

T A S M A N I A.



1880.

ANNO QUADRAGESIMO-QUARTO

VICTORIÆ REGINÆ,

No. 17.

AN ACT to amend "The Mineral Lands Act, 1877." [1 November, 1880.] A.D. 1880.

WHEREAS it is necessary and expedient to amend "The Mineral Lands Act, 1877," in certain particulars: PREAMBLE. 41 Vict. No. 7.

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

1 In this Act—

Interpretation.

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

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

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

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

3 When the application of any person for a Lease under the said Act or this Act shall be pending or in abeyance from any cause, not being on account of any act, matter, or thing done or omitted to be done Pending disposal of application for Lease, Commissioner may

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grant permission
to remove any
mineral.

by such person, it shall be lawful for the Commissioner upon payment in advance by such person of the rent for such Lease to grant to such person permission in writing in such form as may be prescribed, to remove any mineral or metal to be named in such permission, from the land the subject of such application, until such application shall be finally dealt with; and when such application shall be finally dealt with such permission shall cease and determine.

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

As to holders of
Miners' Rights
mining for Gold
upon land held
for mining
purposes.

4 Nothing contained in this or any former Act shall be held to prevent the holder of any Miner's Right from mining for Gold upon any land held under any Lease for mining purposes, provided that the person intending to mine for gold on such land shall, before commencing mining operations on such land, make compensation to the holder of such Lease for any loss which such holder will be liable to sustain by reason of such mining for gold on such land, and the amount of such compensation shall be ascertained by arbitration in such mode as may be prescribed, and the amount so ascertained shall be paid by the person intending to mine for gold on such land within Fourteen days after the amount has been ascertained, but no person shall mine for gold on such land until notice has been given to a Commissioner of Gold Fields of the intention of such person so to mine, nor unless such Commissioner shall authorise such person to mine for gold thereon.

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

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

also person other
than Lessee dis-
covering Gold.

If any Lessee discovering Gold as aforesaid shall not give notice forthwith to the Commissioner as hereinbefore provided, or in the event of such Lessee not being the discoverer of Gold on such Land, and the same or some part thereof being declared Waste Land as hereinafter provided, then so much of the Land held by such Lessee as shall be declared Waste Land as hereinafter provided shall be subject to any Act in force to regulate Mining for Gold, and the regulations made thereunder: Provided that any person, other than the Lessee who first discovers Gold upon any Land held by such Lessee, and who immediately reports the same to the Commissioner, shall, upon proof thereof to the satisfaction of the Commissioner, and upon such Land being declared Waste Land as hereinafter provided, have a preferential right to take up a Claim on such land under any such Act and the regulations made thereunder. And provided also that such Lessee shall be paid such sum of money by the Applicant as the Commissioner deems reasonable, as compensation for the present value of his interest for mining purposes in the Land or the portion thereof resumed, and

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for any loss which may be sustained by him in consequence of the resumption of such land or any portion thereof. But no such valuation shall be made or valuation take place until such Commissioner shall have been authorised thereto by the Governor in Council. A.D. 1880.

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

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

8 It shall be lawful for a Commissioner upon complaint made by the holder of a Lease under this Act or the said Act or any Act repealed by the said Act, that he is or has been whilst such holder engaged in a Mining partnership and that a balance is due to him on account thereof, or upon the application of any such holder engaged in a Mining Partnership that the same may be dissolved and that the sums respectively due to the several members thereof may be ascertained and paid, and also upon complaint by any such holder who is or has been while such holder engaged in a Mining partnership touching any dispute or question regarding such partnership, to issue process to procure or compel the appearance before such Commissioner of such members of the said partnership as appear to be necessary, and upon such appearance, or in default thereof after due service of such process to procure and compel the same as aforesaid, or in the absence of such members of the said partnership as do not appear to be necessary parties to such case, it shall be lawful for such Commissioner to enquire into and hear such complaint or application, and to order that such partnership shall be dissolved, and to ascertain and determine the amount to be paid by any one member to any other member or members thereof, and to order that such amount so determined, together with reasonable costs, shall be paid, or to make such other order as to such Commissioner seems meet, provided that the amount payable to any one partner does not exceed Fifty Pounds. Partnership questions.

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

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Commissioner
may state special
case for opinion
of Supreme Court.

10 In any proceedings brought before any Commissioner under this Act or any Regulations made under this Act or the said Act, such Commissioner shall, upon the application of either party made in writing within Seven days after the determination of the Commissioners in respect of which application is made, and setting forth the grounds of appeal, or such Commissioner may without any such application reserve any question of law or fact arising upon such case in the form of a special case for the hearing and determination of the Supreme Court; and every such special case shall be prepared by such Commissioner, and be transmitted forthwith by the Commissioner to the Clerk of the Supreme Court, who shall cause the same to be set down for argument before the said Court.

In case of a
special case an
injunction, &c.
and stay of pro-
ceedings may be
had.

11 Whenever any such special case has been reserved it shall be lawful for the Commissioner who reserved such case, on the application of any of the parties interested in such case, to make such order for an injunction, or receiver, or payment of money into Court, or for stay of proceedings or otherwise, and upon such terms as such Commissioner thinks proper; but without such order no special case shall operate as a stay of proceedings.

Supreme Court
to determine the
questions on the
case.

12 The Supreme Court shall hear and determine any questions, whether of law or fact, arising upon any case transmitted to it under this Act or the said Act, and shall thereupon reverse, affirm, or amend the determination in respect of which the case has been stated, or remit the matter to the Commissioner with the opinion of the Court thereon, or may make such other order in relation to the matter, and may make such orders as to costs as to the Court may seem fit; and all such orders shall be final and conclusive on all parties.

Case may be sent
back for amend-
ment.

13 The Supreme Court shall have power, if it thinks fit, to cause the case to be sent back to the Commissioner for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it has been amended.

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

14 The authority and jurisdiction vested in the Supreme Court under this Act or the said Act may, subject to any Rules and Orders of such Court in relation thereto, be exercised by a Judge of such Court sitting in Chambers, and as well in Vacation as in Term time.

Supreme Court
may make Rules
for proceedings.

15 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*.

Discoveries made
by prospecting
parties joint
property of
prospectors.

16 Where any persons jointly contribute towards prospecting for minerals, whether such contribution be by way of money, labour, or otherwise, all discoveries made in the course of such prospecting which such persons shall be entitled to take up as a claim under the said Act or this Act shall be, except when otherwise agreed, the joint property in equal shares of the persons so contributing; and in all proceedings relating to such prospecting or discoveries evidence written or verbal may be received.

Mineral Lands.

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

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Minerals, &c. unlawfully removed from Waste Land may be seized and forfeited.

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

Repeal.

19 This Act and the said Act as amended by this Act shall be read and construed together as one Act.

Acts to be read together.

20 This Act may be cited as "The Mineral Lands Amendment Act, 1880."

Short title.

