

(4.) No person shall at one time hold more than one Prospector's Licence.

15 If the holder of a Prospector's Licence shall, at any time within One month before the expiration thereof, apply to the proper Officer for the issue of a new Licence, and pay the fee hereinbefore provided, the new Licence issued in pursuance of such application shall be deemed to be a continuance of the expiring Licence.

Renewal of
Prospector's
Licence.

16 Every Prospector's Licence shall, subject to the provisions of this Act and the Regulations made hereunder, entitle the holder thereof, during the continuance of such licence, to prospect for Minerals upon such an area of Crown Lands as may be prescribed; and any discoveries made in the course of such prospecting by the holder of any such licence shall be protected in such manner as may be prescribed.

Privilege
conferred by
Prospector's
Licence.

17 Any person above the age of Twenty-one years shall, subject to the provisions of this Act, and to the Regulations, be entitled (except as against Her Majesty)—

Privileges con-
ferred by a
Miner's Claim.

Subject to the provisions of Section Two hundred and seven of this Act, to take possession of, and mine, any area of Crown land not exceeding One acre, and such area shall be called a "Miner's Claim":

To construct and use through and upon Crown land, races, dams, reservoirs, roads, tramways, and any other works that may be required for mining purposes upon his Miner's Claim:

To erect and occupy any building for the purpose of residence upon his Miner's Claim:

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To cut and remove firewood for his domestic use from any Crown Land, but so as not to interfere with the rights of any lessee.

And any person so taking up such Miner's Claim, and mining thereon as aforesaid, shall, subject as aforesaid, be deemed in law to be possessed (except as against Her Majesty) of such Miner's Claim so taken up and mined, but for so long only as he shall continuously carry on *bonâ fide* mining operations thereon; 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 Miner's Claim taken up and mined as aforesaid, may transfer, assign, or encumber the same.

Holder of Miner's Claim only entitled to alluvial gold and tin on leased ground.

18 Notwithstanding anything hereinbefore contained, the holder of a Miner's Claim shall not be entitled to mine for or remove any mineral except gold in alluvial deposit from any Crown land which, prior to his taking possession of it as a Miner's Claim was leased or under application for lease under the provisions of this Act.

Penalty for obstructing mining on demised ground.

19 If the holder of a Miner's Claim shall in any way interfere with or obstruct the mining operations of any lessee upon whose demised ground he may have obtained permission to mine under Section Two hundred and seven of this Act, he shall be guilty of an offence against this Act, and liable, on conviction, to a penalty not exceeding Ten Pounds.

PART III.

LEASES.

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

20—(1.) It shall be lawful for the Minister, with the consent of the Governor in Council, to grant to any person above the age of Twenty-one years, for a term not exceeding Twenty-one years, a lease of Crown land, subject to the provisions of this Act and the Regulations, for mining purposes, and for cutting or constructing thereon races, drains, dams, reservoirs, roads, or tramways to be used in connection with such mining purposes, or for erecting thereon any building or machinery to be used for mining purposes, for pumping or raising water from such land, or for any or all of those purposes, and also for residence in connection with any of such purposes.

(2.) The applicant for lease shall, at the time of making his application, deposit therewith a sum equal to a half-year's rent of the land applied for, together with such application and survey fees as may be prescribed.

(3.) Upon the applicant paying in advance the rent of the land applied for for such period as may be prescribed, and the prescribed fees, the Secretary for Mines may grant to such applicant permission in writing in such form as may be prescribed, to erect works on and to remove any minerals from the land applied for; and it shall be lawful for the Secretary for Mines, at any time, to suspend or cancel, by order under his hand, the operation of any such permission.

(4.) The area of land comprised in any lease to mine for gold shall not exceed Twenty acres.

Provided that, where it is shown to the satisfaction of the Minister that the gold is associated or combined with other minerals in such proportion only that it is probable that the value of the gold won in any year will be less than the value of the other marketable products

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won in the same period of time, the lease may be for any area not exceeding Eighty acres. A.D. 1900.

(5.) The area of land comprised in any lease to mine for coal, shale, slate, freestone, or limestone shall not exceed Three hundred and Twenty acres.

(6.) The area of land comprised in any Lease to mine for any mineral other than those mentioned in Sub-Clauses (4.) and (5.) of this Section, shall not exceed Eighty acres.

Provided the Minister may, with the consent of the Governor in Council, grant to any person a lease of a greater area of land than is provided for by this Section, under such circumstances and conditions as may be prescribed.

21—(1.) It shall be lawful for the Minister, with the consent of the Governor in Council, subject to the provisions of this Act and the Regulations, to grant to any person who shall discover minerals, under such circumstances and conditions as may be prescribed, a lease at a peppercorn rent of any such area of Crown Land as may be prescribed. Discoverer of minerals may have lease at a peppercorn rent.

(2.) The Minister may refuse to grant such lease whenever it shall appear to him that the applicant is not justly entitled to the same.

22 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 prescribed under and in any Miner's Claim or any Public Reserve, or any land held under the provisions of "The Residence Areas Act, 1900." Mining under Residence Areas and Reserves.

23 It shall be lawful for the Minister, with the consent of the Governor in Council, to grant leases for mining purposes, for such period as shall be prescribed, not exceeding Twenty-one years, on such terms and conditions, and subject to the provisions of this Act and the Regulations made hereunder, as the Minister sees fit, of— Leases of lands reserved for roads, &c.

- I. Any lands reserved by the Governor in Council for roads or other internal communication, whether by land or water :
- II. Any land reserved along the margin of any river or stream or along the sea-shore :
- III. Any land forming part of the sea-shore, and any land below low-water-mark adjacent to the sea-coasts of *Tasmania* :
- IV. Any land reserved by the Governor in Council for any public purpose.

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.

24—(1.) It shall be lawful for the Minister, with the consent of the Governor in Council, to grant to any person, subject to the provisions of this Act and the Regulations, for any period not exceeding Ten years, a lease of the bed and banks of any river or stream flowing upon or through or bounded by Crown Land, for mining purposes. Lease of bed and banks of river, &c., may be granted.

(2.) The area comprised in any such lease shall not exceed in length Forty chains along the course of any river or stream, nor in breadth Five chains on either side from the centre of any such river or stream.

(3.) The Minister may reduce the limits of any such area as he sees fit, or may refuse to grant a lease of the bed or banks of any river or stream.

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Lease of bed of bay.

25 It shall be lawful for the Minister, with the consent of the Governor in Council, to grant to any person, subject to the provisions of this Act and the regulations, for any period not exceeding Ten years, a lease of the bed of any bay for mining purposes.

Provided that if the waters of any such bay are under the jurisdiction of any Marine Board no lease shall be issued under this Section unless the consent of such Marine Board has first been obtained thereto.

Scale of rent.

26 The amount to be paid by way of rent for any lease issued under either of the Two preceding Sections shall be the sum of Five Shillings per annum for every acre or any part thereof.

Riparian rights not to be affected.

27 Nothing contained in any such lease shall be construed to in any way affect or prejudice the existing rights of any person to the reasonable use of the water flowing in a natural bed or channel through or along the margin of land owned or occupied by him.

Holders of existing licence to have prior claim to adjoining banks.

28 The holder of any licence issued under the authority of Section Eighty-seven of "The Mining Act, 1893," to work for gold or minerals the bed of any river or stream shall, upon the expiration or surrender of such licence, have a preferential right to apply for a lease, under the provisions of Section Twenty-four of this Act.

Machinery sites.

29—(1.) It shall be lawful for the Minister, with the consent of the Governor in Council, to grant, subject to the provisions of this Act and the Regulations, to any person over the age of Twenty-one years, for any term not exceeding Twenty-one years, a lease of Crown land (in this Act called a machinery site) not exceeding Ten acres, for the purpose of erecting thereon machinery, smelting works, furnaces, workmen's houses, crushing mills, mine buildings or plant, sheds, buildings, or other works, with liberty to carry on all works in connection therewith for the treatment and winning of minerals.

(2.) The granting of a lease for a machinery site on land already demised shall not preclude the lessee of such land from mining thereunder below a depth of Fifty feet.

(3.) Every lease for a machinery site shall be in such form as may be prescribed, and there shall be reserved therein an annual rental of Five Shillings per acre.

Governor may refuse lease.

30 It shall be lawful for the Minister, with the consent of the Governor in Council, at any time to refuse to grant a lease of any Crown lands.

Governor may sell lease by auction.

31 It shall be lawful for the Minister, with the consent of the Governor in Council, at any time to put up for sale by public auction, in such areas and at such annual rental as he shall think fit, the right of a lease of—

i. Any Crown Reserve, or of any Crown lands which shall have been previously exempted from the operation of this or any former Act, or which shall have been previously reserved; or

ii. Any land which has been, is being, or is about to be, tested by the Minister for mining purposes; or

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iii. Any land which it may appear to the Minister to be undesirable to lease by private contract ; or A.D. 1900.

iv. Any land forming the bed of any river, or lake, or lagoon.

Provided the rental shall not in any such case be less than the annual rental prescribed by this Act ; and provided also, that notice of such sale shall be given in the *Gazette* and some public newspaper, for at least one month previous to such sale.

32—(1.) The amount to be reserved as rent in any lease under this Act, save as is otherwise hereinbefore provided to the contrary, shall be as follows :— Scale of rent.

- i. In a lease to mine for Gold, the sum of One Pound per acre per annum :
- ii. In a lease to mine for Coal, Shale, Slate, Freestone, or Limestone, the sum of Two Shillings and Sixpence per acre per annum :
- iii. In a lease to mine for any other minerals than those mentioned in Sub-sections i. and ii. of this Section, the sum of Five Shillings per acre per annum.

Provided that where a lease is to be issued to mine for Gold, and it is shown to the satisfaction of the Minister that the gold is associated or combined with other minerals in such proportion only that it is probable that the value of the gold won in any year will be less than the value of the other marketable products won in the same period of time, the rent reserved in such lease shall be the sum of Ten Shillings per acre per annum for the first Three years of the term of such lease, and for the remainder of the term thereof, such sum, not being more than One Pound per acre per annum nor less than Five Shillings per acre per annum, as the Mining Board may from time to time determine.

33—(1.) The rent for every lease under this or any former Act shall, except as hereinafter mentioned, be payable on the First day of *July* in every year ; and in the event of any such lease expiring on a day other than the First day of *July* in any year, a proportionate part of such rent shall be paid on the First day of *July* immediately preceding the expiration of such lease for the then unexpired portion thereof. Payment of rent.

(2.) Upon the Minister consenting to grant a lease, the Secretary for Mines or other officer appointed by the Minister for that purpose, shall demand from the applicant the balance of rent (if any) which shall be payable up to the First day of *July* following such consent, or when such consent shall be given in the month of *June* in any year, to the First day of *July* in the following year ; and if the applicant shall not pay such balance of rent within One month after the same shall have been demanded, the application for lease may be cancelled by the Minister.

34—(1.) Every lease granted under this Act shall be in such form and to such effect, and shall contain such reservations, covenants, provisos, and particulars as shall be prescribed, or with such modifications thereof or additions thereto as the circumstances of the case may require, and as the Minister may think proper to be inserted therein. Form of lease.

(2.) 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, and shall bind such lessee, his executors, administrators, and assigns, to occupy, mine, and work the land described therein under and subject to the conditions and stipulations and grounds of forfeiture set forth therein.

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Lease may be transferred.

35—(1.) A lessee may, upon payment of all such fees as may be prescribed, transfer or assign his lease to any other person, who shall for all purposes be deemed to be the lessee of the land described in such lease. Such transfer or assignment shall be by deed, in such form as may be prescribed, and shall be deposited in the office of the Secretary for Mines, who shall endorse upon the lease, upon its being produced to him, a memorandum of such transfer or assignment; and no transfer or assignment shall be binding on the Minister until such transfer or assignment has been deposited in the said Office; and such memorandum endorsed upon such lease.

(2.) The production of the lease with such memorandum endorsed upon it, and purporting to be signed by the Secretary for Mines, shall in all Courts and for all purposes be *prima facie* evidence of the truth of the matters therein contained.

Surrender of lease or licence.

36 Any lease or licence may at any time be surrendered in whole or in part provided that the conditions of the lease or licence shall at such time have been duly performed and fulfilled by the lessee or licensee, and that all payments due in respect thereof have been made.

Amalgamation of claims and consolidation of leases.

37—(1.) In any case in which it is made to appear to the satisfaction of the Minister 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, or where lessees shall apply to surrender any leases of lands contiguous to each other in order to have a new lease granted to them or their assigns, of the whole of the lands included in their respective leases, it shall be lawful for the Minister, subject as herein mentioned, to authorise the grant of one lease for the whole of the said claims, or to grant such application for a new lease or some modification thereof, and to fix the term of the new lease, or refuse the same, as may appear expedient.

(2.) When the land comprised in any such consolidated or new lease shall be leased for the purpose of mining for Gold, the area comprised in such consolidated or new lease shall not exceed in the whole Forty acres of land.

(3.) When the land comprised in any such consolidated or new lease shall be leased for the purpose of mining for minerals, or for Gold in association or combination with other minerals, the area comprised in such consolidated or new lease shall not exceed in the whole One hundred and sixty acres of land.

(4.) Where a new lease is granted in lieu of leases which have been surrendered, such new lease shall be for a term not exceeding the number of years for which the surrendered leases might have been granted in the first instance.

(5.) Every such consolidated lease shall be granted upon payment of such fee for each claim included therein as may be prescribed, and shall be subject to the provisions of this Act, and the lessee shall be entitled to all the rights, easements, and privileges of the original lessees, but so far only as the same are incident or appurtenant to the original claims included in such consolidated lease respectively.

Leases may be declared void in certain events.

38 It shall be lawful for the Minister, with the consent of the Governor in Council, to declare any lease issued under this or any former Act to be void and forfeited if the covenants, conditions, and provisos therein contained on the part of the lessee shall not be fully and faithfully kept, performed, and observed by him.

But no lease shall be declared void and forfeited under this Section by the Minister until the expiration of Thirty days after notice of his

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intention so to do has been given in the *Gazette*, and also to the lessee A.D. 1900.
in such manner as may be prescribed.

39—(1.) Every lessee shall, prior to the Thirty-first day of *August* Lessee to furnish Declaration as to expenditure.
in every year, furnish to the Secretary for Mines in the form prescribed a Statutory Declaration showing the average number of men that have been employed, the amount of money expended in wages, the amount spent in purchase of mining machinery and other mining requisites, or otherwise expended in carrying on mining operations on the land demised by each lease during the year ending on the Thirtieth day of *June* then last past.

(2.) If such Statutory Declaration shall not be furnished as aforesaid or if when furnished, shall not contain the particulars required to be shown therein, the lessee or person making default shall be guilty of an offence against this Act, and on conviction shall be liable to a penalty not exceeding Twenty Pounds.

(3.) If within Three months after such conviction such statutory declaration shall not be furnished, or if when furnished shall not contain the particulars required to be shown therein, it shall be lawful for the Minister, with the consent of the Governor in Council, at any time thereafter, to declare the lease to be void and forfeited.

(4.) The following persons shall be liable to furnish the Statutory Declaration required under this Section :—

- i. If the lessee be a Company duly incorporated and registered in *Tasmania* under "The Mining Companies Act, 1884," 48 Vict. No. 15. the Manager for the time being of such Company :
- ii. If the lessee be a Company formed and incorporated in any country or place, beyond *Tasmania*, and having an agent appointed under "The Mining Companies (Foreign) Act," 48 Vict. No. 16. the agent for the time being of such Company in *Tasmania* :
- iii. If the lessee be a Company incorporated and registered in *Tasmania* under "The Companies Act, 1869," the Secretary for the time being of such Company : 33 Vict. No. 22.
- iv. If the lessee be a Company formed and incorporated in any country or place beyond *Tasmania*, and having an agent appointed under "The Foreign Companies Act," the agent for the time being of such Company in *Tasmania* : 59 Vict. No. 17.
- v. If in any of the foregoing cases the lessee be a Company, and such Company have no Manager, Agent, or Secretary, then the person having the charge of the mine or of the mining operations upon the leased land :
- vi. Any conviction under this Section may be enforced by warrant of distress against the assets of any of the aforesaid Companies, and shall not be enforced by warrant of distress against the individual assets of such Manager, agent, or Secretary.

(5.) A certificate, purporting to be under the hand of the Secretary for Mines, that such declaration has not been furnished to him by the person liable to furnish the same, or that the declarations attached thereto are the only declarations that have been furnished to him, shall be *prima facie* evidence in all proceedings of the truth of the facts therein stated : Provided that the Minister, upon the application of any lessee, may fix some date in each year at which the lessee usually balances his accounts, which date is nearest to the Thirtieth day of *June*, and may allow the declaration to be made by this Section to be made within Two months from such appointed date.

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Lessee may be fined, or his lease forfeited, if labour conditions not fulfilled.

40 Where it is proved to the satisfaction of a Commissioner of Mines that a lessee has failed to comply with the covenants or conditions of his lease with regard to the employment of men or expenditure of money, it shall be lawful for such Commissioner to order such lessee to forfeit and pay for a first default a penalty not exceeding the sum of Twenty-five Pounds, and for a second or subsequent default, occurring at least Three months after a penalty has been ordered to be paid for a first default, a penalty not exceeding the sum of Fifty Pounds; or such Commissioner may in his discretion for a second or subsequent default, in lieu of ordering payment of any penalty, order that the lease of such lessee shall be declared forfeited; and on such order being made and being published in the *Gazette*, it shall, subject to the right of appeal, as hereinafter mentioned, operate as a forfeiture and avoidance of such lease.

A statutory declaration made under the last preceding Section may be used as evidence against the lessee in the hearing of any application for forfeiture under this Section.

Appeal.

41 Either the lessee or the person proceeding against the lessee under the last preceding Section may, within Ten days after the decision of the Commissioner, appeal to the Mining Board against the decision of the Commissioner on giving to the other party notice in writing signed by the appellant or his attorney of his intention to appeal, stating the grounds thereof.

Exemption from labour covenants by Commissioner.

42 If a lessee shall at any time have employed labour, or expended money in mining on the land demised in excess of what would have been required by the provisions of his lease, if spread over the expired years of his term, he shall, for every amount of such excess as is equal to what is required to be employed or expended in mining in any one year, be entitled, upon application to a Commissioner, and upon satisfying him of the amount of such excess, to exemption for Three months from the provisions of his lease with regard to the employment of labour or expenditure of money: Provided such exemption shall not in any case be for a longer cumulative term than Three years.

Notice of avoidance of lease to be published.

43 When any lease is declared void and forfeited under this Act there shall be published in the *Gazette*, under the hand of the Minister, a notice to the effect that such lease has been declared void and forfeited; and such notice shall be *prima facie* 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, or otherwise dealt with, as the Minister sees fit.

Person applying for forfeiture to have prior right to lease.

44 Any person may apply for the forfeiture of any lease under this or any former Act on the ground that the conditions of the lease with respect to the employment of labour or expenditure of money, as the case may be, have not been complied with, and such person shall, subject to the Regulations, if the lease shall be forfeited in consequence of his application, have a prior right to a lease of the land comprised in the forfeited lease: Provided such person complies with the covenants and conditions of the lease with regard to the employment of men or expenditure of money within Two months from the date of a lease being granted to such person: Provided also that such person makes his application for the lease within Fourteen days from the publication of the notice of the forfeiture.

Mining.

45 No lease shall be forfeited on the ground that the conditions of the lease with respect to the employment of labour have not been complied with, if the lessee satisfies a Commissioner that he has been unable to comply with such conditions on account of a general strike among the persons engaged in mining in the district in which the claim is situate.

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Labor covenants suspended in case of strike.

46—(1.) Notwithstanding anything contained in any former Act or any lease granted thereunder, any lessee, provided the covenants and conditions of the lease on the part of the lessee shall have been fulfilled up to the expiration thereof, and upon his applying within Three months before or One month after the expiration thereof, shall be entitled to a renewal of his lease, upon the expiration thereof, either by effluxion of time or by surrender, for a further period not exceeding the number of years for which such lease might have been granted in the first instance, upon such terms and conditions, and subject to the payment of such rent, not exceeding five times the rent previously paid by such lessee, as the Minister, with the consent of the Governor in Council, shall think fit to impose, subject to the provisions of this Act and the Regulations made hereunder. In the case of any lease issued as a renewal of a lease at a peppercorn rent, the rent reserved may be any sum not exceeding five times the amount of rent which would have been properly reserved if such lease had not been issued at a peppercorn rent.

Lessee entitled to renewal of lease.

(2.) Before the amount of rent to be paid by any lessee upon a renewal of his lease under this Section shall be fixed, the Minister shall appoint a Commissioner to assess the amount of rent which ought, in his opinion, to be paid by such lessee, and such Commissioner shall report to the Minister accordingly.

(3.) Such renewal shall be by the issue of a new lease, which shall entitle the holder thereof to all the same rights, preferences, and priorities as were formerly held by him under such expired lease.

47 When the amount of rent to be reserved in such lease has been fixed the Secretary for Mines, or other officer appointed by the Minister for that purpose, shall demand from the applicant for such new or renewed lease the amount of rent payable up to the First day of *July* then next following, or when such demand is made in the month of *June* in any year, up to the First day of *July* in the year following such demand; and if the applicant shall not pay such amount within One month after the same shall have been demanded, the application may be cancelled.

Demand of rent on renewal.

48 Upon the publication of any notice of forfeiture of any lease as is hereinbefore provided, all buildings, mining plant, and machinery, and also all tailings and other material whatsoever erected and being on the land described in the lease which has been declared void and forfeited under the provisions of this Act or any former Act, shall vest in Her Majesty, but may be removed therefrom by the late lessee or any person interested in such lease, within Six months from the date of forfeiture, or at any later period than Six months with the consent of the Governor in Council.

Disposal of buildings, &c., when lease forfeited.

PART IV.**WATER RIGHTS AND EASEMENTS.**

49 It shall be lawful for the Minister, with the consent of the Governor in Council, to grant to any person above the age of Twenty-

Grant of Water Rights.

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one years, for such term as may be prescribed, not exceeding Twenty-one years, subject to the provisions of this Act and to the Regulations made hereunder, a licence (in this Act called a Water Right), which shall authorise such person, his executors, administrators, and assigns (except as against Her Majesty), for the more convenient and advantageous working of the land occupied by him or them, to take or divert water which Her Majesty may lawfully take and divert from any spring, lake, pool, or stream situate or flowing upon, or through, or bounded by, any Crown lands, in such manner as shall be prescribed by such Water Right and Regulations, in order to supply water for mining and domestic purposes to such person.

Any person to whom any such Water Right shall be granted may take or divert such water; and for that purpose may cut, construct, and use races, drains, dams, and reservoirs through and upon any Crown lands, and from time to time may deepen, widen, cleanse, repair, or otherwise improve any race, drain, dam, or reservoir cut or constructed through or upon any Crown lands; and such Water Right, and the property and interest in any race, drain, dam, or reservoir cut or constructed by virtue thereof, shall be deemed to be a chattel interest.

Provided, that nothing herein contained shall be construed to affect or prejudice the existing rights of any person to the reasonable use of the water flowing in a natural bed or channel through or along the margin of land belonging to or occupied by him, or naturally deposited within such land.

Governor empowered to exempt water from operation of the said Act.

50 It shall be lawful for the Minister, with the consent of the Governor in Council, by notice published in the *Gazette*, to exempt from the operation of this Act any water which Her Majesty may lawfully take and divert from any spring, lake, pool, or stream situate or flowing upon, or through, or bounded by, any Crown lands.

Grant of Mining Easements.

51 It shall be lawful for the Minister, with the consent of the Governor in Council, to grant to any person above the age of Twenty-one years, for such term as may be prescribed, not exceeding Twenty-one years, subject to the provisions of this Act and to the Regulations made hereunder, a licence (in this Act called a Mining Easement), which shall authorise such person, his executors, administrators, and assigns (except as against Her Majesty), for the more convenient and advantageous working of the land occupied by him or them, to cut, excavate, sink, erect, build, make or construct, occupy, and use dam sites, drains, tailraces, sludge channels, tunnels, shafts, buildings, tramways, roads, wires, poles, tailings areas, mullock-tips, dump-sites, or other facilities or works for mining purposes as he or they require, in, through and upon any Crown lands, and from time to time to repair, improve, or alter any such works; and such Mining Easement, and the property and interest in any works made or constructed by virtue thereof, shall be deemed to be a chattel interest.

Provided that nothing herein contained shall be construed to affect or prejudice the existing rights of any person to the reasonable use of any Mining Easements, or to the reasonably convenient and efficient working of the ground belonging to or occupied by him.

In any such licence there may be reserved to Her Majesty such rent as may be prescribed, not exceeding the sum of Five Shillings per acre per annum, for any land licensed to be occupied thereunder.

Provided that it shall be lawful for the Minister to grant to any person who occupies any land for mining purposes other than Crown land a Mining Easement in accordance with the provisions of this Section.

Mining.

52 Every Water Right or Mining Easement shall be in such form, and be granted subject to the payment of such rent, and be subject to such conditions, and be liable to forfeiture in such manner, as may be prescribed.

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Form, &c., of
Water Right and
Mining Easement.

53—(1.) Subject to the provisions of this Act, or to any Regulations made hereunder, it shall be lawful for any person for mining purposes—

Person desiring
to take water
from, or to carry
race through,
private land, to
give notice.

i. To take water from any stream flowing by or through any private land, or from any natural lake bounded thereby: or

ii. To construct any race or other work through or upon any private land.

(2.) Whenever any person desires to take water or construct any race or other work he shall serve upon the owner or occupier of such land notice of his intention so to do, and such notice shall describe with all reasonable accuracy the mode in which such water is proposed to be taken and the proposed course and direction of such race or the nature of such work, and such notice shall be in such form as may be prescribed.

(3.) Any such person may, for the purpose merely of surveying and taking levels, after giving not less than Twenty-four hours' nor more than Seven days' notice, enter upon such private land without the previous consent of such owner or occupier.

54 Before any water shall be taken from any stream flowing by or through any private lands, or from any natural lake bounded thereby, or any such race or work shall be constructed through or upon any private lands, the owner or occupier thereof shall be entitled to such compensation, for any injury or damage which may be caused by taking such water, or by the construction of such race or work, as shall be determined by agreement between the parties, and such compensation shall be paid to such owner or occupier by the parties taking such water or constructing such race or work before they take such water or construct such race or work, and if such compensation shall not be fixed by agreement within One month after the service of such notice, then such compensation shall be determined by arbitration in the mode hereinafter provided.

Compensation
to be paid.

55—(1.) It shall be lawful for a Commissioner, upon the application of any person interested, from time to time to order and determine the mode and direction in which any race or other work shall be carried or constructed, or in which water shall be conveyed through, over, or across any land, so as to cause as little interference as the Commissioner may deem practicable with the profitable working of such land; and it shall be lawful for the Commissioner to authorise or order such deviation or alteration, or such deviations or alterations, in any such race or other work as he may think fit for the convenience of the owner of such race or other work, or for the protection of the rights of the occupier of the land through, over, across, or upon which any such race or other work may be made or constructed; and every such order may be rescinded or varied as the Commissioner thinks fit, upon the application of either party.

Commissioner to
determine mode
in which race to
be carried through
land of another
person.

(2.) Whenever a Commissioner shall authorise or order any deviation or alteration in any such race or other work, the cost of making such deviation or alteration shall be borne by the person interested in the claim affected thereby which shall have been applied for subsequently to any other claim also affected by such deviation or alteration.

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Governor in
Council may
revoke Water
Right.

56 In any case where the Governor in Council is satisfied that the water diverted or used under any water right is required for any public use or purpose, he may revoke or cancel such water right and cause such water to be restored to its natural channel, and the holder of the water right so revoked shall be entitled to full compensation from Her Majesty for all loss or damage thereby sustained, and the amount of such compensation shall, in default of agreement, be settled by arbitration as hereinafter provided.

Licensee entitled
to renewal of
licence.

57—(1.) The holder of any licence, provided the covenants and conditions of the licence shall have been fulfilled up to the expiration thereof and upon his applying therefor before the expiration thereof, shall be entitled to a renewal of his licence upon the expiration thereof, either by effluxion of time or by surrender, for a further period not exceeding the number of years for which such licence might have been granted in the first instance, upon such terms and conditions and subject to the payment of such rent and fees as may be prescribed.

(2.) And such renewal shall be by the issue of a new licence, which shall entitle the holder thereof to all the same rights, preferences, and priorities as were formerly held by him under such expired licence.

PART V.

MINING OPERATIONS.

(1.) *Mining under Roads, &c.*

Meaning of
"Trustees" in
next two
Sections.

58 For the purposes of the next Two Sections the expression "Trustees" means the Trustees of a Road District, or a Main Road District Board, or a Town Board, or, where there is no Road District or Main Road District Board or Town Board, then the persons or body of persons having the care and management of roads, and where there are no such persons or body of persons, then the Commissioner of Main Roads.

Mining upon or
under public
roads.
60 Vict. No. 32,
s. 2.

59 The holder of a lease under this Act or any former Act may mine upon or under any road, provided that he obtains permission in writing from the Trustees having the care of such road; and such permission shall authorise him so to mine, 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 substantial injury or obstruction to such road; and such Trustees may, if they see fit, refuse any such permission.

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

60 It shall be lawful for such Trustees, upon the application of the holder of any lease issued under this Act or any former Act, and upon the report of any Engineer or Surveyor that a sluice-box, tramway, culvert, or other work can be laid or constructed on, over, or under any such road, without any substantial injury to, or obstruction of, the traffic thereon, and that such sluice-box, tramway, culvert, or other work is necessary for the due and proper working of any mine, or for the conveyance of water for mining purposes, by order in writing made after inspection by some officer of such Trustees, or other person duly

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appointed by such Trustees of the road mentioned in such report, subject to the rights of occupiers of adjoining or contiguous lands, to allow such sluice-box, tramway, culvert, or other work to be laid or constructed by the holder of any such lease. Provided that such works shall be so constructed as not to substantially injure such road or obstruct the traffic thereon. A.D. 1900.

If after the construction of any such sluice-box, tramway, culvert, or other work under such order, it is made to appear to such Trustees that the same does so injure such road 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 notice of such order having been given to the holder of any such lease, the obstruction caused by such sluice-box, tramway, culvert, or other work is not removed or remedied, the same shall be deemed a nuisance, and the person who obtained the said first-mentioned order, or the then owner or occupier, shall be liable to a penalty not exceeding Twenty Pounds.

Any Commissioner may, upon proof of the said last-mentioned order and of the disobedience thereof, order the said nuisance to be abated; and any person authorised by the Trustees or such Commissioner may enter the premises to which the order to abate the nuisance relates, and remove or abate such nuisance, and do whatever may be necessary in execution of such order, and charge the cost to the person who obtained the said first-mentioned order, or the then owner or occupier.

(2.) Purchase of Lands.

61 The Minister may, if the Governor in Council approves, purchase, acquire, and take such land as the Governor in Council may deem necessary for the purposes of Tailings Areas and Sludge Channels, and for the purpose of diverting water; and any such land so purchased, acquired, or taken by the Minister shall, for the purposes of this Act be and be deemed to be Crown lands, and shall be subject to all the provisions of this Act. Power to Minister to purchase lands.

62 The Minister, his officers and workmen, may at all reasonable times in the daytime, upon giving Twenty-four hours' previous notice in writing to the owner or occupier of any land which is proposed to be taken for the purposes of this Act, enter into and upon such land for the purpose of surveying or valuing the same. Power to enter upon lands.

63 If the Minister, before any steps are taken to acquire and take any land under the provisions of this Act, offers in writing to pay to the person entitled to receive the same compensation for such land, then if such person refuses to accept the same and to convey the land so required, and a reference to arbitration takes place and the Arbitrators or Umpire award a sum not exceeding the amount of compensation so offered, all the costs of the reference, arbitration, and award shall be paid by such person and payment thereof may be enforced by action in any Court of competent jurisdiction on account for money paid at the request of such person. Costs of Arbitration, how to be borne.

64 The purchase money of any land purchased, acquired, or taken by the Minister under the provisions of this part of this Act, and all moneys to be expended by the Minister under and for the purposes of this Part of this Act, shall be appropriated out of moneys provided by Parliament for that purpose. Defrayment of cost.

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Right to extend
mining operations
into alienated
portions of leased
land.

65 In every case in which any portion of the land held under any lease granted under the provisions of this Act or any former Act, has been granted, or shall hereafter be granted by the Crown during the continuance of the lease under which the said land is held, to any person other than the lessee of the said land, to be held by such other person in fee simple or for any lesser estate therein, it shall be lawful for the lessee of the said land, during the continuance of the said lease or of any renewal thereof, to extend into such granted portion as aforesaid of the said land, at a depth of not less than Fifty feet from the surface thereof, the excavations and other mining operations carried on under the powers conferred by the said lease or any renewal thereof on any portion of the said land, and to remove from such granted portion as aforesaid of the said land at such depth as aforesaid all metals and minerals which the lessee is empowered by the said lease or any renewal thereof to remove from the said land, as freely as if such granted portion as aforesaid of the said land had never been granted as aforesaid.

Tailings Area, &c.

66 It shall be lawful for the holder of any lease granted under the provisions of this Act or any former Act to serve upon the owner or occupier of any private land a notice in writing that the person giving such notice is desirous of occupying any portion of the said land as a tailings area or a machinery site, or for constructing thereon any tramway, or tail-race, or sludge-channel, or reservoir, or other similar work to be used in connection with any mining operations then being carried on by such person under the provisions of any such lease as aforesaid; and such person shall, upon the service of such notice as aforesaid upon the owner or occupier of the said land, subject to the provisions and terms hereinafter mentioned, be entitled to obtain possession of and occupy for any of the purposes aforesaid in connection with such mining operations as aforesaid, during the continuance of the lease under which such mining operations as aforesaid are being carried on, the portion of land described in such notice as aforesaid: Provided, that the land described in any such notice as aforesaid shall not in any case exceed Thirty acres in area.

Commissioner to
determine area
and position of
land.

67 It shall be lawful for a Commissioner, upon the application of any person interested in any land to be occupied under the provisions of the immediately preceding Section, from time to time to determine in a summary manner any dispute that may arise between any such person and the person desirous of occupying any such land as to the right of such person as last aforesaid to occupy such land under the provisions of this part of this Act; and the Commissioner shall, in every case, have power to determine the area of land reasonably required in respect of any lease held by the person desirous of occupying such land under this Part of this Act, and the position thereof in regard to any adjacent land, which any person may be desirous of occupying under this Part of this Act; and it shall be lawful for the Commissioner to authorise or order such alteration or deviation in the area or position of any such land as he may think fit for the protection of the rights of the occupier or owner of such land; and every such order may from time to time be rescinded or varied as the Commissioner thinks fit, upon the application of either party.

Mode of pro-
cedure to obtain
possession of a
Tailings Area, &c.

68 Before any land described in any such notice as aforesaid shall be occupied for any of the purposes aforesaid under this Part of this Act, the owner and occupier shall respectively be paid such compen-

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sation for the loss of the use and occupation of such land as shall be determined by agreement between the parties; and if such compensation shall not be fixed by agreement between the parties within One month after service of such notice as aforesaid, then such compensation shall be determined by arbitration in the mode hereinafter provided. A.D. 1900.

(3.) *Support of adjoining Lands.*

69 In this part of this Act, "Lessee" includes the owner or occupier of any private land. Interpretation

70 Where any lessee is unable to mine up to the boundary of the land leased by him without injuriously affecting the land occupied by an adjoining lessee, it shall be lawful for such first lessee to give to the other notice in the prescribed form requiring him to treat for the sale of the right to remove so much of the land as may be required to enable him to mine up to his boundary. Lessee may give notice to take adjoining land.

71—(1.) In the event of the giver and receiver of any notice mentioned in the immediately preceding Section failing to agree as to the amount of compensation to be paid for such land within Thirty days after the service of such notice, then the matter shall be referred to the arbitration of Four Assessors, appointed as hereinafter mentioned, and a Commissioner of Mines to be nominated by the Minister for that purpose. If parties cannot agree matter to be referred to arbitration.

(2.) The giver of any notice as aforesaid may, upon the expiration of Thirty days from the day on which such notice was served, call upon the other party to the arbitration to appoint Two Assessors for such arbitration, and shall at the same time notify to such other party the names of the Two Assessors appointed by himself, and shall also call upon the Minister to nominate a Commissioner for such arbitration.

(3.) If the other party fails or neglects for a period of Fourteen days after having been required so to do, to appoint Two Assessors for such arbitration, the Two Assessors appointed by the party giving the notice and the Commissioner nominated by the Minister may proceed to hear and determine the matter, and the award of any Two of them shall be final.

(4.) Every award made by the Assessors and Commissioner shall be registered in the office of the Secretary for Mines, and shall be final and binding on the parties and the persons claiming under them respectively.

72 The Assessors and Commissioners shall have power to decide— Powers of Assessors.

- i. The extent of ground to be taken :
- ii. By whom ground to be removed :
- iii. How and by what means compensation is to be ascertained.
 - In estimating compensation Arbitrators to consider—
 - (a) Amount of surface taken and value thereof ;
 - (b) Value of mineral removed and how to be ascertained :
 - (c) And whether the work authorised will be detrimental to the future working of the claim :
- iv. To whom and in what proportion same to be payable, and at what periods :
- v. How and by whom the costs of arbitration are to be borne. Costs to be ascertained by Arbitrators and included in award.

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Differences arising under award may be settled by arbitration.

73 If it is made to appear to the Commissioner that any differences have arisen in carrying out the provisions of any award, the Commissioner may summon the same Four Assessors to decide any such difference, and their award upon the matter in dispute shall have the same force and effect as if the matters therein referred to had been included in the original award.

And any such subsequent award shall be registered in the Office of the Secretary for Mines in the same manner as the original award.

Vacancy may be filled up.

74 If any Assessor at any time refuses to act, or is incapable of acting, or dies, or is absent from *Tasmania*, the party who appointed him may appoint a new Assessor in his place.

Works may be inspected by party to award.

75 When any land is being mined or any mineral is being treated in pursuance of any award made under this Part of this Act by one of the parties to any such award, it shall be lawful for the other party, or such other person as he may from time to time appoint, to enter at all reasonable times upon the land so mined, or into any building used for the purpose of treating any such mineral.

Accounts of minerals to be kept.

76 (1.) In order to ascertain the value of the mineral removed under any award, the mineral so removed shall be mined and treated and kept distinct from other mineral from the adjoining land; and full and true accounts of all mineral so removed, and the cost of mining and reducing the same, shall be kept and be verified by statutory declaration by the lessees, their manager or agent, and such accounts shall be open at all reasonable hours for inspection by the other party to the arbitration or by such person as the Minister or he may from time to time appoint in writing.

Copies to be sent to Secretary for Mines and other party to arbitration.

(2.) A copy of all such accounts for each month verified as aforesaid shall be forwarded within Seven days after the expiration of every month to the Secretary for Mines and the other party to the arbitration respectively, and thereupon any money which such accounts shall show to be payable shall be paid by the person liable to pay the same to such other person to whom the same shall be due.

Commissioner may order payment.

(3.) If any such money shall remain unpaid for a period of Fourteen days after the expiration of any month a Commissioner may, upon the application of the person entitled to receive the money, make an order for the payment of the same.

Enforcement of Commissioner's Order.

77 Whenever any sum of money or portion of any sum of money ordered to be paid by any Order of a Commissioner under this Part of this Act shall remain unsatisfied in whole or in part, and whether after previous executions or not, for Fourteen days or for a longer period from the date of such order, the Commissioner who shall have made such order, or any other Commissioner to whom a certified copy of the said order shall be produced, shall, on the application of the person claiming to be entitled to the moneys in such order, or any attorney in his behalf, grant to the party so applying a certificate in such form as may be prescribed or to the like effect; and it shall be lawful for the party obtaining such certificate, or his attorney, to file such certificate with the Registrar of the Supreme Court, and thereupon execution may issue, and all such proceedings be had and taken to enforce payment of the moneys mentioned in such order as upon a decree or order of the Supreme Court.

Mining.

78 Whenever, and so soon as any Order of a Commissioner made under this Part of this Act shall have been filed with the Registrar of the Supreme Court, the moneys directed in such order to be paid shall, so long as any part thereof remains unpaid and unsatisfied, become and be a charge, subject to prior encumbrances, upon the estate or interest of the person ordered to pay the same, in the Crown land or private lands occupied or used for mining purposes by such person, and upon all plant and machinery thereon and all property of such person in such land, plant and machinery; and the Commissioner by whom such order shall have been made, or any other Commissioner to whom a certified copy of such Order shall be produced, may by his order restrain the sale or other disposal or transfer of such interest in the land, plant, machinery, or property until such moneys have been paid; but this provision shall not be deemed in any way to lessen the right of seizure and sale of such land, plant, machinery, and property under any execution issued for the realisation of the moneys ordered in such Commissioner's Order to be paid or contributed.

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Certified Order to be a charge on property of mine-owner.

Commissioner may restrain sale of such property until moneys paid.

79 The remedies provided in the two last preceding Sections shall be in addition to, and not in derogation of, any of the remedies given in or by any other Section of this Act, and shall not be construed to in any way lessen or take away any of the jurisdiction, power, or remedies created or given in or by such lastmentioned Section.

Remedies in this division to be cumulative.

(4.) *Miscellaneous.*

80 The Governor in Council may, from time to time, by Proclamation published in the *Gazette*, declare that any of the provisions of this Act shall apply to mining for diamonds and any other precious stones, and may also define the portion or portions of *Tasmania* wherein any such Proclamation shall take effect, and may make such regulations for such mining as may be requisite.

Act may be proclaimed in force as to precious stones.

PART VI.

REGULATION OF MINES.

81 Nothing in this Act contained shall be deemed to abridge or annul any of the provisions of "The Inspection of Machinery Act, 1889," or any Act amending the same; nor to affect the duties of any Inspectors appointed under the said Act in relation to the inspection in mines of machinery and boilers coming within the operation of the said Act.

Provisions of 53 Vict. No. 12 not affected.

82 The Governor in Council may, subject to the provisions of this Act, from time to time make, alter, amend, and revoke Regulations for all or any of the purposes following:—

Regulations.

- i. For regulating the duties and functions of Inspectors of Mines:
- ii. For providing for the safety of all persons working in or on mines, and for regulating the proper working of mines to ensure such safety and the prevention of accidents, and for holding examinations from time to time to inquire into the mental and physical condition of persons employed in charge of any machinery:
- iii. For prescribing terms and conditions for the issue of certificates of competency for the office of Mining Manager of a mine; regulating the examinations to be held with respect to the necessary knowledge and experience in

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- working mines of persons applying for such certificates ; and appointing a Board of Examiners to conduct such examinations :
- iv. For prescribing conditions as to the manner in which the surveys of the underground workings of mines required in accordance with this Part of this Act shall be effected, and as to the scale to which the plans and sections referred to in the same Section shall be drawn, and as to the terms on which the copies of plans and sections required by the said Section to be furnished to the Inspector of Mines will be accepted as satisfactory :
 - v. And generally, for facilitating and more effectually carrying into execution the objects of this part of this Act, especially in cases where no provision, or no sufficient provision, is made for the same :
 - vi. Every Regulation made under this Part of this Act may be made to apply generally to all mining districts within the Colony, or to any particular district or districts only. Sections One hundred and eighty-five and One hundred and eighty-six of this Act shall apply to all Regulations made under this Part of this Act. Every person committing any breach, whether by way of omission or commission, of any Regulation made under this Part of this Act, shall be guilty of an offence against this Act.

Powers of Inspectors.

83 An Inspector under this Act shall have power to do all or any of the following things ; namely —

- i. To make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with :
- ii. To enter, inspect, and examine any mine and every part thereof, at all reasonable times by day and night, but so as not to unnecessarily impede or obstruct the working of the said mine :
- iii. To examine into and make inquiry respecting the state and condition of any mine or any part thereof, and the ventilation of the mine, and the sufficiency of the special rules (if any) for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto :
- iv. To order the immediate cessation of work in, and the departure of all persons from, any mine or portion thereof which he may consider unsafe, or to allow persons to continue to work therein on such precautions being taken as he deems necessary :
- v. To order the use to be discontinued of any machinery which he may deem unsafe until inspected by an Inspector under "The Inspection of Machinery Act, 1889" :
- vi. To exercise such other powers as may be necessary for carrying this Act into effect.

Every person who wilfully obstructs, or refuses or neglects to obey any order of any Inspector in the execution of his duty under this Act, and every owner of a mine who refuses or neglects to furnish to such Inspector the means necessary for making any entry, inspection,

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examination, or enquiry under this Act in relation to such mine, shall be guilty of an offence against this Act. A.D. 1900.

84 Every mine-owner shall appoint and continue to have a manager, who shall be deemed the mining manager of the mine; and the name and address of such manager for the time being shall be notified by him in writing to the Chief Inspector of Mines, and registered by him; and no person shall be so appointed who has not the management of the mining operations carried on by such owner. In the event of such mining manager ceasing to be in his employment, the said owner shall forthwith give notice of the same in writing to the said Inspector. Mining Manager to be appointed, and name registered.

It shall be the duty of every mining manager to enforce to the best of his power the observance of the provisions of this Act by all persons employed in or about the mine of which he has charge; and no agreement with the contractors or tributors or others will be allowed to relieve him of the responsibility of having all work in and about the mine carried on in a safe manner, and in accordance with this Act.

85 No boy under the age of Fourteen years, and no girl or woman of any age, shall be employed in or be allowed to be, for the purpose of employment, in any mine. Employment of women and children in mines.

86 No person under the age of Twenty-one years shall be employed as lander, bracman, or platman at any shaft. No person under the age of Eighteen years shall be employed for more than Forty-eight hours in any week, exclusive of the time allowed for meals, nor more than Eight hours in any day, except in cases of emergency. Age of person employed at mine

But no person shall be deemed guilty of an offence against this Act for a contravention of that part of this Section relating to the time for which persons shall not be employed, if he satisfies a Commissioner that there were special circumstances to render such contravention necessary for the proper working of the mine, and that such contravention was not injurious to the workmen employed in the mine.

87 No person in charge of steam machinery used in connection with any mine, or for the treatment of the products of any mine, shall be employed for more than Eight consecutive hours at any time; such period of Eight hours shall be exclusive of any time occupied in raising steam, and in drawing fires and exhausting steam in connection with the machinery in the charge of such person, and exclusive of meal hours, and of any time in which such person is employed in case of breakage or other emergency. Limit of period of employment in charge of machinery.

88 No person whose sight or hearing is defective, or who is subject to fits or any other infirmity likely to interfere with the efficient discharge of his duties, shall be allowed to have charge of machinery by means of which persons are raised from or lowered into any mine. Any such person who accepts such charge, and every other person who employs any such person as aforesaid, shall be guilty of an offence against this Act. Certain persons not to have charge of machinery.

89 The mine manager of every mine, or, in his absence, the person in charge of the mine, shall forthwith, after the occurrence of any accident attended with serious injury to any person, give notice thereof to the Inspector of Mines residing nearest thereto, who shall thereupon, if he sees fit, make an open enquiry concerning the cause and circumstances of such accident, and any Notice of accident to be given to Inspector of Mines.

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mining manager who shall omit to give such notice shall be deemed guilty of an offence against this Act. Any portion of a mine where an accident occurs shall not be interfered with until inspected by the Inspector or by a Coroner's Jury, unless with the view of saving life or preventing further injury.

Inspectors.
may exercise
powers conferred
on Justices.

90 Upon any enquiry, which by this Act or any Regulation an Inspector is authorised to hold, every Inspector or person authorised by him under Section Ninety-six of this Act, shall have and may exercise, for the purpose of procuring and enforcing the attendance of witnesses, and for hearing and determining the matter brought before him, all the powers conferred upon a Justice of the Peace by *The Magistrates Summary Procedure Act*, and shall have power to administer an oath to any person appearing before him to give evidence at any enquiry which it may be necessary or expedient to hold.

19 Vict. No. 8.
Commissioners
may administer
oaths on
enquiries.

Plans of under-
ground operations
to be furnished.

91 Every mine-owner shall have and preserve accurate plans and sections showing the position of all the underground workings in his mine drawn from actual surveys effected in accordance with Regulations made under this Act by a duly-authorized surveyor, or by a mining manager who holds a certificate of competency under this Act or by any person approved by the Chief Inspector of Mines; and at intervals of not more than Six months all additional underground workings and extensions of workings made since the previous surveys were effected shall be surveyed as aforesaid, and delineated upon the said plans and sections, and no underground workings shall be filled up or allowed to fall into disrepair until they have been so surveyed. Before any mine having underground workings is abandoned for any period exceeding Seven days the survey thereof shall be completed, and certified copies of plans and sections as aforesaid, showing all the workings up to the date of abandonment, shall be sent to the Inspector of Mines within One month after such date.

During the month of *January* in every year the owner of any mine shall furnish to the Chief Inspector of Mines certified copies of the aforesaid plans and sections, showing as far as possible all the underground workings that have been effected in his mine up to the Thirty-first day of *December* immediately preceding the said month of *January*; but if at any time previously such copies of plans and sections have been already furnished by the said owner, then it shall only be necessary for him to supply copies of plans and sections of such workings and extensions of workings as have been effected since such time.

All copies of plans and sections shall show a connection to some permanent mark on the surface of the ground.

All copies of plans and sections may be inspected by any person or persons duly authorised by writing under the hand of the Minister.

If any mine-owner shall fail to comply with the provisions of this Section he shall be deemed guilty of an offence against this Act.

Provided, nevertheless, that the Chief Inspector of Mines may, by writing under his hand, from time to time excuse any mine-owner from furnishing such copies of plans in any year.

If plans not
complete,
Minister may
order new survey.

92 If upon the receipt of any such plan or section as aforesaid, the Chief Inspector of Mines has reason to believe that the same is an incorrect or incomplete plan or section of the underground workings of any such mine, the Minister may, if he see fit, cause a check survey to be made of the underground workings of such mine; and if upon the making of any such check-survey the plan or section furnished as aforesaid is

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proved to be incorrect or incomplete in any material respect, of which A.D. 1900.
 incorrectness or incompleteness the Minister shall be sole judge, the owner
 of such mine shall pay the cost of making such check survey and all
 expenses incurred in connection therewith ; and such costs and expenses
 shall be recoverable from such owner as a debt due to Her Majesty.

93 If in any respect which is not provided against by any express Notice to be
 provision of this Act, or by any special rule, any Inspector find any given by Inspec-
 mine or any part thereof, or any matter, thing, or practice in or con- tors of causes of
 nected with any such mine, to be dangerous or defective, so as in his danger not
 opinion to threaten or tend to the bodily injury of any person, such provided for by
 Inspector shall give notice in writing thereof to the owner and manager the rules.
 of the mine, and shall state in such notice the particulars in which
 he considers such mine, or any part thereof, or any matter, thing, or
 practice to be dangerous or defective, and shall require the same to be
 remedied ; and unless the same be forthwith remedied the Inspector
 shall also report the same to the Minister.

If the owner of the mine objects to remedy the matter complained
 of in the notice, he may, within Twenty days after the receipt of such
 notice, send his objection in writing, stating the grounds thereof, to the
 Minister ; and thereupon the matter shall be determined by arbitration
 in manner provided by this Act ; and the date of the receipt of such
 objection shall be deemed to be the date of the reference.

If the owner fails to comply either with the requisition of the notice,
 where no objection is sent within the time aforesaid, or with the award
 made on arbitration, within Twenty days after the expiration of the
 time for objection or the time of making of the award (as the case may
 be), he shall be guilty of an offence against this Act, and the notice
 and award shall respectively be deemed to be written notice of
 such offence.

Provided that the Court, if satisfied that the owner has taken active
 measures for complying with the notice or award, but has not, with
 reasonable diligence been able to complete the works, may adjourn any
 proceedings taken before them for punishing such offence, and if the
 works are completed within a reasonable time no penalty shall be
 inflicted.

No person shall be precluded by any agreement from doing such
 acts as may be necessary to comply with the provisions of this Section,
 or be liable under any contract to any penalty or forfeiture for doing
 such acts.

The parties to an arbitration under this Section shall be the owner
 of the mine on the one hand, and an Inspector of Mines on behalf of
 the Minister on the other.

Every person who is appointed an arbitrator or umpire under this
 Section shall be a practical mining engineer, or a person accustomed to
 the working of mines, but when an award has been made under this
 Section, the arbitrator or umpire who made the same shall be deemed
 to have been duly qualified as provided by this Section.

General Rules.

94 The following General Rules shall, so far as may be reasonably General Rules.
 practicable, be observed in every mine :—

1. An adequate amount of ventilation shall be constantly pro- Ventilation.
 duced in every mine by the passing through the under-

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Gunpowder and
blasting.

ground workings thereof, of a current of not less than one hundred cubic feet of fresh air per minute for each man and boy employed therein, so that the shafts, winzes, sumps, levels, underground stables, and working-places of such mine, and the travelling roads to and from such working-places, shall be in a fit state for working and passing therein ;

- II. Gunpowder, or other explosive or inflammable substance, shall only be used in a mine as hereunder provided (that is to say) :—
- (a) It shall not be stored in the mine in any quantity exceeding what would be required for use during Six working days for the purposes of the mine: And if stored in the mine it shall be kept in a drive or chamber separated by a door fixed across such drive at least Thirty feet from any travelling road.
 - (b) It shall not be taken for use into the workings of the mine except in a securely covered case or canister containing not more than Eight pounds.
 - (c) A workman shall not have in use at one time in any one place more than One of such cases or canisters.
 - (d) No person shall enter with a naked light a powder magazine or any excavation in a mine where powder or other explosive or inflammable substance is stored.
 - (e) Detonators for blasting shall be kept on the surface of the ground in a covered box, but not in the same magazine with nitro-glycerine compounds. Not more than One hundred detonators shall be kept in any one level in a mine at one time, and these shall be kept in a covered box in a drive or chamber set apart for storing explosives as hereinbefore provided, and only taken out in such quantities as required for immediate use. Cartridges shall not be primed with detonators except for immediate use. Detonators shall not on any pretence whatever be placed near any travelling road, pass, or working face.
 - (f) No iron or steel pricker shall be used in blasting in any mine, and no iron or steel tool shall be used in tamping or ramming, and no iron or steel pricker or tamping-bar shall be taken into any mine.
 - (g) A charge of gunpowder which has missed fire may be drawn by a copper pricker; but in no case shall an iron or steel tool be used for the purpose of drawing or drilling out such charge. A charge of any nitro-glycerine compound shall not be drawn from a hole or have its tamping removed on any pretence. A charge of any explosive which has hung fire, or is supposed to have missed fire shall not be visited until Forty-five minutes shall have elapsed from the time of lighting the fuse thereof; but this shall not apply to charges fired by an electric current, and every case of an explosive hanging fire, or being supposed to have missed fire,

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shall be reported by the person laying the charge A.D. 1900.
to the person (if any) under whose immediate
control or direction he may be, before the same is
visited.

- (h) No person under the age of Eighteen years shall charge a hole with explosives, or fire any charge of explosives.
- (i) No drill-hole shall be bored in any remaining portion of a hole in which a charge of nitro-glycerine compound has been previously exploded.
- (k) Nitro-glycerine compounds shall not be used in a frozen state: when in such frozen state they shall be thoroughly thawed or softened previous to use, in a dry vessel heated by warm water, of a temperature not higher than 130° Fahrenheit.
- (l) In all cases where the fumes arising from the explosion of any nitro-glycerine compound cannot be effectively dispersed by ventilation or spray of water from the mine, such fumes shall be neutralised or rendered innocuous by the person in charge of the blasting operations by the use of a spray of solution of sulphate of iron before the miners are permitted to return to the sites of such blasting operations.

Owners of mines or persons employing miners in blasting with nitro-glycerine compounds shall supply such miners with proper and safe means of thawing such compounds, and with the means of producing sprays of solution of sulphate of iron.

- iii. Every underground plane on which persons travel which is self-acting or worked by an engine, windlass, or gin, shall be provided (if exceeding Thirty yards in length) with some proper means of signalling between the stopping-places and the ends of the plane, and shall be provided in every case, at intervals of not more than Twenty yards, with sufficient man-holes for places of refuge. Man-holes in self-acting or engine places.
- iv. Every road on which persons travel underground where the produce of the mine in transit exceeds Ten tons in any one hour over any part thereof, and where the load is drawn by a horse or other animal, shall be provided at intervals of not more than One hundred yards with sufficient spaces for places of refuge, each of which spaces shall be of sufficient length and of at least Three feet in width between the waggons running on the tramroad and the side of the road. Spaces in horse-roads.
- v. Every man-hole and space for a place of refuge shall be constantly kept clear, and no person shall place anything in a man-hole or such space so as to prevent access thereto. Keeping spaces clear.
- vi. The top and all entrances between the top and bottom of every working or pumping shaft shall be properly and securely fenced and furnished with gates, or securely covered, but this provision shall not be taken to forbid the temporary removal of any fence or cover for the purpose Fencing of entrance to shafts.

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- of repairs or other operations if proper precautions are used ; and every abandoned or disused shaft shall be fenced or securely covered in by the occupiers of the land upon which such disused shaft is situate, and its position indicated on the surface by a post with a notice thereon affixed.
- Protection when fencing removed. VII. When a fence, gate, or cover has been temporarily removed from any entrance to a shaft to admit of the performance of ordinary mining operations, a strong horizontal bar shall be securely fixed across such entrance not less than Three nor more than Four feet from the floor of the brace, chamber, or drive, as the case may be.
- Securing of shafts. VIII. Where the natural strata are not safe, every working or pumping shaft shall be securely cased, lined, or otherwise made secure, for which purpose an ample supply of sound, good timber shall be kept on the ground ready for immediate use.
- Man-holes in shafts. IX. When a shaft is being sunk in rock formation and blasting operations are necessary, short cross-drives or manholes shall be formed at depths of every Two hundred feet for use by miners as places of refuge during the occurrence of blasts, and access to such manholes from the bottom of the shaft shall be provided by the use of suitable ladders.
- Drive and excavation to be protected. X. Every drive and every excavation of any kind in connection with the working of a mine shall be securely protected and made safe for persons employed therein.
- Lights to be provided. XI. Suitable lights shall be provided for the use of miners when travelling in the main drives of any mine ; and the upper entrance to every winze, rise, or jump-up in any mine while open or unfenced shall be illuminated by a fixed light, which shall be kept constantly burning.
- Division of shaft. XII. Where one portion of a shaft is used for the ascent and descent of persons by ladders or a man-engine, and another portion of the same shaft is used for raising material, the first-mentioned portion shall be cased or otherwise securely fenced off from the last-mentioned portion.
- Signalling. XIII. Every working shaft in which a cage is used and every division of such shaft in which persons are raised and lowered, and every shaft in which appliances worked by steam or other machinery are used, shall be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in work between the top and the bottom of the shaft, to the top and thence to the engine-room, and from the engine-room and top to the bottom of the shaft and to every entrance for the time being in work between the top and the bottom of the shaft ; and no verbal signals or communications shall be made up or down a shaft exceeding Fifty yards in depth in which cages are used, except through speaking-tubes or telephones in the pump compartment of such shaft.
- Every person to know signals. XIV. Every person employed in a mine shall make himself acquainted with the system of signals used in such mine. A line or some other appliance shall be provided in each

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- shaft to admit of danger signals being communicated to the engine-driver from any portion of such shaft. A.D. 1900.
- xv. A clear view shall be kept for the engine-driver between his station and the shaft at the surface brace. Engine-driver to see shaft.
- xvi. All methods of signalling in mines to indicate that men or material are to be raised or lowered in shafts shall be clear and distinct, and shall be posted and maintained in a clear and legible form on framed boards, one of which shall be placed in each chamber or entrance to the shaft, and one at the brace at or near the top of the shaft, and one in the view of the person in charge of the machine used for lowering or raising persons or material in such shafts. Signals to be clear and distinct.
- Such methods shall be in accordance with such code as may from time to time be prescribed; and any neglect to carry out such methods shall be an offence against this Part of this Act
- xvii. Wherever any underground work is being performed in mines at greater distances than Two hundred feet from the shafts, proper means shall be provided for communicating along the lower drives of such mines distinct and definite signals to and from the plats at the bottom of the shafts, and to and from such places in which men may be at work. Drives in alluvial mines to be provided with proper signals.
- xviii. A cage shall have a sufficient cover overhead when used for lowering or raising persons in any working shaft; such cage-cover shall be at least Six feet Six inches above the floor of the cage, and shall be constructed of iron not less than one quarter of an inch thick, and shall be fitted with sloping sides and securely hung on hinges so as to be readily lifted upward by persons within the cage. Whenever practicable, all persons working in shafts shall be protected overhead from falls of material down such shaft by means of a roof or other suitable appliance. Protection to persons ascending or descending shaft.
- xix. No person shall get off or on a cage while it is in motion. No person to leave moving cage.
- xx. A proper ladder or footway shall be provided in every shaft of Thirty feet or more in depth, in which a whim, whip, or windlass is used, and in every working pit or shaft where no machinery is used, for lowering or raising persons employed therein; and no person shall ascend or descend in any shaft except by means of ladders, or in a man-engine, or in a safety-cage, unless for the purpose of effecting repairs to the shaft, or in case of emergency: Provided that men employed in shaft-sinking, where blasting operations are being carried on, shall be allowed to ascend and descend by means of the bucket used for hoisting material to and from a place of refuge during the occurrence of such blast. How to descend shaft.
- xxi. No timber shall be sent down any shaft, unless secured to a rope by means of a shackle, or securely fastened in a cage or bucket. Shackle to be used in lowering timber down a shaft.
- xxii. Whenever it is found necessary to raise or lower any person in a shaft of Fifty feet or more in depth without using the safety-cage, he may be securely stayed to the rope employed for lowering or raising in such shaft by a strap or other fastening passing round the body under the arms, and such method of staying may be used by every person who Person in shaft to be securely stayed.

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- Shaft to have proper appliances. xxiii. Whenever any shaft of Fifty feet or more in depth is the sole means of entrance into or egress from any part of a mine, it shall be provided with a proper ladder-way, in addition to any safety-cage or other machine for raising or lowering men that may be used therein.
- Inclination of ladders. xxiv. A ladder permanently used for the ascent or descent of persons in the mine shall not be fixed in a vertical or overhanging position unless in shafts used exclusively for pumping, and shall be inclined at the most convenient angle which the space in which the ladder is fixed allows, and every such ladder shall have substantial platforms at intervals of not more than thirty feet; and a suitable fixture for a hand-grip shall be placed above such ladder for the use of persons ascending or descending by it.
- Chains, &c., to be tested. xxv. Before any rope or chain is used in the shaft of a mine it shall be tested and proved to be equal to carrying twice the weight of the ordinary load, and in mines where men are lowered or raised in shafts, the ropes and chains used for such purposes shall be periodically tested at intervals of not more than Three months to carry twice the weight of the ordinary load. The dates and results of such tests shall be recorded in a book kept by the mining manager, and such book shall, on demand, be open to perusal by any Inspector under this Act.
- Slipping of rope on drum. xxvi. There shall be on the drum of every machine used for lowering or raising persons such flanges or horns, and also, if such drum is conical, such other appliances as may be sufficient to prevent the rope from slipping.
- Brake. xxvii. There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons, an adequate brake, and also a proper indicator (in addition to any mark on the rope) which shows to the person who works the machine the position of the cage or load in the shaft.
- Cages to have suitable appliances. xxviii. Every cage used in a mine shall be fitted with special and suitable appliances to prevent its sudden fall down a shaft, and also to prevent it coming into contact with the poppet-heads.
- Rope cleaners. xxix. In every mine where iron or steel wire ropes of not less than One and a half inches in circumference are in use for hauling purposes, a proper machine for cleaning and oiling such ropes shall be provided and used as required by an Inspector.
- Catches to be affixed to skids. xxx. Spring catches, or automatic or self-acting doors or tumblers of a suitable kind shall be affixed to the cage, skids, or guides below the poppet-heads of every shaft in which the cage is used, to prevent the fall of such cage down the shaft when detached from the rope or chain by overwinding. And such automatic or self-acting doors or tumblers shall be surrounded by proper platforms and hand-railings, and at every plat or level in every shaft where trucks are removed on or off the cage while in the

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- shaft, such shaft shall be fitted with bearers (not being loose wooden bearers) securely fixed to the sole-piece of the plat, set with strong hinges; and gates shall be used in all shafts where hauling is done with cages. A.D. 1900.
- xxxI. Before any safety-cage be first used it shall be tested in the presence of an Inspector of Mines or an Inspector of Machinery to show that it is in working order; and no such cage shall be used unless and until an Inspector as aforesaid gives a certificate to the effect that such cage is in fit and working order and condition. Safety-cage to be tested.
- xxxII. When men are being lowered or raised in any shaft by means of machinery the rate of speed for the descent or ascent of such men shall not exceed within One hundred feet of the surface of a mine, Two hundred feet in each minute of time, and shall not in any other part of a shaft exceed Five hundred feet in each minute of time. Speed of winding machinery.
- xxxIII. If more than twelve persons are ordinarily employed in the mine below ground in one shift, sufficient accommodation shall be provided above ground near the principal entrance of the mine, and not in the engine-house or boiler-house, for enabling the persons employed in the mine to conveniently dry and change their dresses; and in no case shall men be allowed to change their dresses upon a boiler. Dressing-room.
- xxxIV. No person under the age of Eighteen years shall be placed in charge of or have the control of any steam engine or boiler used in connection with the working of any mine. No person in charge of steam machinery in connection with the working of any mine shall, under any pretext whatever, unless relieved by a competent person for that purpose, absent himself or cease to have continual supervision of such machinery during the time it is used in working the mine. Person in charge of Machinery.
- At every shaft where machinery is used for winding purposes a braceman shall be kept in constant attendance on miners during the time they are engaged in sinking such shaft, and there shall be provided adequate protection from the inclemency of the weather for such bracemen while on duty.
- xxxv. Every fly-wheel and all exposed or dangerous parts of the machinery, and every tramway constructed on an elevated platform, used in or about the mine, shall be and be kept securely fenced, except tramways worked by ropes. Fencing machinery.
- xxxvi. Every steam boiler shall be provided with a proper steam-gauge and water-gauge, to show respectively the pressure of steam and the height of water in the boiler, and with a proper safety-valve; and at least once in every Six months, or oftener, if required, every boiler shall be thoroughly cleansed. Gauges to boilers and safety-valve.
- xxxvii. The smoke from every boiler for generating steam, and from every furnace used in any part of the underground workings of a mine, shall not be allowed to escape into any part of such workings, nor in any manner other than by means of an air-tight flue conducting such smoke directly from the boiler or furnace into a vertical shaft cut in the rock up to the surface of the ground to the open air, or built up to

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- Wilful damage. xxxviii. the surface as aforesaid with bricks and cement in manner as to be completely air-tight. No person shall wilfully damage or without proper authority remove or render useless any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety-valve, or other appliance or thing provided in any mine in compliance with this Act; and no person shall after any shaft shall have become disused for mining purposes wilfully damage or render useless such shaft by the removal of any fencing, covering, casing, lining, ladder, platform, or other appliance provided in such shaft without the consent of a Commissioner.
- Protection of abandoned shafts.
- Boring-rods to be used. xxxix. In every working in a mine approaching a place likely to contain a dangerous accumulation of water, or of fire-damp, boring-rods shall be kept and used for the purpose of perforating the ground Ten feet in advance of, or near or at any angle from such working; and no drive, gallery, or other excavation shall be made within a dangerous distance of such accumulation of water or fire-damp.
- Mines liable to be flooded to be provided with escape drives. xl. In every mine which in the opinion of the Inspector is liable to an inundation or inburst of water, such additional rises, chambers, drives, and other workings, or any of them, shall be constructed as may seem necessary, and as may be directed by the Inspector, for the escape of workmen from the lower workings, or to ensure their safety in every such mine during the period of any inundation or inburst of water in such mine.
- Ladders to be provided in jump-ups. xli. Ladders, and, when necessary, convenient platforms connected therewith, shall be provided in each rise, jump-up, or passage giving access to workings at a higher or lower level in the mine.
- Mining manager in charge of a mine to inspect. xlii. The mining manager of every mine, or some competent person or persons appointed by him for such purpose, shall once at least in every week examine the state of all ropes, safety appliances, or gear connected with the cages or shafts of the mine; and shall once in each week carefully examine the buildings, machinery, shafts, levels, planes, and all places used in the working of such mines; and shall record in writing, in a book to be kept for that purpose, his opinion as to their condition and safety, and any repairs and any alterations required to ensure greater safety to the persons employed in the working of such mine; and such book shall on demand be open to perusal by any Inspector under this Act or "The Inspection of Machinery Act, 1889," or any Commissioner; and every such rope, safety appliance, or gear, if condemned by any Inspector of Mines or Inspector of Machinery, shall be forthwith removed or made fit.
- 53 Vict. No. 12.
- Books to be open to inspection. xliii. The books mentioned in these Rules or a copy thereof, and a copy of this Act, shall be kept at the office at the mine, or, if there is no office, at some convenient place near the mine; and any Inspector under this Act or "The Inspection of Machinery Act, 1889," or any Commissioner, and

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any person employed in the mine, may at all reasonable times inspect and take copies from any such books or extracts from such Act. A.D. 1900.

Any person employed in or about a mine who contravenes or fails to comply with any of these Rules shall be guilty of an offence against this Act; and any mining manager or person in charge of or giving orders or directions relating to the carrying on of any mining operations in a mine who contravenes or does not comply with any of these Rules, or who allows them to be contravened or not complied with by any person employed under him shall be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to prevent such contravention or non-compliance.

A printed copy of these Rules and any Special Rules made under this Act shall be posted in the office and on a building or board in some conspicuous place in connection with every mine, and be preserved in a legible condition. Every miner on being engaged on such mine shall be personally supplied with a copy of such rules, and he shall sign a book kept for that purpose to show they were so supplied.

Special Rules.

95 The owner of any mine may, if he think fit, transmit to the Inspector of Mines, for approval by the Minister, Rules (referred to in this Act as Special Rules) for the conduct and guidance of the persons acting in the management of such mine or employed in or about the same, so as to prevent dangerous accidents, and to provide for the safety and proper discipline of the persons employed in or about the mine, and such Special Rules, when approved by the Minister, shall be observed in and about every such mine in the same manner as if they were enacted in this Act. Special Rules.

If any person who is bound to observe the Special Rules established for any mine acts in contravention of or fails to comply with any of such Special Rules, he shall be guilty of an offence against this Part of this Act; and also the owner and the mining manager of such mine shall each be guilty of an offence against this Part of this Act, unless he proves that he had taken all reasonable means by publishing, and to the best of his power enforcing, the said Rules as regulations for the working of the mine to prevent such contravention or non-compliance.

Miscellaneous.

96 Every person employed in or about any mine shall satisfy himself of the safety of any tubs, chains, tackle, windlass, ropes, or other appliances he may use before commencing and whilst at work, and in case of any defect or insecurity he shall cease to use anything unsafe; and every such person who shall witness, or become aware of, or have information or knowledge of, any circumstance, matter, or thing in or about any mine which may be likely to produce therein danger of any kind; and every person who may be notified by any such person of any such circumstance, matter, or thing, shall notify the same to the person (if any) under whose immediate directions or control he may be, otherwise he shall be guilty of an offence against this Act; and every such person in sub-charge of and employed in mining operations in any part of a mine shall, on changing his shift, inform the person appointed to relieve him of the state of the workings in the part of the mine in which he has been employed, otherwise he shall be guilty of an offence against this part of this Act. Employés to inform employers of breaches of Act.

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Inspector to hold inquiry on hearing complaint.

97 Immediately upon any miner working in a mine making a complaint in writing under this Act to an Inspector, it shall be the duty of the Inspector to make inquiry into the matter of such complaint, and to take such other steps as he may deem necessary to investigate the matter, and the name of the person making such complaint shall not be divulged by the Inspector unless such Inspector is satisfied that such complaint was groundless, and made with wilful intention to injure any person.

Inspector may appoint substitute to hold inquiry.

98 In lieu of making such inquiry himself, an Inspector of Mines may authorise any responsible person to make an inquiry on his behalf, and to take such other steps as he may deem necessary to investigate the matter.

Employer to compensate *employé* injured through non-observance of this Act.

99 If any person employed in or about any mine suffers any injury in person or is killed owing to the non-observance in such mine of any of the provisions of this Act, such non-observance not being due to the negligence of the person so injured or killed, but is owing to the negligence of the owner of such mine, his agents or servants, or his or their non-observance of any of the provisions of this Act, the person so injured or his personal representatives or the personal representatives of the person so killed may, in any Court of competent jurisdiction, recover from the owner compensation by way of damages as for a tort committed by such owner; and the amount of such compensation with the costs of recovering the same when determined shall constitute a charge on the mine and mining plant in or about which such person was so employed. Nothing in this Section contained shall take away from any person any right to take proceedings in respect of a claim for compensation in any Court of competent jurisdiction.

Jury at Coroners' Inquests.

100—(1.) Any person having a personal interest in or employed in or in the management of any mine in which any accident has occurred which may have caused the death of any person shall not be qualified to serve as a jurymen on any jury empanelled at a Coroner's Inquest on the body of any such person whose death may have been caused as aforesaid.

(2.) It shall be the duty of the Coroner, before swearing any jury on any such Inquest as aforesaid, to inquire if any of such jury are disqualified from serving as such under this Section.

What is an offence against this Act.

101 Every person who contravenes or does not comply with any of the provisions of this Part of this Act, or who is guilty of negligence, either by himself, his agent, or servants, by which any person is injured or killed, shall be deemed guilty of an offence against this Part of this Act.

Penalty for unseemly or riotous conduct, intoxication, &c.

102 Every person employed in or about any mine or in charge of any machinery used thereon, who, while so employed or in charge shall be guilty of neglect of duty or of unseemly or riotous conduct or behaviour, or is in a state of intoxication, shall be guilty of an offence against this Act, and liable to a penalty not exceeding Ten Pounds.

Penalty.

103 Every person who is guilty of an offence against this Part of this Act shall be liable to a penalty not exceeding, if he is the owner, mining manager, or person in charge of or giving orders or directions relating to the carrying on of any mining operations in any mine, Fifty

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Pounds, and if he is any other person, Ten Pounds, for each offence. The imposition of such a penalty shall not bar the right of action of any person injured or his personal representatives under this Act or otherwise.

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104 No person shall be liable to be proceeded against for any offence against this Part of this Act unless an information is laid in respect thereof within Three months after the offence committed.

Offences to be prosecuted within Three months.

105 For the purpose of any proceeding taken under the provisions of this Act against any person alleged in such proceeding to be the mining manager or person in charge of or giving orders or directions relating to the carrying on of any mining operations in a mine, the burden shall lie on the defendant of proving he is not such manager or person.

Burden of proof to lie on defendant.

106 No prosecution shall be instituted against the owner or mining manager of a mine for any offence punishable in a summary way, except by an Inspector, or with the consent, in writing, of the Minister; and if the owner or mining manager of a mine proves to the satisfaction of the Inspector that he had taken all reasonable means to prevent the commission of any such offence, the Inspector shall not institute any prosecution against such owner or mining manager. All costs incurred by the Inspector, or which may be awarded against him in any proceedings under this Act, shall be paid out of the Consolidated Revenue Fund, and the Inspector shall not be personally liable for the same.

Prosecution for offences.

PART VII.**DRAINAGE OF MINES.**

107 In the construction of this Part of this Act, the following words and expressions, if not repugnant to the context, shall have the respective meanings hereby assigned to them (that is to say):—

Interpretation.

“Machinery” shall apply to and include all appliances, including tunnels used or that may be used for the purpose of raising, lifting, or draining water, whether worked by steam, water, horse, or other power :

“Machinery.”

“Mine” shall apply to and include all land or ground held, used, or occupied by any person for mining purposes :

“Mine.”

“Mining purposes” shall mean the purpose of obtaining gold or any mineral by any mode or method and of stacking or otherwise storing any earth :

“Mining purposes.”

“Owner of any machinery” shall include the mortgagee in possession, and shall also include any person or number of persons, association, company, joint-stock company, or corporation, whether engaged in mining or in mining in conjunction with drainage or for the purpose of drainage only; and “owner of any mine” shall apply only to any person using or occupying any land or ground for mining purposes, and shall also include any person or number of persons, association, company, joint-stock company, or corporation using or occupying any land or ground, and whether Crown land or land the property of any private person, for “mining purposes” as the words “mining purposes” are defined in this Section.

“Owner of any machinery.”

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Owners of pump-
ing machinery
may require con-
tribution from
owners of claims
for the drainage
thereof.

108 The owner of any machinery already erected or hereafter to be erected may require the owner of any mine, the workings of which have reached the natural water-level drained by such machinery, to contribute a fair share of the total expense of draining or drawing the water from the mines drained by such machinery, and in default of payment, or in case of disagreement respecting the amount of such share, the owner of such machinery may summon the owner of any such mine before a Commissioner, who may make an Order on such owner to pay such sum or sums periodically or otherwise to the owner of such machinery as the Commissioner shall think just and reasonable.

The Commissioner may, upon making such Order, impose on the owner of such machinery such terms with regard to the efficient working thereof for the benefit of all parties as to such Commissioner shall seem just, and order the same to be performed, or may make such other Order concerning the premises as the justice and equity of the case may demand, and such Orders from time to time may annul, vary, or alter.

The Commissioner shall upon making every such Order as aforesaid forward a copy of such Order to the Secretary for Mines, who shall record the same in his office.

Calculation of
expense of
drainage.

109 The expense of the drainage effected by the owner of any machinery shall be arrived at by calculating—

- I. The interest on the value of machinery and plant used for drainage purposes only :
- II. The wear and tear of such machinery and plant :
- III. The cost of oil, grease, and packing :
- IV. The proportionate cost of fuel expended or of horses employed in drainage operations :
- V. The wages of engine-drivers and of other persons in such proportions as such persons may be deemed to be employed in draining a mine : and
- VI. Such other expenses as the owner can prove have necessarily been incurred in respect of the drainage effected by any machinery.

No drainage dues
to be demanded in
certain cases.

110 No drainage dues shall be demanded for any period during suspension of draining operations ; and in determining the cost of drainage effected by the owner of any machinery, if the whole or any part of the water raised by such machinery shall be used by the owner of such machinery for mining purposes, the value of such water shall be ascertained and deducted from the general cost of such drainage.

Mode of calcu-
lating amount of
contribution.

111 In determining the mines the owners of which shall be liable to contribute towards the expense of the drainage effected by the owner of any machinery, regard shall be had to the total length of reef or lode or to the extent of lead or deposit affected by the drainage operations of such machinery, and to the amount of the benefit derived by the owners of mines from such operations ; and the share to be contributed in respect of each mine drained shall be proportioned as nearly as may be to the length of such reef or lode or the extent of such lead or deposit contained within each such mine, and to the amount of benefit so derived.

Work done by
owners.

112 The owners of each mine liable so to contribute shall receive credit for the value of any work they shall perform in assisting to drain, and such value shall be added to the general cost of drainage.

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113 Whenever any sum of money or portion of any sum of money ordered to be paid in or by any decision or Order of a Commissioner under this Part of this Act, and whether such money was ordered to be paid at one time or in periodical payments, shall remain unsatisfied in whole or in part, and whether after previous executions or not, for Fourteen days or for a longer period, the Commissioner who shall have made such Order or any other Commissioner to whom a certified copy of the said Order shall be produced, shall, on the application of the owner of machinery claiming to be entitled to the moneys in such Order, or any attorney in his behalf, grant to the party so applying a certificate in such form as may be prescribed or to the like effect; and it shall be lawful for the party obtaining such certificate, or his attorney, to file such certificate with the Registrar of the Supreme Court, and thereupon execution may issue, and all such proceedings be had and taken to enforce payment of the moneys mentioned in such Order as upon a decree or Order of the Supreme Court. And in the event of any such decision or Order of the Commissioner imposing upon the owner of machinery any terms with regard to the efficient working of the machinery or otherwise, such terms may be enforced in the same manner as Orders by a Commissioner other than or besides Orders for the payment of money may be enforced under this Act; and it shall be lawful for the Commissioner to suspend the enforcement of so much of the Order as directs the payment of money to the owner of machinery until the terms in such Order imposed upon such owner of machinery have been carried out by him.

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Enforcement of
Commissioner's
Order.

114 Whenever and so soon as any Order of a Commissioner made under this part of this Act shall have been filed with the Registrar of the Supreme Court, the moneys directed in such Order to be paid shall, so long as any part thereof remains unpaid and unsatisfied, become and be a charge, subject to prior encumbrances, upon the estate or interest of the owner of the mine in the Crown Land or private lands occupied or used for mining purposes by the owner of the mine in respect of which the money mentioned in such Order is directed to be paid, and upon all plant and machinery thereon and all property of the owner of the mine in such land, plant, and machinery; and the Commissioner by whom such Order shall have been made, or any other Commissioner to whom a certified copy of such Order shall be produced, may by his order restrain the sale or other disposal or transfer of such interest in the land, plant, machinery, or property until such moneys have been paid; but this provision shall not be deemed in any way to lessen the right of seizure and sale of such land, plant, machinery, and property under any execution issued for the realization of the moneys ordered in such Commissioner's Order to be paid or contributed.

Certified Order to
be a charge on
property of mine-
owner.Commissioners
may restrain sale
of such property
until moneys paid.

115 The remedies provided in the two last preceding Sections shall be in addition to and not in derogation of any of the remedies given in or by any other Section of this Act, and shall not be construed to in any way lessen or take away any of the jurisdiction, power, or remedies created or given in or by such lastmentioned Section.

Remedies in this
division to be
cumulative.

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PART VIII.

DEPOSIT OF TAILINGS.

Governor in Council may set apart Crown lands for deposit of tailings.

116 The Governor in Council, at any time from time to time, and either by particular or general description, may set apart, by Proclamation, any portion of Crown Lands for the construction of tail-races or sludge-channels, or for the deposit of tailings and *débris* from any mine, workings, or mining operations, or for the discharge of water, tailings, and refuse therefrom.

Governor in Council may proclaim water-courses for receiving tailings, &c.

117 The Governor in Council, from time to time, by Proclamation published in the *Gazette*, may proclaim and declare that any water-course or part of any watercourse shall be a watercourse into which tailings, mining *débris*, and waste waters of every kind used in, upon, or discharged from any claim shall be suffered to flow or be discharged, and in like manner may withdraw any such watercourse from the operation of this Act.

Before any such Proclamation shall be made as herein provided, the Minister shall cause not less than Ninety days' notice of the fact that it is proposed to proclaim a watercourse or part of a watercourse for the purposes aforesaid to be published twice in the *Gazette* and at least twice in a newspaper circulating in the district where such watercourse or part thereof may be situated, stating the name and locality of such watercourse or part thereof; and any person whose rights may be or appear to be injuriously affected shall be at liberty to transmit to the Minister any objection such person may have to the making of such Proclamation.

If, notwithstanding any such objections, the Governor in Council shall decide to exercise the powers hereby conferred upon him, such Proclamation shall prescribe a day on which the same shall take effect.

"Watercourse" means and includes any river, stream, creek, pool, or any portion thereof, or any tributary thereof, mentioned or included in any such Proclamation, and whether within the limits of a proclaimed mining field or not; but in any such Proclamation it shall be sufficient to describe the watercourses affected by it in general terms.

Compensation to former land-owners on banks of water-courses.

118 From and after any such Proclamation taking effect, all persons being the owners of, or having any lesser estate or interest in the fee simple of any lands through, in, or past which any such watercourse may flow, whose rights may be injuriously affected by any such Proclamation shall be entitled to receive compensation for such injury, to be settled by agreement between the Minister and the claimants within the time hereinafter mentioned, or determined by arbitration in the mode hereinafter provided:—

Claims, how to be made.

1. Every claim for compensation under this Section shall be made within Twelve months after the date of such Proclamation, and shall include the claimant's full demand in respect of injury or damage to any land through, in, or past which any watercourse may flow occurring after the date of the publication in the *Gazette* of such Proclamation, and which may be likely to occur prospectively after it takes effect, and the Arbitrators may require any claim not made in conformity herewith to be amended; but every such

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demand shall be included in one claim, and heard and determined in the manner provided by this Act. A.D. 1900.

Nothing herein contained shall bar the right to compensation under the provisions of this Act of any person being on or previously to the date aforesaid owner of, or having any lesser estate or interest in the fee simple of any such land other than the person whose claim has been agreed upon or ascertained as aforesaid, and all persons claiming from, through, or under him.

- ii. Payment of compensation when agreed upon or ascertained under this Part of this Act, or an offer in writing to pay the same, shall effectually bar the person making such claim, and all persons claiming from, through, or under him, from all further claims of any kind whatsoever in respect of any such injury, or damage, past, present, or future, or arising in any manner from the operation of such Proclamation or any subsequent Proclamation of the same watercourse; and such compensation, when so agreed upon or ascertained, shall be deemed to be settled once for all against all claimants.
- iii. The compensation agreed to be paid, or that may be ascertained under this Part of this Act, for or in respect of any such claim, shall not exceed the value of the property to which such injury or damage has occurred, according to the valuation thereof in the Assessment Book in force for the time being under "The Assessment Act, 1900," or any Act amending the same, at the date when the Proclamation declaring the watercourse has been first published in the *Gazette*. 64 Vict. No. 4.
- iv. A notification in the *Gazette*, signed by the Minister, that any such claim has been settled by agreement or determined by arbitration, as provided by this Act, shall be sufficient notice of the fact to all persons concerned or interested, or that may thereafter be concerned or interested, in such land that no further claim or demand can be made in respect of the injury or damage thereto occasioned by the operation of any such Proclamation.
- v. If the Governor in Council shall consider the amount of compensation agreed upon or ascertained under this Part of this Act to be excessive, he may revoke any such Proclamation, and thereupon all costs and expenses of and incidental to any arbitration or award under this Part of this Act shall be payable by the Minister.
- vi. Regulations may be made by the Governor in Council in the manner provided by this Act prescribing the mode in which any award under this Part of this Act shall be recorded on any instrument of title or other document that may be in evidence before the Arbitrators, or be required to be produced for the purposes of such Arbitrators, such particulars of the claim heard and determined as the Arbitrators think fit, and also for requiring and compelling the production of such instruments or documents accordingly.
- vii. All charges and expenses incurred by the Minister in carrying out the provisions of this and the last preceding Section shall be paid out of the same fund as the compensation is paid.

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Purchasers of land on water-courses after this Act comes into operation, to acquire no riparian rights.

119 No person who, after the day on which this Act comes into operation, shall purchase, lease, occupy, or otherwise acquire any Crown lands within a Mining Field under any law for the time being in force regulating the sale or acquisition of such lands, shall be deemed—

- i. To have any right or title to any watercourse, or the water flowing therefrom, running, through, in, or upon such lands which would interfere with or prejudice the right of any holder of a Miner's Claim, or lease or claim to discharge into such watercourse any tailings, mining *débris*, or waste water produced or used in or upon any claim within a Mining Field.
- ii. To be entitled to claim or recover any compensation or other payment for damage caused by reason of the deposit or flow of tailings or mining *débris* into any such watercourse.

PART IX.

ASSOCIATION OF MINERALS.

Lands leased for mineral purposes may be entered upon for purpose of mining for gold, &c.
See Sect. 216.

120 Subject to the provisions of this Act any person may enter upon and occupy any land comprised in any lease to mine for minerals other than gold, for the purpose of prospecting or mining for gold; but no such occupation shall interfere with or obstruct the lessee in conducting mining operations under his lease.

If land leased for coal, &c., for mining purposes be found to contain any other mineral than that intended to be mined, land may be entered upon for the purpose of mining such other mineral.
See Sect. 216.

121 Subject to the provisions of this Act any person may enter upon and occupy any land comprised in any lease to mine for coal, shale, slate, freestone, or limestone for the purpose of prospecting and mining for any other mineral not authorised under such lease: Provided such occupation shall not interfere with the lessee in mining for coal, shale, slate, freestone, or limestone, as the case may be.

Where gold is associated with minerals.

122 Where gold is associated or combined with any mineral in any land held under any lease to mine such land for minerals other than gold, if the lessee of such land shall desire to mine for such gold, or should the nature of the mining operations be such as to lead to the removal of such gold, such lessee may make application to the Secretary for Mines for a licence to mine such land for gold, in addition to any other mineral which he may be authorised to mine; and if such lessee shall proceed to mine for such gold before he shall have obtained such licence, his lease to mine for other minerals shall be liable to be forfeited by the Governor in Council as for a breach of condition.

The rent reserved on any such licence shall be a sum not more than Fifteen Shillings per acre per annum, and shall be determined from time to time in the same way as the rent reserved in lease to mine for gold in combination with other minerals is fixed; and all the provisions in this Act and the Regulations relating to the determining of the amount to be paid as rent for any such lease shall extend and apply to any licence issued under this Section.

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- 123** Every person who shall have obtained a lease to mine for gold upon any land not subject to a lease to mine for other minerals shall be entitled to mine for any minerals found in the land included in such lease. A.D. 1900.
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Lessee for gold entitled to all minerals.
- 124** Every person who shall have obtained a lease to mine for any mineral, not being gold, coal, shale, slate, freestone, or limestone, upon any land not subject to a lease to mine for coal, shale, slate, freestone, or limestone shall be entitled to mine for any minerals, not being gold, found in the land included in such lease. Lessee for minerals other than gold, coal, &c., entitled to all minerals other than gold.
- 125** Any person who, having obtained a lease to mine for any mineral, shall proceed to mine for any mineral other than that which he has authority under his lease or the Act or the Regulations to mine, shall be liable to a forfeiture of his lease by the Governor in Council as for a breach of condition thereof. Penalty for mining mineral not authorised.

PART X.**TIMBER RIGHTS.**

- 126**—(1.) The holder of any mining lease shall be entitled, within One year after the date of such lease, to select and mark off in such manner as may be prescribed, such portion of the land held under any such mining lease as he may require as a timber reserve. Holder of Mining Lease to mark off Timber Reserve.
- (2.) Any such timber reserve shall not exceed in area one-half of the land held under any such mining lease, and shall be called the "Lessee's Timber Reserve," and the holder of such lease shall have the sole right to all or any of the timber whether live or dead on any such timber reserve as shall be required for working the mines comprised in such mining lease or for the domestic purposes of those engaged in working thereon, but subject to the rights of the Commissioner of Crown Lands and any person or company to take and use timber from Crown lands for any purpose authorised by Parliament.
- 127** Any person not duly authorised in that behalf who shall wilfully cut, destroy, or remove any timber on or from any lessee's timber reserve shall, upon conviction, be liable to a penalty not exceeding Five Pounds, together with the value of any damage done to such timber reserve. Penalty for cutting timber on Reserve.
- 128** It shall be lawful for the Commissioner of Crown Lands to grant to any person a licence to enter upon such portion of any land held under any mining lease as is not included in any lessee's timber reserve and to fell and remove any timber growing thereon; any such licence shall be subject to such terms and conditions as may be prescribed by "The Crown Lands Act, 1890," or any Regulations issued thereunder, or under this Act. Licences may be granted to cut timber on leased land not included in Reserve.
54 Vict. No. 8.

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PART XI.

MINING RESERVES.

Holder of lease
entitled to mining
reserve.

129—(1.) Every lessee shall be entitled to select and mark off such portion of the land demised, not being more than one-eighth of the whole area thereof, as he may require for a Lessee's Mining Reserve.

(2.) Such reserve may be in one or more areas, but no single area shall, except with the consent of a Commissioner, or where the circumstances of the case require it, be less than one acre in extent.

(3.) Where the area of the lease is less than eight acres the lessee shall be entitled to mark off an area of not more than one acre as a Lessee's Mining Reserve.

(4.) All such areas shall be marked off within one year after the date of this Act, or of the lease: Provided the Minister may, at any subsequent time, grant permission to any lessee to select and mark off such areas within such time as he thinks fit, and may also, where the lessee's mining operations require a reserve of a greater area than is hereinbefore provided for, grant permission to select and mark off such greater area as to the Minister seems necessary.

(5.) No land which is in the lawful occupation of any person may be included in any lessee's mining reserve.

(6.) All lessee's mining reserves shall be of such shape, and marked off and registered in such manner as may be prescribed.

Lessee to have
sole right to
surface of mining
reserve.

130 The lessee shall have the sole right to occupy the surface of any land within the boundaries of any such Lessee's Mining Reserve, and any person who enters thereon, or occupies any part thereof, shall, for every such entry or occupation, upon conviction before a Commissioner, forfeit and pay a penalty not exceeding Ten Pounds, and a further penalty not exceeding Five Pounds per day for every day during which such occupation continues.

PART XII.

MINING BOARDS.

Mining Boards.

131 In and for *Tasmania* there shall be a Mining Board consisting of Six members, as follows; that is to say,—

- I. The Minister of Mines for the time being:
- II. The Secretary for Mines:
- III. Four Commissioners, to be selected and appointed by the Minister.

Date for
appointment
of Commissioners.

132 In the month of *January* in every year the Minister shall appoint Four of the Commissioners to serve as members of such Board for the ensuing Twelve months; and such Commissioners shall hold office subject to the provisions of this Act till their successors are appointed; and in the event of any of such Commissioners dying, resigning, or otherwise allowing his seat to become vacant, the Minister may appoint a Commissioner to act as member in his place for the remainder of his term of office.

Resignation of
members.

133 Any member may, by writing under his hand sent to the Minister, resign his seat on such Board; and the same shall thereupon become vacant from the time of the receipt of such writing by the Minister.

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134 The Board may meet and exercise all or any of the powers and authorities vested in it, notwithstanding that any vacancy in its membership may be unfilled.

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Board may meet, notwithstanding vacancies.

135 The Minister shall be the Chairman of the Board ; and in the event of his absence from any meeting a Chairman shall be elected for that meeting by and from the members present thereat.

Chairman.

136 The Board shall meet at such times and places as may be prescribed or as the Minister shall from time to time determine. Any Three of the members shall form a quorum at any meeting of the Board.

Meetings.

137 All questions before the Board shall be determined by the majority of votes of the members present ; and, in case of an equality in number of votes, the motion shall be lost.

Voting.

138 The Board shall entertain, hear, and determine, in such manner as may be prescribed, any question, whether of law or fact, arising on any appeal from the recommendation of a Commissioner for the forfeiture or refusal of forfeiture, or otherwise, of any lease or licence, and shall affirm, reverse, or amend the decision of the Commissioner, or make such other order in relation to the matter, and as to the costs and expenses of the appeal and the procedure before the Commissioner, as to the Board may seem fit.

Board to entertain appeals from Commissioner.

139 The decision of the Board thereon shall be final and conclusive, and binding upon all parties, and the Governor in Council, subject to the right of appeal to the Supreme Court on questions of law only, in the same manner as hereinafter provided with respect to appeals from a decision of a Commissioner.

Decision final, subject to appeal.

140 The Board shall have following powers and duties :—

Powers of Board.

- i. Of making By-laws for the proper conduct of its business :
- ii. Of from time to time fixing and determining the amount of rent to be paid in any year or years of the term of his lease or licence by any lessee or licensee of a lease or licence to mine for gold in combination or association with any other minerals ; and the Board may, from time to time, increase or reduce the rent reserved in any such lease or licence for such term as the Board thinks fit, so that such increased or reduced rent shall not at any time exceed the limits hereinbefore provided :
- iii. Of granting from time to time to any lessee an order exempting him from the operation of the provisions of his lease with regard to employment of labour or expenditure of money for such term as to the Board shall seem fit, not exceeding a longer continuous period than One year. Such exemption may be in addition to any exemption to which the lessee may be entitled under the provisions of this Act, or which may be granted to him by a Commissioner :
- iv. Of from time to time advising and recommending to the Minister the making, repealing, or altering of regulations :

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- v. Of acting on all matters that may be referred to the Board by the regulations :
- vi. Of advising and reporting to the Minister on all matters referred by him to the Board :
- vii. And, generally, of advising the Minister as to any matters whatsoever connected with mining.

Expenses.

141 The reasonable travelling expenses of each member of the Board in going to, attending at, and returning from duly authorised Meetings of the Mining Board, shall be from to time paid to him out of the Consolidated Revenue Fund of the Colony on the Warrant of the Governor in Council.

PART XIII.

ADMINISTRATION OF JUSTICE.

Powers of Commissioners.

142—(1.) Every Commissioner shall have power and authority—

- i. To hear and determine in a summary manner any objection to an application for a Lease or a Water Right or Mining Easement or any other right ; to uphold any such application and dismiss any objection thereto, or to uphold any objection to any such application, and to reject such application, or in his discretion to impose a penalty not exceeding Ten Pounds on the applicant, and in default of payment of such penalty within such period as may be ordered, to reject such application, and to make such order in reference to any application as under this Act and the Regulations the circumstances of the case shall require ; and
- ii. To perform any other duty or act which he may be authorised or required to perform by this Act or as prescribed.

(2.) The determination of a Commissioner shall be binding and conclusive on all parties, and upon the Minister, subject to the right of appeal herein mentioned.

Jurisdiction of Commissioner.

143 A Commissioner shall have jurisdiction to hear and determine all actions, suits, and other proceedings cognisable by Courts of civil or criminal jurisdiction concerning the following matters ; that is to say—

- i. Area, dimensions, and boundaries of claims, and other rights :
- ii. Forfeiture of claims or of surplus ground :
- iii. Title to and ownership or possession of claims and other rights and the products of mining operations :
- iv. Questions or disputes relating to water or Water Rights :
- v. Mining partnerships, the formation and dissolution thereof, the taking of accounts connected therewith, the contributions of the partners as between themselves, and the determination of all questions arising between the partners, provided the amount payable to any one partner does not exceed Two hundred Pounds :
- vi. As to contribution between joint lessees or persons holding shares in any lease towards the rent of or expenses of prospecting or mining the demised land, provided the value or interest in any such lease of any person against whom statement of claim is filed does not exceed Two hundred Pounds :

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vii. Encroachment or trespass upon or injury to any claim or right : A.D. 1900.

viii. Such breaches of this Act or the Regulations made thereunder, and all questions and disputes as are referred to a Commissioner for determination :

ix. The improper or unauthorised removal of minerals from any claim where the minerals removed do not exceed in value One hundred Pounds.

144 All offences against this Act, or the Regulations made hereunder, and all penalties imposed for any breach thereof (not being a penalty in lieu of the forfeiture of a lease) shall be heard, determined, and recovered in a summary way before a Commissioner according to the provisions of *The Magistrates Summary Procedure Act*, which provisions (other than those relating to appeals) shall, *mutatis mutandis*, apply in like manner, as if the Commissioner were a Justice of the Peace acting under the authority of that Act. Offences against this Act.

145 Every person charged with an offence against this Act shall be a competent witness on his own behalf at the hearing of such charge, and whether the person so charged is charged solely or jointly with another or others. Person charged competent but not compellable witness.

No person so charged shall be compellable to be a witness on any such hearing.

146 Whenever any claim shall be in dispute between any two or more persons, or any question shall arise as to any right, title, or interest to or in any claim, it shall be lawful for a 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. Commissioner may prohibit mining until case heard and determined.

147 Upon the hearing of any dispute or complaint or any other matter brought before a Commissioner which he is by this Act authorised to hear and determine, save and except complaints and informations for matters which are declared to be an offence against this Act, the Commissioner may, of his own accord, or shall at the request of either of the parties thereto, select two persons from amongst those who are present and willing to act as Assessors, or may summon any number of persons not exceeding four, 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; and before any such person acts as such Assessor the Commissioner shall, and he is hereby authorised to administer to such persons an oath to the effect that such person will well and truly inquire into the dispute or question 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. When dispute arises Commissioner may select Assessors to decide same.

148 If any person 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 upon proof that such person was duly summoned, or upon such person refusing to be sworn, shall, unless some Penalty for non-attendance as Assessors.

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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 in the mode prescribed by *The Magistrates Summary Procedure Act*; and every person who attends in obedience to any such summons and acts as such Assessor shall be entitled to receive any sum which the Commissioner may order, not exceeding Two Pounds for each day or part of a day which such Assessor shall attend, and the amount so paid to any such Assessor, or any part thereof, shall be paid by such of the parties as the Commissioner may determine and order to pay the same, and the sum so ordered shall be deemed to be costs in the proceedings.

Rules of
Procedure.

149—(1.) Every action, suit, or other proceeding before a Commissioner, not in the nature of a criminal prosecution, shall be commenced by a statement of claim in the form of a plaint under “The Local Courts Act, 1896,” and shall be signed by or on behalf of the plaintiff.

(2.) The plaintiff shall deposit such statement of claim, together with a summons, stating the substance of the action, and as many copies thereof as there are defendants, with the Commissioner, who shall thereupon sign and issue such summons for service.

(3.) The summons shall be served at least Ten days before the return day thereof.

(4.) Where a defendant intends to rely on any ground of defence, he shall, within Five days after the service of the summons upon him, deliver notice of such defence, stating the grounds thereof, to the Commissioner, together with as many copies thereof as there are plaintiffs, and the Commissioner shall deliver a copy to each of the plaintiffs.

(5.) All facts, save statements as to amount of damage alleged in a statement of claim which are not denied or disputed by a notice of defence, shall be taken, as against the defendant failing to deny or dispute them, to be true, and upon the hearing of the statement of claim the plaintiff shall not be required to adduce evidence in support thereof: Provided a Commissioner may at any time stay further proceedings, or set aside any Order and give leave to defend on such terms as he deems just.

(6.) If the defendant does not appear on the return day of the summons, and it is proved to the satisfaction of the Commissioner that the summons was duly served, the Commissioner may proceed to hear the action *ex parte*, and to adjudicate thereon as fully and effectually as if the defendant had appeared.

Procedure and
trial.

150 With respect to all proceedings before a Commissioner under this Act or the Regulations, the following provisions shall apply:—

- I. The Commissioner may administer an oath:
- II. Every witness shall be examined on oath:
- III. If any person, being duly summoned to attend as witness, fails to duly attend at the time and place named in the summons, or departs without the leave of the Commissioner, or refuses to be sworn or to answer any lawful question put to him, the Commissioner may forthwith inflict on him any penalty not exceeding Five Pounds, unless reasonable cause for such failure or refusal is made to appear to the Commissioner:

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- iv. The trial may be adjourned by the Commissioner from time to time in such manner and on such terms as to costs or otherwise as the Commissioner thinks fit : A.D. 1900.
- v. The cost of all proceedings before a Commissioner shall be in his discretion, and he shall fix them.

151 The Commissioner may, at any stage of the proceedings, on such terms as he thinks fit, exercise any of the following powers :— Powers of Commissioner.

- i. Order any person having the possession, custody, or control of any mineral or other chattels, to deposit the same with such person within such time and in such place as may be named in the Order, there to abide the further Order of the Commissioner :
- ii. Cause such minerals or chattels to be valued :
- iii. Order such minerals or chattels to be delivered up to or be ratably apportioned amongst the persons found to be entitled thereto :
- iv. Order such chattels, or a sufficient part thereof, belonging to any party against whom an Order has been made by the Commissioner for the payment of money by any other party, to be delivered to such other party in or towards satisfaction of such Order :
- v. Order the sale in such manner and upon such terms as the Commissioner thinks fit, of any minerals or chattels :
- vi. If default be made in duly complying with any such Order, the Commissioner may cause the minerals and chattels to be seized and held by any bailiff or constable until further order :
- vii. Order and compel operations on any claim to be suspended until the further order of the Commissioner, or allow them to be carried on under the direction and control of some person approved by the Commissioner :
- viii. Order a survey, plan, or measurement of any claim or any part thereof to be made by any person :
- ix. Order, on such terms and in such manner as he thinks fit, the dissolution of a mining partnership, the taking of accounts between the members thereof, the payment of amounts found to be due by any partner to any other partners, the sale of the partnership property, and disposal of the proceeds thereof :
- x. Take accounts between joint lessees to determine the contributions to be made by one of two or more joint lessees to the other or others of them towards the rent payable under the lease, or the cost of prospecting and mining operations on the land demised, and compel payment thereof :

152 In all matters within his jurisdiction, the Commissioner shall have power to award damages, appoint receivers, grant prohibitions, and injunctions ; add, join, substitute, or strike out parties ; amend defects and errors in proceedings, impose penalties, cause sales of leases, rights, claims, and chattels, the subject matter of any proceeding ; cause minerals or other chattels to be restored to any person or place whence Powers of Commissioner.

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they have been improperly or unlawfully taken or removed, or to be deposited for safe custody, or to be summarily seized; summon witnesses, award costs, and generally make such Orders as to such Commissioner seems proper.
- Judgment to be carried out and enforced. **153** Every judgment, decision, or Order of a Commissioner, in proceedings other than criminal prosecutions, shall be carried out and enforced in like manner in all respects as if it had been given or made in proceedings before a Commissioner under "The Local Courts Act, 1896," or was a judgment of a Court held under that Act.
- Service of summons, &c. **154** Every Summons, Warrant, Order, or other process signed by a Commissioner, may be served or executed by any constable or other person to whom it is directed.
- Additional powers of Commissioner. **155** For the purpose of enabling a Commissioner to more effectually exercise the jurisdiction and powers conferred upon him by this Act or the Regulations, and to enforce obedience to his orders and punish disobedience thereof, it is hereby declared that, in so far as no sufficient provision in that behalf is elsewhere contained in this Act, a Commissioner shall be deemed to have and may exercise all the powers vested in a Commissioner of a Court appointed under "The Local Courts Act, 1896."
- Mode of service of summons. **156** Service of any Summons, Order, or other process shall be effected by delivering a copy thereof to the person intended to be affected thereby personally, or, if he cannot conveniently be found, by leaving such copy at his usual place of business or abode in *Tasmania* with some inmate thereof appearing to be above the age of Sixteen years, or in the case of any incorporated company, in the manner prescribed by law for the service of process on such company. If service cannot be effected in any of the ways hereinbefore provided, or if the person on whom service is to be effected is supposed to be out of *Tasmania*, the Commissioner may direct the service to be effected within such time and in such manner as he may think fit.
- Time and mode of service to be certified to. **157** The persons serving any Summons, Order, Notice, or other process shall, by affidavit, certify the time and mode of service.
- Commissioner may impose a penalty for disobedience of order. **158** It shall be lawful for any Commissioner to impose a penalty not exceeding Fifty Pounds upon any person who neglects or refuses to comply with any notice or to obey any decision or order lawfully given or made under this Act or any Regulations made hereunder (such neglect, refusal, or disobedience not being punishable or enforceable in any other way), and a further penalty not exceeding Five Pounds for every day during which such neglect, refusal, or disobedience continues; and the payment of any such penalty may be enforced in the same manner as costs and expenses ordered to be paid by a Commissioner under this Act; and the whole or any part of such penalty may, in the discretion of the Commissioner, after deducting the costs, be applied towards indemnifying the party injured by such neglect, refusal, or disobedience.
- Agreement to bar appeal. **159** 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

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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.

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160 In any proceedings brought before a Commissioner under this Act or the Regulations made hereunder, the mode of appeal from the decision of such Commissioner shall be regulated in the manner hereinafter provided.

Mode of appeal.

161 In any proceedings brought before a Commissioner under and by virtue of the provisions of this Act, or under and by virtue of any regulations made hereunder, the evidence given by each person sworn and examined as a witness shall, at the request of any person interested in the proceedings, be put into writing at the time of the examination of the witness, and such deposition shall be read over to the witness, and shall be signed by the witness and by the Commissioner, and all such depositions shall be preserved by the Commissioner; provided that such request may be made at any stage of the proceedings, but if made after the commencement thereof shall only have reference to the evidence of the witnesses who have not been examined at the time such request is made; and all parties interested therein shall be entitled to demand from the Commissioner and have from him certified copies of such depositions, on payment for the same at the rate of Four Pence for each folio of Seventy-two words.

Evidence of witnesses to be put into writing.

162 In any proceedings brought before a Commissioner, such Commissioner may, without any application by either of the parties thereto, 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 him to the Clerk of the Supreme Court, together with the notes, if any, taken by the Commissioner, and all depositions and documents taken or produced at the proceedings to which the special case relates, 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.

163 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.

Case may be sent back for amendment.

164 Either party to any such proceedings as aforesaid may, at any time within Ten days after the Commissioner has given his decision thereon, appeal to the Supreme Court against the decision of the Commissioner, in the manner hereinafter provided.

Power to appeal against decision of Commissioner.

165 Every appeal to the Supreme Court against any decision of a Commissioner shall be made by a notice of appeal, in writing, delivered to the Commissioner whose decision is appealed against, and signed by the appellant, or his attorney, or agent, and such notice of appeal shall state the grounds on which the appeal is made, and a copy of every such notice shall be delivered by the appellant to the other party to the proceedings; and the appellant, or his attorney, or agent, shall at the same time lodge with the Commissioner the sum of Twenty Pounds, and such sum shall be available for the payment or part payment, as the case may be, of any costs which the Supreme Court may order the appellant to pay.

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Commissioner
to transmit
depositions, &c.,
to Supreme
Court.

166—(1.) Within Seven days after the receipt of any such notice of appeal as aforesaid by the Commissioner to whom the same is addressed, such Commissioner shall forward the same to the Clerk or the Supreme Court, together with the Twenty Pounds deposited with the notice of appeal and the notes taken by the Commissioner, and all the depositions taken at the hearing upon the proceedings in respect of which the decision appealed against was given, and also all documents produced at such hearing.

(2.) The Clerk of the Supreme Court shall, within One month after the receipt of any such notice of appeal, cause the appeal to be duly set down for argument before the said Court, and shall, Fourteen days before the day upon which such argument shall be heard, give notice thereof to the appellant and respondent, or to their attorneys.

(3.) Any appeal of which notice has been given before this Act comes into operation shall be set down by the Clerk of the Supreme Court for argument before the said Court within One month after this Act comes into operation, and the Clerk of the Supreme Court shall, Fourteen days before the day upon which such argument shall be heard, give notice thereof to the appellant and respondent, or to their attorneys.

Depositions, &c.,
may be used upon
hearing Appeal.

167 Upon the argument upon any special case, and upon the hearing of any appeal, the notes, if any, taken by the Commissioner, and the depositions and documents taken or produced at the proceedings before the Commissioner to which the special case or the appeal relate, or copies thereof certified by the Commissioner, may be used by the Court or any party to such special case or appeal for the purposes of such special case or appeal.

Supreme Court to
determine the
question on the
appeal or case.

168 The Supreme Court shall hear and determine any questions, whether of law or fact, arising upon any such appeal, or upon any case transmitted to it under this Part of this Act, and shall thereupon reverse, affirm, or amend the decision in respect of which the notice of appeal has been given, or 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 and expenses, and as to the disposal of the sum of Twenty Pounds deposited by the appellant with his notice of appeal, as to the Court may seem fit.

Appeal may be
dismissed for
want of
prosecution.

169 If the appellant or his attorney shall fail to attend and prosecute any appeal duly set down for argument on the day appointed to hear such appeal, or upon any adjournment thereof, the Court may order such appeal to be dismissed for want of prosecution, and may make such order as to costs and expenses, and as to the disposal of the sum of Twenty Pounds deposited by the appellant with his notice of appeal, as to the Court may seem fit.

In case of an
appeal an
injunction, &c.
and stay of
proceedings may
be had.

170 Whenever any such notice of appeal as aforesaid has been given, or such case has been stated, it shall be lawful for the Commissioner to whom the same is addressed, on the application of any of the parties interested in the appeal, 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 notice of appeal shall operate as a stay of proceedings.

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

171 The authority and jurisdiction vested in the Supreme Court under this Act may, subject to any Rules and Orders of such Court in

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relation thereto, be exercised by a Judge of such Court sitting in Chambers, and as well in vacation as in Term Time; and any Order made by such Judge sitting in Chambers shall be deemed to be and shall have the same effect as an Order of the Supreme Court, without either parties moving to have such Order made a Rule of Court.

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172 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*.

Judges to make Rules.

Until Rules and Orders are made under this Act the General Rules and Orders of the Supreme Court made under "The Magistrates Stated Cases Act, 1860," shall, so far as the same can be applied, be applicable to all proceedings under this Act.

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173 It shall be lawful for any shareholder in any unregistered mining association, or for the manager of any registered mining company, or for any person interested, in the event of any dispute arising as to any lease of a Mineral Section held in the name of any person, whether a shareholder in such association or company or not, under circumstances which render it probable that such person as aforesaid holds such lease upon trust for such association or company, or person interested, and in the event of any such person as aforesaid declining or neglecting to transfer such lease to such association or company, or person interested, to apply by summons to a Judge of the Supreme Court in Chambers for an Order declaring such person as aforesaid a trustee of such lease, and directing him to execute a transfer thereof; and it shall be lawful for the Judge to inquire into the circumstances, and, if it shall seem just so to do, to make any Order in the terms of the summons and as to cost as shall seem just.

Power to have person declared Trustee of a Lease by order of Judge of Supreme Court in Chambers.

174 Any summons as mentioned in the preceding Section shall be served Seven clear days before the return day thereof upon the person holding such lease. Evidence may be given orally or by affidavit, and any witness may be summoned to give evidence, and any deponent may be summoned for cross-examination in the manner provided by the Fiftieth Section of "The Equity Procedure Act" Either party dissatisfied with the decision of the Judge in Chambers may appeal to the Supreme Court in its Equity jurisdiction, and it shall be lawful for such Court to make any such Order as shall be just; but no appeal shall be entertained except in conformity to the Rules of Court relating to appeals made and provided under "The Bankruptcy Act, 1870."

Proceedings upon summons.

Appeal.

PART XIV.**ARBITRATIONS.**

175 Where in this Act, or the Regulations, any matter or thing is required to be settled by arbitration, the following provisions shall have effect:—

Arbitrations.

- i. Where a person desires to proceed to the settlement of an amount to be paid as compensation, or, of any dispute,

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- matter, or thing by means of arbitration, he shall give notice thereof to the other party to such arbitration, and every such notice shall state the particulars of the claim of the person desiring arbitration with reference to the arbitration, or the particulars of the land required to be taken :
- ii. If the parties to the arbitration do not within Twenty-one days after service of such notice agree as to the amount of compensation to be paid by the one party to the other, or as to the acts, matters, or things to be done by either party, the parties to the arbitration may agree upon a single arbitrator to settle the matters in difference between them; but if within Ten days they do not agree in the appointment of a single arbitrator, each of them shall, within Fourteen days, appoint an arbitrator by writing under his hand :
 - iii. No person shall act as arbitrator or umpire under this Act who is employed in or in the management of or is interested in the mine or land to which the arbitration relates :
 - iv. The appointment of an arbitrator under this Section shall be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and shall not be revoked without the consent of such other party :
 - v. If within the said Fourteen days either of the parties fail to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference, and in such case the award of the single arbitrator shall be final, subject to the right of appeal hereinafter mentioned :
 - vi. If before an award has been made any arbitrator appointed by either party dies or becomes incapable to act, or for Fourteen days refuses or neglects to act, the party by whom such arbitrator was appointed may appoint some other person to act in his place ; and if he fails to do so within Fourteen days after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matters in difference, and in such case the award of such single arbitrator shall be final, subject to the right of appeal hereinafter mentioned :
 - vii. In either of the foregoing cases where an arbitrator is empowered to act singly upon one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded to the arbitration, appoint an arbitrator, who shall then act as if no failure had been made :
 - viii. If the arbitrators fail to make their award within Twenty-one days after the day on which the last of them was appointed or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire :
 - ix. If the umpire dies or becomes incapable to act before he has made his award, or refuses or neglects to make his award within One month after the original or extended time for making the award of the arbitrators has expired, the persons or person who appointed such umpire shall forthwith appoint another umpire in his place :

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- x. If the arbitrators fail or refuse, or for Seven days after the request of either party neglect to appoint an umpire, then on the application of either party an umpire shall be appointed by any Two Justices of the Peace : A.D. 1900.
- xI. The decision of every umpire on the matters referred to him shall be final, subject to the right of appeal hereinafter mentioned :
- xII. If a single arbitrator fails to make his award within Three months after the day on which he was appointed, the matters referred to him shall be determined by arbitration under these provisions in the same manner as if such arbitrator had not been appointed :
- xIII. The arbitrators and their umpire, or any of them may summon and examine the parties and such witnesses as may be deemed necessary, and for the purposes of such examination may administer an oath to such parties or witnesses ; they may also consult any counsel, engineer, or scientific person whom they think it expedient to consult :
- xIV. The payment, if any, to be made to any arbitrator or umpire for his services shall be fixed by the arbitrators or umpires, as the case may be, and, together with the costs of the arbitration and award, shall be paid by the parties or one of them as the award may direct. Such costs may be taxed by the Taxing Officer of the Supreme Court, who, on the written application of either of the parties, shall ascertain and certify the proper amount of such costs. The amount, if any, payable by the arbitrators or umpire shall be paid out of the Consolidated Revenue Fund. The amount, if any, payable by the owner may, in the event of non-payment, be recovered in the same manner as penalties under this Act.

176 Where the amount of compensation awarded to be paid by any person for the occupation or taking of land is deemed by him to be excessive, he may, within Twenty-one days after notice of the amount of compensation awarded, and on payment of all the costs of reference and award, repudiate the award, and thenceforward he shall not be bound by such award. Award may be repudiated.

177 If either party to any arbitration under this Part of this Act is dissatisfied with the award of the arbitrators or the umpire appointed to determine the amount of compensation, the dissatisfied party, when the amount of compensation awarded by the arbitrators or the umpire exceeds One hundred Pounds, may appeal from the award of the arbitrators or the umpire, as the case may be, to a Judge of the Supreme Court, and may have the amount of compensation fixed by a Judge of the said Court; in the manner hereinafter provided. Dissatisfied party may appeal to a Judge of the Supreme Court

178 If the dissatisfied party desires to appeal from the award of the arbitrators or umpire as aforesaid, he shall, within Fourteen days after the delivery to him of such award or a copy thereof, give notice in writing to the other party of his intention to appeal, and shall, within One month after the service of such notice upon the opposite party, prosecute such appeal in accordance with such Rules as may be made by the Judges of the Supreme Court; and the amount of compensation to be paid Procedure upon appeal.

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in such case shall be ascertained by a Judge of the Supreme Court in such manner as he deems advisable, and subject to such conditions as such Judge sees fit to impose, and the Judge may also, in his discretion, make any Order as to the person by whom the costs of the appeal shall be borne:

Provided that a Judge of the Supreme Court may, upon what he shall deem sufficient cause, allow an appeal under this Part of this Act to be prosecuted after the expiration of the time hereinbefore allowed for that purpose; but no appeal shall be allowed after the expiration of Three months after the service of notice of intention to appeal.

Award not to be made a Rule of Court until Judge determines matter in dispute.

179 Where the dissatisfied party gives such notice of appeal as aforesaid, then the award given by the arbitrators or the umpire shall not be made a Rule of Court until a Judge of the Supreme Court, by an Order in writing under his hand, determines the matter in dispute, or the time hereinbefore allowed for prosecuting the appeal has expired.

Judges may make Rules.

180 It shall be lawful for the Judges of the Supreme Court to frame and make Rules determining the nature of the proceedings which shall be taken for carrying out any appeal to a Judge of such Court under this Part of this Act, but such Rules shall have no force or effect until the same are published in the *Gazette*.

Certain land not to be available under this Act.

181 Notwithstanding anything hereinbefore contained, no land upon which any dwelling-house or the outbuildings used therewith, or any factory or substantial building of any kind is erected, or which constitutes the yard or curtilage or ornamental or other garden attached to any dwelling-house or homestead, or which is required for the proper working of any factory, or which is not distant more than One hundred yards from any dwelling-house or homestead, or which is any road, shall be available under this part of this Act for any of the purposes aforesaid, and no such land shall be affected by service on the owner or occupier thereof of any such notice as aforesaid.

PART XV.

CAVEATS.

Caveats may be entered.

182 Any person claiming any interest under any application or lease or licence, or the attorney of such person, may lodge a Caveat with the Secretary for Mines forbidding him to register any assignment, transfer, or any other dealing with the application or lease or licence; and every Caveat shall give particulars of the interest claimed by the person on whose behalf it is lodged.

Secretary for Mines to notify lessee, and caveator to proceed in a summary way.

183 The Secretary for Mines, on receipt of such Caveat, shall notify the same to the applicant or lessee, and shall suspend the registration of any assignment, transfer, or other dealing with the application or lease until such Caveat shall have been withdrawn, or shall have lapsed, as hereinafter provided, or until a decision shall have been

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obtained from the Supreme Court on the matter, which decision shall be obtained in a summary manner by the issue of a summons out of the Supreme Court in its Common Law jurisdiction, to be heard and determined by a Judge sitting in Chambers, unless such Judge shall, on the hearing of the summons, direct that a suit shall be instituted or other proceedings taken in the Supreme Court to more effectually determine the question at issue. A.D. 1900.

184 After the expiration of One month from the receipt thereof such Caveat shall be deemed to have lapsed, unless the person on whose behalf the same was lodged shall within that time have taken proceedings in the Supreme Court, as hereinbefore provided, to establish his title to the interest therein specified, and shall have given written notice thereof to the Secretary for Mines, and shall prosecute such proceedings to a successful end, or shall have obtained from the Supreme Court an Order restraining the Secretary for Mines from registering such assignment, transfer, or other dealing. Procedure on caveats.

PART XVI.

REGULATIONS.

185 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:— Governor in Council may make Regulations. See also Sect. 80.

- I. Prescribing the form of any licence authorised to be issued by this Act, and the mode of issuing the same, the persons by whom the same shall be issued :
- II. Prescribing the area and the shape of miners' claims, the manner in which they shall be taken possession of, the terms and conditions on which they shall be allowed, held, registered, transferred, or otherwise dealt with, and the depth to which they may be mined, and the events in which they shall be forfeited :
- III. Prescribing the manner in which applications for Leases, Water Rights, Mining Easements, and other Rights shall be marked off, made, entertained, registered, transferred, and dealt with, and the manner in which objections to such applications shall be made and investigated :
- IV. Prescribing the shape and position of claims, and defining the privileges of claimholders :
- V. Prescribing the form of Caveat authorised under this Act, the manner in which it shall be filed, recorded, and otherwise dealt with :
- VI. Prescribing the manner in which Leases, Water Rights, Mining Easements, and other Rights may be amalgamated or surrendered :
- VII. Prescribing the form of any Lease or Licence for a Mining Easement authorised to be granted under this Act, and the exceptions, reservations, covenants, and conditions that shall be contained therein :

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- viii. Fixing the amount of the fees to be paid upon the applications for claims, for the registration, amalgamation, and transfer of claims or applications for claims in connection with the payment or refunding of fees and rents, and for other matters required to be done under this Act or the Regulations made hereunder :
- ix. Fixing the amount and time for payment of rent, or scale of payment to be paid for Water Rights and Mining Easements, the conditions which they shall be subject to, and the events in which they shall be liable to forfeiture :
- x. Prescribing the forms which shall be used in carrying out the provisions of this Act and the Regulations made hereunder :
- xi. Regulating the occupation of Crown land as sites for the erection of machinery, and for Water Rights :
- xii. Regulating the taking, diverting, using, and returning of surplus water for mining purposes, and the payment to be made therefor :
- xiii. Regulating the cutting, construction, deviation, use, and maintenance of roads, tramroads, races, dams, sluice-heads, and reservoirs, tail-races, drains, sludge-channels, tunnels, and other easements :
- xiv. 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 :
- xv. Preventing the accumulation of, and for the removal to some convenient place, of sludge, tailings, and other mining refuse, and for preventing any damage to any mining works by the escape or overflow of water from any mine :
- xvi. The protection from injury and the destruction of roads, tramroads, races, drains, dams, and reservoirs, and other mining works :
- xvii. Regulating the mode of construction, and materials and strength of embankments of dams, reservoirs, and other mining works :
- xviii. The construction and keeping in repair of suitable bridges or other crossing where required :
- xix. Prescribing the circumstances under, and the conditions upon which Protection Orders shall be issued, the form of such Orders, and the mode in which they shall be issued :
- xx. The area of prospecting claims ; the manner in which such claims shall be taken possession of ; and the terms and conditions upon which they shall be held, registered, transferred, or otherwise dealt with ; and the events in which they shall be liable to forfeiture :
- xxi. The events in which leases at a peppercorn rent may be granted to any person as a reward for the discovery of minerals :
- xxii. Regulating the manner in which applications for forfeiture shall be entertained and dealt with :

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- xxiii. Fixing from time to time the times and places at which the Mining Board shall meet and conduct business, and the travelling expenses that shall be payable to the Members of such Board : A.D. 1900.
- xxiv. Regulating the conduct of appeals to the Mining Board, as authorised by this Act :
- xxv. Regulating the manner in which the Mining Board shall perform the powers and duties vested in it by this Act :
- xxvi. Prescribing the circumstances, conditions, and limits under which the Mining Board shall exercise the powers and authorities vested in it under this Act :
- xxvii. Preventing nuisances, and providing for sanitation in and about any mine or claim :
- xxviii. Prescribing precautions to be used for the prevention of lead poisoning, or the evil effects of noxious gases, fumes, or particles of matter in or about any mine or claim :
- xxix. Prescribing a code of signals to be used in all mines in *Tasmania*, or in such mines as may be directed :
- xxx. The area of the claim to which any person shall be entitled to as a reward for the discovery of Minerals; the manner in which such claims shall be taken possession of; and the terms and conditions upon which they shall be held, registered, amalgamated, transferred, or otherwise dealt with; and the events in which they shall be liable to forfeiture :
- xxxi. Regulating the control and maintenance of any watercourse which has been proclaimed a watercourse for receiving tailings, mining *débris*, and waste waters under Part VIII. of this Act, and for prescribing the charges to be paid by any persons using any such watercourse for such purposes :
- xxxii. Prescribing the shape of lessees' timber reserves and lessees' mining reserves; the manner and mode in which the same shall be selected and marked off, and the time and manner in which they shall be registered, and the conditions on which they shall be held :
- xxxiii. Regulating the practice and procedure before the Mining Board or a Commissioner :
- xxxiv. Defining the duties and powers of the Mining Board, or of Commissioners and Registrars :

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 Twenty Pounds as may be prescribed.

186 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 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: Provided that Parliament may, by resolution, disallow such regulations or any part thereof.

Regulations to be published in *Gazette*; and laid before Parliament.

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PART XVII.

GENERAL PROVISIONS.

(1.) *Notices, &c.*

Delivery of
notices.
See Sect. 52.

187 Where by this Act or the Regulations made hereunder any notice is required to be given to any person, the same shall be written or printed or partly written and partly printed and, save as hereinbefore provided, may be given either by delivering the same personally, or by leaving the same at the usual place of abode or business in *Tasmania* of such person, or by posting the same in a prepaid envelope to such place of abode or business; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post. Any notice required to be given or sent to an Inspector of Mines may be given or sent to the Inspector residing nearest to the mine to which such notice relates.

If it is proved to the satisfaction of a Commissioner that such person has never resided in *Tasmania*, or that the place of abode or business of such person cannot be ascertained, a copy of any such notice shall be inserted in Three consecutive numbers of the *Gazette*, and thereupon such notice shall be deemed and taken to have been duly served on such person.

The signature of the Minister shall be a sufficient signature to any notice required to be given by or on behalf of the Queen or the Governor in Council by virtue of the provisions of this Act.

Interest of lessee
may be seized
and sold.

188 The interest of the holder of any claim held by him under this or any former 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 of the Peace or by a Commissioner.

Interest of bank-
rupt lessee to
pass to trustee.
34 Vict. No. 32.

189 If the holder of any claim becomes bankrupt, or if the affairs of the holder of any claim are to be liquidated by arrangement with his creditors under "The Bankruptcy Act, 1870," his interest in any claim held by him under this or any former Act shall pass to his trustee under the said Act, upon such trustee producing to the Minister the order adjudging such lessee a bankrupt, and the resolution of the creditors appointing such person to be a trustee, or the special resolution appointing such person to be trustee under such liquidation.

(2.) *Unlawful Mining.*

Minerals, &c.,
unlawfully
removed from
Crown land may
be seized and
forfeited.

190—(1.) It shall be lawful for any bailiff of Crown lands or any constable to seize and detain any mineral which has been unlawfully removed, or which he has good cause to suspect to have been unlawfully removed from any Crown lands or any Crown reserve; and it shall be lawful for any such bailiff or constable, or any person authorised in writing by the Minister or a Commissioner, to seize and detain any mineral which has been unlawfully removed, or which the Minister or such Commissioner has good cause to suspect to have been unlawfully removed from any Crown lands or any Crown reserve; and any mineral seized as aforesaid shall be forfeited to Her Majesty upon proof to the satisfaction of a Commissioner that

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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. A. D. 1900.

(2.) In the event of the Commissioner deciding that such seizure was not lawfully made, then such Commissioner shall be empowered to grant compensation, to be paid out of the Consolidated Revenue Fund, to such person from whom the mineral was seized or taken, such compensation not to exceed the sum of Fifty Pounds.

191 If any person without lawful authority removes from any Crown land or any Crown reserve any minerals, except as specimens or for purposes of assay, he shall be liable to a penalty not exceeding Fifty Pounds; and in any proceedings taken against any person hereunder proof that such person was duly authorised, or that such mineral was a specimen or for purposes of assay, shall lie upon him. Unlicensed persons removing minerals, &c., liable to penalty.

(3.) Offences. Penalties.

192 Any person who commits any of the following offences; that is to say— Penalty for certain offences.

- i. 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; or
 - ii. Insults, assaults, obstructs, or resists any other person in the performance of his duty or in the exercise of his powers under this Act; or
 - iii. 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; or
 - iv. Assaults, or threatens to assault, upon or in consequence of any decision by any competent authority under this Act, any person in whose favour such decision has been made;
- shall, on conviction, be liable to a penalty not exceeding Fifty Pounds.

193 Every lessee, and every grantee of a Water Right or Mining Easement, and every holder of any Miner's Claim or any other Right or Licence under this or any former Act, shall comply with the several terms and conditions of the Lease, Water Right, Mining Easement, Right, or Licence, as the case may be; and every such lessee or grantee, or holder as aforesaid, shall for any breach, or default thereof (except in any case of breach or default for which such Lease, Water Right, Mining Easement, Right, or Licence may be declared void and forfeited), forfeit and pay a penalty not exceeding Twenty Pounds. Penalty for not complying with conditions of Lease or Water Right.

194 Every lessee, during the term of his lease, shall erect and keep erected as near as practicable to the angle without interfering with the surveyor's mark, at each and every angle of the land comprised in such lease, a post Six inches in diameter, and not less than Four feet Six inches above the ground, or a Two-inch iron pipe not less than Eighteen inches above the ground; and such lessee shall cut and maintain at each such post trenches not less than Three feet in length and Nine inches in depth, indicating the direction of the boundary lines; and every Lessees to keep up posts and marks.

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- A.D. 1900.** such lessee shall, for any breach of the provisions of this Section, forfeit and pay a penalty not exceeding Ten Pounds.
- Penalty.**
- Nuisances, &c.** **195** Every person occupying or holding a claim or residing upon any land held under this Act, shall make such arrangements for the prevention of nuisance and for the observance of decency, and shall adopt such sanitary measures generally as a 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.
- Persons to remove stakes, notices, &c., not authorised on ground.** **196** Every person who permits any stake, post, notice, or other thing indicating occupation by him of a claim, or of any land held under application for lease, to remain on any Crown land when in fact he has not taken the further steps prescribed to secure such claim, shall forfeit and pay a penalty not exceeding Twenty Pounds.
- Penalty for permitting sludge, &c., to flow.** **197** 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, or other mining work, puddling-machine, or other machinery belonging to any other person or persons, shall forfeit and pay a penalty not exceeding Ten Pounds.
- Penalty for defacing marks.** **198** Every person who shall displace, deface, injure, or destroy, or in any way interfere with any notice, 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 or any former Act, shall forfeit and pay a penalty not exceeding Twenty Pounds.
- Forgery of documents or leases.** **199** Every person who forges or alters any document or lease authorised to be issued under this or any former 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, shall be guilty of felony, and shall on conviction before the Supreme Court be liable to be imprisoned for any period not exceeding Fourteen years.
- Stealing minerals.** **200** Every person who steals or severs with intent to steal any mineral from any claim, 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.
- Fraudulently concealing minerals from partner.** **201** Every person who, with intent to defraud his co-partner, co-adventurer, joint tenant or tenant in common in any claim, or in any share of interest in any claim, secretly keeps back or conceals any gold or mineral found in or taken from such claim, shall be guilty of felony, and being convicted thereof shall be liable to be punished in the same way as if he had feloniously stolen the same.
- (4.) Miscellaneous.**
- Lands may be withdrawn or resumed.** **202** It shall be lawful for the Governor in Council to withdraw from lease or licence, or resume any portion of the land held under any lease, licence, or any other right under this or any former Act, or any

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contract therefor, and at any disposition that may be made of any of the lands so withdrawn or resumed, the right of mining thereon may be reserved to the Crown or to the lessee or other person 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. And the Minister may remit a proportionate part of the rent payable by such lessee or other person for so much of such land as is resumed as aforesaid.

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203 It shall be lawful for the Governor in Council, by notice published in the *Gazette*, to exempt any Crown lands from the operation of this Act or any part thereof.

Governor empowered to exempt Land from operation of this Act.

204 Nothing in this Act contained shall authorise any person to occupy any Crown land which has been exempted by the Governor in Council under the last preceding Section, or which is lawfully and *bonâ fide* used as a yard or garden, or for any race or dam, or for any house, outhouse, shed, or other building, or to cut or remove from any such land any trees growing thereon, or to cut or construct any race or dam through or upon any such land; but, nevertheless, it shall be lawful for the Governor in Council to authorise any person to occupy any Crown land 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.

205 When any Mining Field shall have been proclaimed upon any Crown land 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 Mining Field, and for the supply of water and timber and otherwise for effectually working the said Mining Field, and shall thereupon return or remit to the lessee or licensee such portion of the rent of such lands as may be reasonable and just: Provided that such lessee or licensee shall be paid compensation as is provided for in "The Crown Lands Act, 1890."

Partial suspension of Pastoral Leases extending over Mining Fields.

206—(1.) It shall be lawful for any Commissioner in his discretion, upon the application of any person claiming to be legally or equitably interested in any claim, or in an land comprised in any lease granted under this or any former Act, or in any other land adjoining any claim or lands comprised as aforesaid, by writing under the hand of such Commissioner, to authorise the applicant, together with a Mining Surveyor or some experienced miner, to enter upon any claim or land (whether at the time of such application alienated from the Crown or not if any mining operations shall be then carried on on such land) adjoining such firstmentioned claim or land or other land for the purpose of ascertaining whether the owner or occupier of the claim or land so to be entered upon is encroaching on the said firstmentioned claim or other land.

Commissioner may authorise entry on adjacent claim.

(2.) It shall be lawful for the persons so authorised to enter upon the claim or land described in such Order, and to descend any shafts or mine, and for such purposes to use the engines and other machinery

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ordinarily employed for that purpose by the person whose shafts or mine shall be descended, and to make such plans and sections of the claim or land entered upon, and of any drives or other works therein, as shall be necessary for the purpose aforesaid.

(3.) Every such applicant and Mining Surveyor or miner shall, before entering on such claim or land, make a declaration before such Commissioner (who is hereby authorised to take the same) that he the said applicant, surveyor, or miner will not (except as a witness in a Court of Justice) without the consent in writing of the owner or occupier of the claim or land to be entered upon divulge or cause to be divulged to any person whomsoever any information obtained upon or by such entry, save only as to whether such owner or occupier is encroaching on the said firstmentioned claim or land; and every person who shall act contrary to such declaration shall forfeit and pay a sum not exceeding Fifty Pounds.

No person to enter on demised land without a permit, and payment of compensation.

207—(1.) Notwithstanding anything hereinbefore contained, no person other than a Commissioner, Registrar of Mines, Constable, Bailiff, or other person authorised in that behalf by a Commissioner, shall be entitled to enter upon or occupy any miner's claim, demised land, or other claim of any other person, without the previous consent in writing of a Commissioner, and without paying to such other person compensation for any loss or inconvenience likely to be suffered by such other person in the carrying on of prospecting or mining operations, by reason of such entry and occupation; and such compensation shall be ascertained by arbitration, in the manner hereinbefore provided: Provided, no compensation shall be payable unless the same shall be demanded by the holder of such miner's claim, demised land, or other claim, from the person so obtaining permission, within One month from the time such holder is notified of the issue of such permission.

Commissioner to give notice.

(2.) The Commissioner who issues any permission under this Section shall forthwith give notice to the person in charge of the miner's claim, demised land, or other claim affected by the permission, or, if there be no person so in charge, then to the holder of such miner's claim, demised land, or other claim as aforesaid.

Land protected pending application for lease.

208 Pending any application for a lease under any of the provisions hereinbefore contained, it shall not be lawful for any person other than the applicant or applicants, or some other person or persons legally entitled thereto, to enter upon, take possession of, or occupy, or to mark out the land applied for, or any part thereof; and no such entry, possession, occupancy, or marking out shall confer any right or title to the said land. And any person who shall so enter upon, take possession of, occupy, or mark out such land as aforesaid, shall forfeit and pay a penalty not exceeding Twenty Pounds. An application shall be deemed to be pending from the time of the marking out of the land by the applicant or his agent up to the time when the applicant shall make default in proceeding with his application in accordance with the Regulations, or until the application shall be finally disposed of.

Registrar or other person may sell by auction.

209 It shall be lawful for any Registrar, or any other person appointed for that purpose by the Minister, without being licensed as an auctioneer, to sell, or put up, or offer for sale, by auction the right

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to any lease or licence or any other property which the Minister is by this Act authorised to sell by auction, notwithstanding anything to the contrary contained in *The Auction Act*. A.D. 1900.
6 Wm. IV., No. 6.

210 Every claim-holder or person in charge of the workings of any claim shall, when called upon, in writing by a Commissioner, furnish full and accurate information as to the working of such claim, the number of men employed, and any other information necessary to enable the 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 Commissioner, 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. Claimholders to furnish information.

211 All moneys payable by any persons by virtue of this Act, or by any Regulations made hereunder, shall be payable in advance, and, if not otherwise directed by this Act or the Regulations, shall, together with all penalties received, be paid into and form part of the Consolidated Revenue Fund. Appropriation moneys.

SCHEDULE.

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
57 Vict. No. 24.	"The Mining Act, 1893."	The whole Act.
59 Vict. No. 35.	"The Mining Amendment Act, 1895."	The whole Act.
68 Vict. No. 39.	"The Mining Amendment Act, 1899."	The whole Act.

