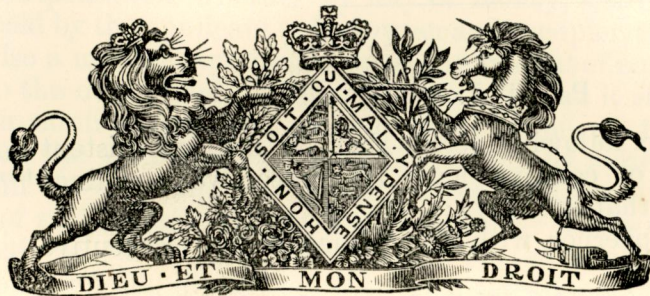


This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Legislative Assembly Chamber,
Sydney, 5 December, 1893.* }

F. W. WEBB,
Clerk of the Legislative Assembly.

New South Wales.



ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. .

An Act to legalise Mining on Private Lands; to provide for charging Rents and Royalties in connection therewith; to validate certain Crown grants; to provide for the resumption of land for certain purposes; to make better provision for and in connection with mining on Crown Lands in certain particulars; to effect such amendments in the Statutes as may be necessary to give this Act full force and effect; and for purposes consequent upon, connected with, or incidental to the aforementioned objects.

WHEREAS from time to time since the establishment of the Colony of New South Wales Crown lands within the said Colony have been alienated, subject to various reservations in the Crown grants with respect to gold and minerals other than gold, and in the public interest it is now deemed necessary to give legal effect to such reservations: And whereas certain other lands have from time to time been alienated without express reservation of any minerals which might afterwards be found therein, but having regard to the well established laws of England whereby it has been held from time immemorial that the royal metal gold does not pass from the Crown unless by express conveyance in the grant of such lands: And whereas, for the well being of the State, it is now deemed necessary that all such lands should be made available for the operations of mining thereon or thereunder for such gold as may be found therein: And whereas it is deemed expedient to define the royalties and rents

Preamble.

Mining on Private Lands.

to be derived under the operations of this Act either on behalf of the Crown or on behalf of the landowner, as hereinafter provided: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Mining on Private Lands" Short title.

Act."

PART I.

2. In this Act the following terms shall, if not inconsistent with the subject matter or context, have the respective meanings hereby assigned to them (that is to say):—

Interpretation of terms.

10 "Governor"—The Governor with the advice of the Executive Council.

15 "Minister"—The Minister for Mines for the time being.

"Gold"—As well any gold as any earth or rock containing gold, or having gold intermixed therewith.

"Coal"—Bituminous coal, anthracite, lignite, kerosene shale, and natural coke.

20 "Minerals other than gold"—Coal and any of the following metals, or any ore containing the same, viz.:—Platinum, silver, mercury, nickel, bismuth, copper, tin, cobalt, antimony, lead, manganese, and iron, or any other substance which may from time to time, by proclamation of the Governor, published in the *Gazette*, be declared a "mineral" within the meaning of this Act.

"All Minerals"—The minerals, metals, or ores of metals enumerated in the three immediately preceding subsections.

30 "Owner"—The owner or conditional purchaser of any land dealt with under the provisions of this Act, whether such title is completed or not, or any trustee for such land, if vested in trust.

35 "Occupier"—The person in occupation of such land, whether as conditional lessee, the valid applicant for a conditional lease, the lessee of any land for tramway, irrigation, water supply or power purposes, whether under any special Act or otherwise, or a tenant.

"Applicant"—The person applying for a mining lease under this Act.

40 "Lessee"—The holder of a lease under this Act, or his executors, administrators, or assigns.

45 "Private land"—Any land included within the provisions of this Act, whether alienated or in process of alienation, or vested in trust, or demised by lease under any of the forms hereinafter referred to, or land held under any valid application for such lease.

50 "Mining," or "To mine"—To sink shafts, construct drives, adits, tunnels, or surface excavations, or to remove earth, rock, metals, or ores, or to wash, crush, smelt, or conduct any operation in connection with mining.

"Mining-race"—Any artificial channel, flume, aqueduct, tunnel, culvert, or pipe for the conveyance of water or detritus; also the natural bed of any creek or gully in which water or detritus is conducted in connection with mining.

"Warden"

Mining on Private Lands.

- “Warden”—Any Warden appointed under the Act thirty-seventh Victoria number thirteen, or any Act relating to mining, who may be in charge of the mining district or division denoted by the context where the expression is used, or any Warden acting for him or in his stead, or (if none such is denoted) any Warden.
- “Prescribed”—Prescribed by this Act or any regulation made thereunder.
- “Royalty”—The share or duty claimed by the State on the produce of the mine held by lease under this Act.
3. From and after the passing of this Act all lands alienated on or prior to the twenty-fourth day of January, in the year one thousand eight hundred and fifty, whether the Crown grants thereof had issued at that date or otherwise, shall, subject to the provisions of this Act, be open to mine thereon or thereunder for gold or such minerals other than gold as have been reserved in the Crown grant issued therefor, save and except coal. And all lands alienated after the twenty-fourth day of January, one thousand eight hundred and fifty, and prior to the eighteenth day of October, one thousand eight hundred and sixty-one, whereof the grants contain a reservation of all minerals to the Crown, shall, subject to the provisions of this Act, be open to mine thereon or thereunder for all minerals, including gold: Provided that where the said grants contain no reservation of minerals the mining on such lands herein specially referred to shall be confined to mining for gold only.
4. All Crown grants issued, or purporting to be issued, under the provisions of the “Crown Lands Alienation Act of 1861,” or any Act amending the same, including all grants issued by virtue of volunteer land orders as well as grants issued, or purporting to be issued, under the provisions of the “Crown Lands Act of 1884,” or any amendment thereof, shall be deemed to have been and to be good and valid in law for all purposes of this Act.
5. All lands alienated or in process of alienation under the provisions of the “Crown Lands Alienation Act of 1861,” or any Act amending the same, as well as all lands alienated or in process of alienation, under the provisions of the “Crown Lands Act of 1884,” or any amendment thereof, shall be subject to the operations of mining under the provisions of this Act to the following extent, but no further:—
- (a) If the grant for such land contains, or would, under the provisions of the said Acts, or any amendments thereof, contain, when issued, a reservation to the Crown of all minerals which the said land contains, then such land shall be open under the provisions of this Act for mining for gold, and for all minerals other than gold.
- (b) If the grant for such land contains, or would contain when issued, a reservation to the Crown of any mineral or minerals particularly specified therein, then such lands shall be open under the provisions of this Act for mining for gold, as well as for the particular mineral or minerals specified in such reservation, but for no other mineral whatsoever.
- (c) If such land shall have been alienated, or be in process of alienation under the nineteenth section of the “Crown Lands Alienation Act of 1861,” or if having been selected under any other section of the said Act, or if having been held under mineral lease, and in either such case having been converted into a mineral conditional purchase, then such lands shall be open under the provisions of this Act for mining for gold only, or for any ore, the chief and most profitable metallic product of which is gold.
- (d)

Lands alienated prior to “Crown Lands Act of 1861” open to mining under the provisions of this Act.

Reservations in grants good and valid.

Lands alienated under “Crown Lands Acts of 1861 and 1884” may be mined upon under provisions of this Act.

What lands open to mining for all minerals.

Lands open to mine for gold as well as certain specified minerals.

Lands open to gold-mining only.

Mining on Private Lands.

- (d) If the grant for such land contains, or would contain when issued, no reservation of minerals, then in every such case the land shall be open under the provisions of this Act for mining for gold only, or for any ore, the chief and most profitable metallic product of which is gold.
- 5 6. After the passing of this Act, all lands granted or vested in trust by the Crown for the purposes of a race-course, cricket ground, recreation reserve, park, or permanent common, irrespective of whether the deed of grant (if any) contains a reservation of minerals or the contrary, and all lands held under Tramway, Irrigation, or Power leases, 10 or leases for Water Supply, whether granted under any special Act or otherwise, shall be open for mining thereon or thereunder for gold or minerals other than gold subject to the provisions of this Act: Provided that nothing herein shall be held to apply to alienated 15 lands situated within the boundaries of any town or village, or to lands vested in trust for or dedicated to any public purpose, other than those hereinbefore mentioned, unless the Governor shall have first proclaimed in the *Government Gazette* that any such lands particularised in such proclamation shall be subject to the provisions 20 of this Act. And in all cases, whether on private lands or Crown lands, wherever a lease is granted to mine under such land only and without the right of mining on the surface thereof, the Governor may stipulate at what vertical depth from the surface such lease shall commence.
- 25 7. Every grant hereafter issued for land alienated or which shall be alienated under any Act or vested in trust by the Crown for any public purpose shall contain a reservation to the Crown of all minerals which such lands shall contain. And such minerals are hereby expressly so reserved, and the land so alienated or so vested in trust 30 shall be subject to all the provisions of this Act with respect to mining thereon or thereunder.
- 35 8. The Governor shall, as soon as practicable and in the prescribed form, provide a "Register of Crown Grants" with respect to all lands alienated prior to the passing of this Act except lands situated within towns or villages whether such lands have been alienated in fee simple or vested in trust for public purposes. And such Register shall classify the lands according to the mineral reservations or otherwise 40 contained in the grants thereof, and shall have a copy of each form of mineral reservation (if any) at the head of its various columns, and such Register shall be divided into so many parts as there are Land Districts, and a copy of the part appertaining to each district shall be kept at the respective Land Offices, and be open to inspection of the public in the prescribed manner. And with respect to lands in 45 process of alienation only and for which no Crown grant shall have issued, then the "Register of Crown Grants" shall set forth the form of mineral reservation (if any) which such grant would be subject to when issued. And in case any lands other than those herein exempted shall not be found classified in such Register it shall be taken as *prima facie* evidence that such land has been alienated 50 since the passing of this Act and is therefore available for mining thereon or thereunder for all minerals including gold, subject to the provisions herein contained.

If no reservation in grants to be open to gold-mining only.

Lands vested in trust or under lease may be mined upon.

Town and village lands not open.

Depth from surface at which underground leases shall commence.

All minerals to be reserved in grants issued for future alienations.

Register of reservations in Crown grants to be provided.

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PART II.

Proceedings in connection with Mining.

9. It shall be lawful for the Warden of any mining district to grant to any person in the prescribed manner an authority in duplicate to enter into and upon any private land which is subject to the operations of mining under the provisions of this Act, and on serving the duplicate of such authority on the owner or occupier thereof, such person shall either personally or by his agent be entitled to search and examine the surface of such land, but shall not be entitled to commence to mine thereon or thereunder until the amount of compensation, to be ascertained as hereinafter provided, shall have been paid, and a lease from the Governor to such person shall have been first obtained. And any person applying for authority to examine the surface of such private land, or for a mining lease thereof, shall (if the Register of Crown grants has been provided but not otherwise) accompany such application with a certified copy of the form of mineral reservation contained in the grant of such land, and such certified copy shall be supplied by the Land Agent of the district wherein such land is situated, and shall be a correct extract from the Register of Crown grants, or shall certify that a grant of such land is not included in such Register.

Authority to examine surface may be granted by the Warden.

10. Any person having received authority from the Warden to examine the surface of such private land for mining purposes shall be deemed to be in possession as against other applicants for the same land for a period of one month from the date of such authority to the full extent of the area allowed in such class of lands to be leased: Provided that such authorised person if requested so to do by other authorised persons desirous of occupying the adjoining land shall approximately define the boundaries of such area.

Authorised person considered first applicant.

11. Any duly authorised person desiring to obtain a lease for mining purposes of such private land, or any portion thereof, as under the provisions of this Act shall become open to lease, may, without incurring any liability for trespass, enter upon such land, either personally or by an agent, and in the prescribed manner, define the boundaries of the portion intended to be applied for. And any owner, occupier, or other person who shall obstruct such authorised person in the performance of any such act, or who shall interfere with, remove, destroy, or deface any boundary mark so made or any necessary notice posted in connection therewith, shall, on conviction thereof, be liable for the first offence to a penalty not exceeding ten pounds, or on conviction of a second or any subsequent offence, to a penalty not exceeding fifty pounds. And in like manner any surveyor may enter upon any private land for the purpose of defining the boundaries of the portion sought to be leased, or for any other purpose under this Act, in pursuance of and bearing an order of the Minister or of a Warden.

Owner or occupier obstructing applicant.

12. The Governor, in the name and on behalf of Her Majesty, shall have power under the provisions of this Act to grant to any person a lease of such private lands, to be effectual either on and below the surface, or on one or more limited portions of the surface and below the whole area or to be effectual below the surface only, for the purpose of mining thereon or thereunder, either for gold only, or for minerals other than gold, regard being had to the reservations (if any) contained in the Crown grants thereof, except in the case of certain lands vested in trust and referred to in section six hereof, but in the case of lands alienated prior to or on the twenty-fourth day of January, in the year one thousand eight hundred and fifty, regard shall be had to the proclamation of His Excellency Sir Charles Augustus Fitzroy,

Governor may grant lease.

Regard must be had to reservations in grants.

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Fitzroy, Governor, published in the *Government Gazette*, on the twenty-ninth day of January, in the year aforesaid, whereby all reservations of coal, with the rights of the Crown incident thereto, were, by His Excellency's command, for ever abandoned. And such lease shall confer

5 the right of cutting and constructing on the lands thereby demised races, drains, dams, reservoirs, or tramways, and erecting thereon buildings and machinery in connection with such mining, but not otherwise, and generally for doing all such acts and things as shall be requisite for efficiently mining the said land, with full right of ingress, egress, and

10 regress for the purposes herein provided; but such lease shall in nowise give the lessee the right to use water artificially conserved by the owner of such land, or to fell trees, strip bark, or cut timber on such land, or to depasture horses, cattle, or sheep thereon, or to remove earth or rock therefrom, except in connection with such mining operations,

15 without the consent of the owner and occupier: Provided that the power herein given to grant leases shall not, except with the consent of the owner, extend to within one hundred yards on the surface of any land which is *bonâ fide* in use as a garden, orchard, or pleasure ground, or to either the surface or below the surface of any restricted

20 portion of such land whereon is erected or constructed any substantial building, bridge, dam, reservoir, well, or other valuable improvement: Provided further that it shall be for the Minister to determine whether any improvement referred to in this section is of a substantial or valuable character, and to define the area within which mining

25 operations may be excluded.

Lease gives right to occupy for all purposes connected with mining.

Not to approach within 100 yards of garden, &c., without owner's consent.

13. Within one month from the date of the aforementioned authority such authorised person may in the prescribed manner apply to the Minister for a lease of such land, and on receipt of such application, accompanied by the prescribed sum by way of rent and

30 fees, the Minister shall cause a notice to be served on the owner and occupier of such land. And in case the whole or any part of the surface thereof is required, such notice shall so state, and if a part only is required, such notice shall define such part, and shall also request from the owner and occupier respectively such particulars of

35 their estate and interest therein as the Minister shall deem necessary for carrying out the objects and intentions of this Act, and within twenty-one days therefrom such owner or occupier shall give such particulars to whomsoever such notice shall direct.

Notice to owner and occupier.

14. All notices required by this Act to be served upon the owner

40 or occupier of any private land shall either be served personally on such persons or left at their usual place of abode (if the same can after diligent inquiry be found), and in case the owner shall be absent from the Colony or he or his agent cannot after diligent inquiry be found, the notices shall be left with the occupier of the land, or if there be

45 no such occupier, shall be affixed upon some conspicuous part of the land, and in the latter case such notice shall be advertised in two issues of a newspaper circulating in the district in which the land is situated. And the affixing of such notices in addition to the aforementioned advertisements shall be deemed service of notice on the

50 owner and occupier.

Service of notices.

15. The Governor may appoint mining appraisers as may from time to time be found necessary, who may also hold other offices in the Public Service, and shall be paid such salaries or fees as the Governor shall direct, and any such mining appraiser, on being authorised by

55 the Minister so to do, shall assess the amount of compensation to be made to the owner and occupier of such lands respectively for the loss which he or they may sustain by way of damage which may be caused through mining operations either on, in, or under such land to the surface thereof, or to any crop growing thereon, or to any buildings,

structures,

Appraisers to be appointed who shall assess surface damages.

Mining on Private Lands.

structures, or other improvements erected or constructed thereupon: Provided that with respect to the land of which a lease of the surface is required (not being less than one acre), such compensation as aforesaid shall in no case exceed the then ascertained market value of such land for other than mining purposes.

16. On receipt of an application for a lease under this Act, unless such application be accompanied by a document signed by the applicant and the owner and occupier (if any), or their respective agent or agents, certifying that they have mutually agreed as to the amount of compensation, whether by way of money, shares, or otherwise, to be paid by the applicant to the owner and occupier, the Minister shall authorise a mining appraiser to assess the amount of compensation to be paid to the owner and occupier respectively, and it shall be the duty of such mining appraiser, without loss of time, to forward his assessment to the Minister, who shall thereupon, by notices of even date, acquaint the applicant and the owner and occupier (if any) with the amount of such assessment, and shall specify the time within which the same shall be paid. And in the event of the applicant or the owner or occupier being dissatisfied with such assessment, either party may, within twenty-one days of the date of such notices, apply to the Minister to have such assessment reviewed, and the Minister shall thereupon refer such matter to the Warden, who shall fix a time and place for holding an inquiry, not being more than thirty days from the receipt of such reference, and shall give due notice thereof to all the parties interested therein, and at the time and place so appointed shall hear, receive, and examine such evidence as shall be produced by any of the parties, and shall thereupon determine the amount of compensation to be paid to such owner or occupier in respect of his or their respective claim or claims, and may specify the time within which and to whom the same shall be paid; and the decision of the Warden in all such cases shall be final, and he may make an order for the payment of such costs of Court as shall appear to him just: Provided always that the Warden may upon cause shown, adjourn the hearing to any other time or place, but such adjournment shall not be for a longer period than fourteen days. When the amount of compensation so awarded shall have been paid, a lease for mining under the provisions of this Act may in due course be issued by the Governor.

17. In the event of the applicant for a lease failing to pay the amount of compensation within the time specified, all moneys accompanying the application for such lease shall thereupon become forfeited to the Crown, and shall be paid into the Consolidated Revenue. And in the event of such owner or occupier refusing or neglecting to supply the particulars of his estate and interest in such land as requested so to do by the Minister, such refusal or neglect shall in no way act as a bar to an award being made by such mining appraiser or a final decision of the Warden being arrived at. On the amount of such compensation being paid into Court, the Warden shall in due course pay to the owner or occupier the amount to which he is entitled. And in case such owner or occupier shall for the space of three months refuse or fail to accept or claim the amount of compensation so assessed or determined, such amount shall be passed to the Treasury Suspense Account and be held in trust for such owner or occupier, but without interest accruing thereon, and if not claimed within six years from the time of the receipt thereof by the Treasury such amount shall be paid into the Consolidated Revenue.

18. During the progress of mining operations the lessee having a lease of below the surface only of such land, may apply to the Minister for a lease of a portion or any number of additional portions of the surface thereof: Provided that such lessee shall if required in writing

Either party may appeal to Minister.

Warden to determine amount of compensation.

Applicant failing to pay award.

Owner or occupier failing to accept award.

Lessee must fence if requested.

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writing so to do by the owner or occupier without delay cause a secure fence to be erected around the shafts, machinery, or other works in connection with such mining: Provided also that if at any time the surface of any part of such land or any building, erection, or structure thereon belonging to such owner or occupier for which full compensation has not been previously paid shall be damaged by reason of such mining operations, the Minister, on application by the owner or occupier, accompanied by such fees as may be prescribed, shall cause an assessment of such damages to be made by a mining appraiser, who shall have power to assess both the amount of damage (if any) and also the costs of such assessment. And if the cause of such damage be disputed by either party, such mining appraiser may, if necessary, call in the aid of a mining engineer or surveyor, who, as well as such appraiser, shall have power to examine the surface or underground workings of such mine. And the lessee shall, during ordinary working hours, and within a reasonable time, comply with any request of such mining appraiser, engineer, or surveyor to furnish the usual appliances and aid necessary for descending to and ascending from such underground workings, and for examining thereinto as often as may reasonably be found necessary, and in the event of any lessee refusing or neglecting so to do, such lease shall be liable to forfeiture by the Governor in Council. And within twenty-one days from the date of the notice of such assessment either party may appeal to the Minister; and such appeal shall be dealt with by the Warden whose decision shall be final, as in the case of ascertaining surface damages at the time of application for a lease; and should the lessee fail for the space of one month after the date of the notice informing him of the assessment—if no appeal shall have been made, or of the final decision of the Warden, as the case may be—to pay the amount assessed to whomsoever such notice shall direct, such amount shall be recoverable by the owner or occupier under the ordinary process of law.

19. Nothing herein contained shall be construed as rendering it obligatory on the Governor to grant a lease to any person applying for the same, notwithstanding that he may have complied with the provisions of this Act and the regulations hereunder, but in case his application shall be refused he shall be informed of the reasons for such refusal. And a lease may be granted notwithstanding that the person applying for the same may not in every respect have complied with such regulations, and the Minister may alter, amend, and modify any application for a lease, and may reduce or increase the area of land of which a lease is applied for either on or below or both on and below the surface, or may direct a Warden to hold an inquiry in open Court with reference to any matter touching an application for a lease under this Act, and at all such inquiries the evidence shall be taken on oath.

20. In any case where *bonâ fide* mining operations were being carried on under agreement upon any private land on the sixth day of October, one thousand eight hundred and ninety-two, a joint application by the parties to such agreement, or by their representatives, for a special lease, if made within two months after this Act comes into force, and if accompanied by an attested copy of such agreement, shall have priority over all other applications with respect to the land defined therein. And such private agreement then existing shall in no way be disturbed or interfered with by the operations of this Act, except with respect to any royalty payable to the Crown which the land may be subject to and which in all cases shall be chargeable as if such land was leased under the provisions of this Act. And in the event of mining operations being carried on by the owner of such land at the time of the passing of this Act, any such

Appraiser may award further damages.

Not obligatory to grant leases.

Special leases may be granted.

Existing agreements protected.

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such application made by him shall, if made within two months as aforesaid, have a like priority, and be subject in the same manner to such royalty as hereinafter provided; or in any case where active mining operations have not been commenced, and the owner has
 5 obtained from the Governor a permit to mine for, win, and remove gold or minerals other than gold from such private land, such owner may within two months after the passing hereof apply in the prescribed manner to convert such permit into a lease under this Act; and in all cases hereinbefore referred to in this section, such leases shall not be
 10 subject to the payment of rent, but the royalties reserved to the Crown shall be those provided for in this Act and none other.

21. Any person who prior to the passing of this Act shall have obtained a permit from the Secretary for Lands or the Secretary for Mines to dig and search for gold or minerals other than gold in any
 15 private land may, within two months as aforesaid, apply for and in such event shall have a preferent claim for a lease under this Act, but such lease shall with respect to rent, royalty, tribute, and other matters be subject to all the provisions of this Act: Provided that two months after the passing of this Act all such permits shall become extinguished
 20 and inoperative, and the power of granting such permits is hereby repealed, all other Acts to the contrary notwithstanding. And if the holder of such permit shall fail for a period of two months as aforesaid to apply for the conversion thereof into a lease under this Act, any other person may thereafter apply for a lease of such land, and the
 25 Governor may grant the same as if such permit had not been issued.

22. The owner of any private land may at any time apply for a lease of such land for mining purposes; but except as hereinbefore provided, he shall have no preferential right to such lease as against any other application of prior or even date. In the event of there being
 30 no conflicting application, or of such conflicting application having been refused, the Minister may dispense with the preliminary proceedings, applicable in other cases, and may grant such lease, subject to the provisions of this Act with respect to royalty, but free from the charge of any rent or tribute. In other respects such lease shall be
 35 granted, subject to all the provisions of this Act and the regulations thereunder, as if the lessee were not the owner of such land.

23. The term for which a lease may be granted under this Act shall not exceed twenty years, but may, subject to such conditions as the Governor may approve, be renewed for a further period not
 40 exceeding twenty years, and the yearly rental reserved to the owner of the land in respect of such leases, shall be two shillings and sixpence per acre for land whereof the mining will be confined to minerals other than gold, and twenty shillings per acre for land applied for for
 45 gold mining purposes. The area of a lease shall not exceed five acres in the case of ordinary auriferous lands, and shall not exceed forty acres in the case of alluvial auriferous land where the mining operations will be conducted through basaltic rock formations, or where the quantity of water is such as to necessitate the erection of steam machinery, or where, in the opinion of the Minister, a large
 50 outlay of money is necessary to make such land available for gold-mining purposes. And no lease of land for mining for minerals other than gold shall be granted of an area greater than eighty acres except in the case of land containing coal, and in such case the area shall not exceed six hundred and forty acres. Where practicable such leases
 55 shall be granted in conformity with the existing divisions of such land, but in all other cases such leases shall be measured in the prescribed form. The areas and rents herein specified shall apply to leases whether for only below the surface or for both on and below the surface.

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24. In the event of more than one application being made for the same land, or any part thereof, the application, except as hereinbefore provided, which shall have been first received in manner prescribed shall have priority, and in the event of two or more applications for the same land being received at the same time it shall be determined by lot which application shall take precedence. And except when the lease applied for will cover the whole of a measured portion all such areas shall be surveyed before the issue of a lease, and in the event of any applicant refusing or neglecting to execute such lease for the space of one month after notice shall have been given him of such lease being ready for execution such lease shall be liable to forfeiture, with all moneys paid thereon, and all such leases shall, within one month after execution thereof, be registered with the Mining Registrar in Sydney, who shall forward a copy thereof to the Mining Registrar of the Division in which such land is situated, and thereafter all transfers of such leases or of any portion thereof shall be so registered within one month after the date of such transfer.

Applications how dealt with.

25. All leases granted under the authority of this Act shall be granted subject to such royalties as are hereinafter set forth on the metals and minerals obtained from such land, and the value thereof shall be taken to mean their value, in the case of coal, at the pit mouth; and in the case of metalliferous ores, their value shall be estimated in such way as shall be prescribed. And every lessee under this Act, in whose lease a royalty is reserved, shall keep a correct set of books, and shall in the prescribed manner enter therein the value of all metals or minerals won from the mine, and the amount of royalty payable thereon; and such books shall at all times be open to the inspection of such person as the Minister or the owner may from time to time appoint, and an abstract of the same, which shall have been previously verified by statutory declaration made before a justice of the peace or a commissioner for affidavits, shall, in the months of July and January in each year be published in the *Government Gazette* and in a newspaper circulating in the district wherein such mine is situated.

Royalty how ascertained.

Lessee to keep books.

26. The amount of royalty payable to the Crown shall be paid into the Treasury or to such public officer as the Minister shall direct at least once in every half year. And any lessee or the director or manager of any company holding a lease under this Act, who shall neglect or fail to pay such amount during the half-year within which the same becomes payable, or within one month thereafter, shall be deemed guilty of a misdemeanour. And in the event of any lessee or director or manager of such company who shall fail to enter or to cause to be entered in books kept for that purpose the full value of all minerals obtained from such private land, and the amount of royalty payable thereon, or shall make false entries in such books or cause such books to be falsified, shall be deemed guilty of a misdemeanour; and the lease upon which such royalty was payable, with all moneys paid thereon, shall be absolutely forfeited if the Governor shall think fit. And after the expiration of six months from the passing of this Act, any person who shall, contrary to the provisions hereof, take, mine, or remove any gold or minerals other than gold from any such private land, shall be deemed guilty of a misdemeanour. Any person convicted of an offence declared by this section to be a misdemeanour shall be liable to a penalty not exceeding fifty pounds, or may be imprisoned at the discretion of the Court for any term not exceeding three months.

Non-payment of royalty a misdemeanour.

False entries a misdemeanour.

Penalty for misdemeanour.

27. Notwithstanding anything to the contrary in any other Act provided, after the passing of this Act no royalties shall be charged on behalf of the Crown on any metals or minerals obtained from alienated

No royalties to the Crown from private lands except under this Act.

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alienated lands, or lands in process of alienation other than those hereinafter set forth. All leases granted under the provisions of this Act shall be subject to the following royalties, that is to say:—

- 5 (a) Mining for minerals other than gold.— Whenever any mineral lease is granted of lands on which all minerals have been reserved, or of lands where some minerals only have been specifically reserved, the Crown shall reserve a royalty of two and a half per centum on the value of the minerals obtained therefrom, and for which such lease shall have been granted. And except in the case of lands referred to in section six hereof, no lease will be granted under this Act to work minerals other than gold which have not been reserved to the Crown. Royalty to the Crown when minerals are reserved.
- 10
- 15 (b) All rents shall commence from the date of the approval of the lease, and shall be paid in the prescribed manner half-yearly in advance. All royalties accruing for the preceding six months shall, during the months of July and January, be payable in the prescribed manner, up to the end of June and the end of December respectively. When rents payable. Royalties when payable.
- 20 (c) It shall be necessary for the applicant for a lease or the lessee to be the holder of a miner's right to establish or maintain a title to a lease for gold-mining purposes under this Act. Miner's rights necessary.

28. The owner of any private land shall be at liberty to enter into an agreement in writing with any holder of a miner's right giving such holder power to take possession of such land for gold mining purposes as if it were Crown land, subject to the regulations of the Mining Board in force for the time being, and it shall not be necessary to obtain a mining lease under the provisions of this Act for such private land so occupied as aforesaid under miners' rights: Provided that every such agreement shall within seven days thereafter be registered with the Mining Registrar for the district in which such land is situated, in accordance with regulations to be made by the Governor: And in such case no royalty shall be payable to the Crown, the owner, or occupier, on the gold obtained therefrom, whether such gold has been specifically reserved to the Crown or otherwise. Power to owner of private land to enter into agreement with holder of miner's right to occupy for mining purposes.

29. Adjoining lands or lands disconnected by roads only and held under separate leases may be worked conjointly as one mine, provided such contiguous lands shall not in the aggregate exceed the area allowed respectively for leases under this Act, and except as hereinafter provided such mines shall be continuously worked according to the practice of efficient mining. And every lease granted under the authority of this Act shall contain a provision that if the lessee, his executors, administrators, or assigns fail at any time during the term of such lease to fulfil the conditions and covenants therein contained, or to use the land *bonâ fide* for the purposes for which it shall be demised, such lease shall for any such failure be liable to forfeiture and may be forfeited on the authority of the Governor: Provided that if at any time the mine shall become unworkable from any cause which, in the opinion of the Warden, would necessitate a suspension of mining operations, he may grant such suspension for a period not exceeding three months, and, in the event of operations having wholly ceased in connection with such mine for a period of six months, the lease shall thereupon become absolutely void and determined. Adjoining lands may be worked as one area.

30. The lessee shall be entitled at any time, with the consent of the Governor, to surrender his lease. And in case any such lease shall become forfeited, or determined by any breach of covenant or condition or otherwise, or in case the term thereby granted shall have expired, possession of the land thereby demised may be recovered. Failing to fulfil conditions lease may be forfeited.

Possession how recovered.

Mining on Private Lands.

- recovered in such manner as may be set forth by any of the provisions of the lease, or if there be no such provision, it shall be lawful for the Attorney-General, on behalf of Her Majesty, to bring a suit in any Court of competent jurisdiction to recover possession of
- 5 such land, and such suit may be commenced and carried on, and the proceedings therein may be the same and the judgment enforced in like manner as in the case of any other suit in such Court. Land, possession to which has been so recovered, or which has been abandoned, forfeited, or surrendered by the lessee, or of which the lease
- 10 has expired by effluxion of time, shall revert to the owner or occupier thereof, but may at any time thereafter be again mined upon or mined under, subject to the provisions contained herein: Provided also that in the event of any such lease being forfeited for any breach of the conditions or covenants contained therein, or in the event of such lease
- 15 having expired by effluxion of time or being otherwise determined, or in the event of the owner of such land having by the authority of the Governor re-entered and taken possession of such land, the former lessee, his executors, administrators, or assigns shall be at liberty within six months thereafter to remove all machinery and
- 20 buildings erected over the same, and all appliances, tools, and material (other than the poppet-legs or brace erected over any shaft or any material already used for the purpose of keeping open the shafts, adits, or mine) belonging to such former lessee, or to his executors, administrators, or assigns.
- 25 31. The jurisdiction, powers, and authorities conferred by or under the "Mining Act, 1874," or any Act amending or repealing the said Act, upon Wardens or Inspectors of Mines shall apply to and may be exercised in respect of all private lands the subject of any agree-
- 30 ment or lease under this Act, and in respect of all questions affecting such lands or interests therein, or matters in dispute arising out of or connected with mining upon or under such land; and for that purpose the said Act shall be read in connection with, and as forming part of, this Act. And the word land as used in the said Mining Act shall be deemed to comprise any private land the subject of an agree-
- 35 ment or lease under this Act. And the provisions of the said Mining Act relating to appeals from the decisions of Wardens and Mining Appeal Courts shall, except as hereinbefore provided in sections sixteen and eighteen hereof with respect to compensation, be read and construed as forming part of this Act.
- 40 32. Subject to compensation as provided for in section fifteen hereof, the Governor may, in the prescribed manner, grant a Mining-race lease of any private land, irrespective of any mineral reservations with respect to such lands, for the purpose only of cutting mining-races thereon and conveying water or detritus through or
- 45 over such land to or from any mine, whether such mine be held under the provisions of this Act, or under the provisions of the "Mining Act of 1874," or any Act amending the same, and such leases shall be subject to the regulations to be provided hereunder, and to any special provisions the Governor may deem necessary to make.
- 50 33. In like manner the Governor may grant a lease of any area of private lands for the purpose of a tramway or a machine site, or for smelting works, or water conservation, or for any other purpose in connection with mining, and the rent to be reserved for the owner of the land in leases granted under this and the preceding
- 55 section shall be determined in the same manner as if it were a question of compensation for surface damages, and such leases shall be subject to such special provisions as the Governor may deem necessary.
34. Whenever land is required for the purposes of a mining village, and no Crown land is available, it shall be lawful for the
- Governor

Former lessee
may remove
machinery.

Jurisdiction of
Wardens.

Appeals.

Leases may be
granted through
which to carry
Mining-races.

Leases may be
granted for machine
site, smelting works,
&c.

Lands may be
resumed for village
purposes.

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Governor to resume any private land which may be found necessary for this purpose under the provisions of the "Lands for Public Purposes Acquisition Act," or any amendment thereof; and the the acquisition of any such lands for "mining village" purposes is
 5 hereby declared to be a "public undertaking" within the meaning of the seventh section of the "Lands for Public Purposes Acquisition Act," and all the provisions of the said Acts in respect of resumptions, whether as to the manner of making resumptions and the effect thereof, the accruing of claims for compensation and the method of determining
 10 the amount thereof, the payment of such compensation, or otherwise shall be deemed to be applicable to the resumption of any such lands as aforesaid, in as full and ample a manner as if the aforesaid seventh section of the said Act specified as a "public undertaking" the resumption of any such lands as aforesaid for the purposes of this
 15 section,—subject however to the following qualifications:—

(a) The word "Minister" wheresoever occurring in the said Acts shall, with respect and in relation to any lands resumed, or resumption effected, for the purposes of this section, be taken to mean the Minister for Lands for the time being, who with
 20 his successors in that office is hereby declared to be a corporation sole under the name of "The Minister for Lands," and by that name to have perpetual succession and an official seal, to sue and be sued, plead and be impleaded, answer and be answered unto, and take all legal proceedings in all Courts and places whatsoever; and the notice of claim for compensation and abstract of title referred to in section three of the
 25 "Land for Public Purposes Acquisition Act Amendment Act" shall be sent to the Minister for Lands as well as to the Crown Solicitor, and not to the Minister for Public Works or the Minister for Public Instruction.

(b) Lands resumed for the aforesaid purposes shall, in lieu of vesting in the Minister within the meaning of the said Acts, vest in Her Majesty, Her Heirs and Successors according to law, and in lieu of vesting for the purposes of the said Acts and subject to the powers thereby conferred, shall, upon such
 35 vesting in Her Majesty as aforesaid, become ordinary Crown lands: Provided always that the notification in the *Gazette* declaring that any such lands as aforesaid have been resumed shall operate to reserve such lands from sale and lease or
 40 from the operation of miners' rights, mineral licenses, or business licenses, until the Minister shall by notification in the *Gazette* have revoked such reservation.

PART III.

35. Notwithstanding anything to the contrary in Part II of
 45 this Act, the Warden may grant a Prospecting license to any person being the holder of a miner's right, and such license shall entitle the holder thereof to enter upon any private land which is subject to the operations of mining for gold under the provisions of this Act, and to mark off and occupy a Prospecting area of the dimensions
 50 and in manner provided for in any Mining Act or regulations in force for the time being and appertaining to mining for gold on Crown lands, and such prospector shall have the right within such prospecting area to dig and search for gold subject to the provisions herein contained. And whenever alluvial deposits containing gold of a payable character
 55 are discovered such discovery shall forthwith be reported to the Warden, who

Where alluvial gold deposits occur.

Land may be resumed.

Mining on Private Lands.

who shall report the same to the Minister, and on his being satisfied of the payable nature of such discovery the Minister may cause the land or any part thereof to be resumed for mining purposes, and on notification of such resumption appearing in the *Gazette*, the owner thereof shall be
 5 entitled to compensation for the value of such land for other than mining purposes, and in the event of there being a tenant or rightful occupier of such land, other than the owner, such occupier shall be entitled to compensation for the loss of his interest therein. All such resumptions shall be effected under the provisions of the "Land
 10 for Public Purposes Acquisition Act" or any amendment thereof; and the acquisition of any such lands for "alluvial gold-mining" purposes is hereby declared to be a "public undertaking" within the meaning of the seventh section of the "Lands for Public Purposes Acquisition Act." And all the provisions of the said Acts in respect of resumptions,
 15 whether as to the manner of making resumptions and the effect thereof, the accruing of claims for compensation and the method of determining the amount thereof, the payment of such compensation, or otherwise shall be deemed to be applicable to the resumption of any such lands as aforesaid, in as full and ample a manner as if the afore-
 20 said seventh section of the said Act specified as a "public undertaking" the resumption of any such lands as aforesaid for the purposes of this section,—subject however to the following qualifications:—

(a) The word "Minister" wheresoever occurring in the said Acts
 25 shall, with respect and in relation to any lands resumed, or resumption effected, for the purposes of this section, be taken to mean the Minister for Mines for the time being, who with his successors in that office is hereby declared to be a corporation sole under the name of the "The Minister for
 30 Mines," and by that name to have perpetual succession and an official seal, to sue and be sued, plead and be impleaded, answer and be answered unto, and take all legal proceedings in all Courts and places whatsoever; and the notice of claim for compensation and abstract of title referred to in section three of the "Land for Public Purposes Acquisition Act
 35 Amendment Act" shall be sent to the Minister for Mines as well as to the Crown Solicitor, and not to the Minister for Public Works or the Minister for Public Instruction.

Qualifications of the
aforesaid Acts.

(b) Lands resumed for the aforesaid purposes shall, in lieu of
 40 vesting in the Minister within the meaning of the said Acts, vest in Her Majesty, Her Heirs and Successors according to law, and in lieu of vesting for the purposes of the said Acts and subject to the powers thereby conferred, shall, upon such vesting in Her Majesty as aforesaid, become ordinary Crown
 45 lands, and without any further notification shall be reserved until such reservation be revoked by the Governor; and whenever such revocation shall take place, the then owner of the estate of which such land originally formed a part shall be entitled to re-purchase or re-lease such land at a
 50 price or rental to be determined by the Minister for Lands after appraisalment by the Land Board, and failing such repurchase or release the land shall be dealt with as ordinary Crown lands.

Former owner to
have preferent
right to repurchase.

36. Before authorising any person to enter upon such private
 55 land for prospecting purposes, the Warden shall hold an inquiry, of which due notice shall be given to the owner and occupier (if any), as well as the applicant, and shall thereat assess the amount of money to be deposited by the applicant for a prospecting license towards covering the damage to the surface of such land likely to be caused by
 mining

Deposit to cover
surface damage.

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mining operations being conducted thereon; and the Warden may make such stipulations and conditions with respect to such mining operations as shall appear to him necessary and expedient, and shall have power to enforce the same in all cases.

5 37. Whenever a notification of resumption as aforesaid shall appear in the *Gazette*, the authorised prospector, in the event of his being the discoverer of such payable deposits, and having duly reported the same to the Warden shall be deemed to be the first applicant for a prospecting claim under his miner's right; and the date of publication
10 of such notification in the *Gazette* shall be reckoned as the date of application of such prospecting claim; but in all other respects as to area, labour conditions, and other matters, the application shall be dealt with subject to the regulations in force for the time being authorising the occupation of Crown lands for mining purposes, and in the event
15 of an auriferous quartz vein being discovered in such prospecting area, the holder or holders thereof shall report the same to the Warden, and within thirty days thereafter shall be entitled to apply for a lease of such land in accordance with the provisions of section thirteen of this Act, and he or they shall in such case be deemed to be the first
20 applicant or applicants as the case may be. And in the event of such land not being proved to contain payable alluvial deposits of gold it shall not be resumed for mining purposes.

Prospector to have preferent right to claim.

If auriferous veins are discovered, prospector may apply for a lease.

38. Whenever in any section of this Act the expression "prescribed" is used in connection with any matter referred to in the
25 context, and whenever in any section of this Act "Regulations" are mentioned in connection with any such matter as aforesaid the Governor may in every such case frame regulations for the purpose of giving effect to the provisions of such section. And for the purpose of carrying this Act into full effect generally the Governor may make
30 regulations which may provide for their enforcement by penalties not exceeding in any case fifty pounds, and shall, upon being published in the *Gazette*, be valid in law: Provided that a copy of every such regulation shall be laid before both Houses of Parliament within fourteen days from the publication thereof if Parliament be then in
35 Session, or otherwise within fourteen days after the commencement of the next ensuing session.

Governor may make regulations.

[11]

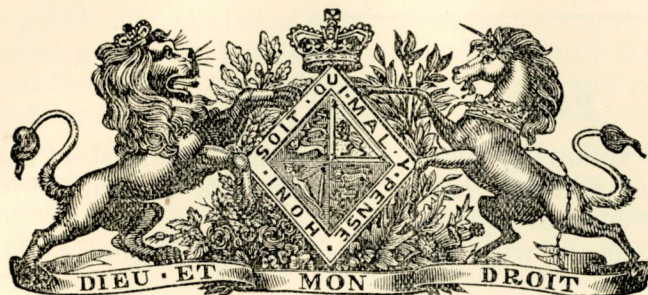
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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Legislative Assembly Chamber,
Sydney, 5 December, 1893.* }

F. W. WEBB,
Clerk of the Legislative Assembly.

New South Wales.



ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. .

An Act to legalise Mining on Private Lands; to provide for charging Rents and Royalties in connection therewith; to validate certain Crown grants; to provide for the resumption of land for certain purposes; to make better provision for and in connection with mining on Crown Lands in certain particulars; to effect such amendments in the Statutes as may be necessary to give this Act full force and effect; and for purposes consequent upon, connected with, or incidental to the aforementioned objects.

WHEREAS from time to time since the establishment of the Preamble. Colony of New South Wales Crown lands within the said Colony have been alienated, subject to various reservations in the Crown grants with respect to gold and minerals other than gold, and
5 in the public interest it is now deemed necessary to give legal effect to such reservations: And whereas certain other lands have from time to time been alienated without express reservation of any minerals which might afterwards be found therein, but having regard to the well established laws of England whereby it has been held from time
10 immemorial that the royal metal gold does not pass from the Crown unless by express conveyance in the grant of such lands: And whereas, for the well being of the State, it is now deemed necessary that all such lands should be made available for the operations of mining thereon or thereunder for such gold as may be found therein:
15 And whereas it is deemed expedient to define the royalties and rents

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to be derived under the operations of this Act either on behalf of the Crown or on behalf of the landowner, as hereinafter provided: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative
5 Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Mining on Private Lands" Short title.
Act."

PART I.

10 2. In this Act the following terms shall, if not inconsistent Interpretation of
with the subject matter or context, have the respective meanings terms.
hereby assigned to them (that is to say):—

15 "Governor"—The Governor with the advice of the Executive Council.

"Minister"—The Minister for Mines for the time being.

"Gold"—As well any gold as any earth or rock containing gold, or having gold intermixed therewith.

"Coal"—Bituminous coal, anthracite, lignite, kerosene shale, and natural coke.

20 "Minerals other than gold"—Coal and any of the following metals, or any ore containing the same, viz.:—Platinum, silver, mercury, nickel, bismuth, copper, tin, cobalt, antimony, lead, manganese, and iron, or any other substance which may from time to time, by proclamation of the Governor, published in
25 the *Gazette*, be declared a "mineral" within the meaning of this Act.

"All Minerals"—The minerals, metals, or ores of metals enumerated in the three immediately preceding subsections.

30 "Owner"—The owner or conditional purchaser of any land dealt with under the provisions of this Act, whether such title is completed or not, or any trustee for such land, if vested in trust.

35 "Occupier"—The person in occupation of such land, whether as conditional lessee, the valid applicant for a conditional lease, the lessee of any land for tramway, irrigation, water supply or power purposes, whether under any special Act or otherwise, or a tenant.

"Applicant"—The person applying for a mining lease under this Act.

40 "Lessee"—The holder of a lease under this Act, or his executors, administrators, or assigns.

45 "Private land"—Any land included within the provisions of this Act, whether alienated or in process of alienation, or vested in trust, or demised by lease under any of the forms hereinafter referred to, or land held under any valid application for such lease.

50 "Mining," or "To mine"—To sink shafts, construct drives, adits, tunnels, or surface excavations, or to remove earth, rock, metals, or ores, or to wash, crush, smelt, or conduct any operation in connection with mining.

"Mining-race"—Any artificial channel, flume, aqueduct, tunnel, culvert, or pipe for the conveyance of water or detritus; also the natural bed of any creek or gully in which water or detritus is conducted in connection with mining.

"Warden"

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- “Warden”—Any Warden appointed under the Act thirty-seventh Victoria number thirteen, or any Act relating to mining, who may be in charge of the mining district or division denoted by the context where the expression is used, or any Warden acting for him or in his stead, or (if none such is denoted) any Warden.
- “Prescribed”—Prescribed by this Act or any regulation made thereunder.
- “Royalty”—The share or duty claimed by the State on the produce of the mine held by lease under this Act.
3. From and after the passing of this Act all lands alienated on or prior to the twenty-fourth day of January, in the year one thousand eight hundred and fifty, whether the Crown grants thereof had issued at that date or otherwise, shall, subject to the provisions of this Act, be open to mine thereon or thereunder for gold or such minerals other than gold as have been reserved in the Crown grant issued therefor, save and except coal. And all lands alienated after the twenty-fourth day of January, one thousand eight hundred and fifty, and prior to the eighteenth day of October, one thousand eight hundred and sixty-one, whereof the grants contain a reservation of all minerals to the Crown, shall, subject to the provisions of this Act, be open to mine thereon or thereunder for all minerals, including gold: Provided that where the said grants contain no reservation of minerals the mining on such lands herein specially referred to shall be confined to mining for gold only.
4. All Crown grants issued, or purporting to be issued, under the provisions of the “Crown Lands Alienation Act of 1861,” or any Act amending the same, including all grants issued by virtue of volunteer land orders as well as grants issued, or purporting to be issued, under the provisions of the “Crown Lands Act of 1884,” or any amendment thereof, shall be deemed to have been and to be good and valid in law for all purposes of this Act.
5. All lands alienated or in process of alienation under the provisions of the “Crown Lands Alienation Act of 1861,” or any Act amending the same, as well as all lands alienated or in process of alienation, under the provisions of the “Crown Lands Act of 1884,” or any amendment thereof, shall be subject to the operations of mining under the provisions of this Act to the following extent, but no further:—
- (a) If the grant for such land contains, or would, under the provisions of the said Acts, or any amendments thereof, contain, when issued, a reservation to the Crown of all minerals which the said land contains, then such land shall be open under the provisions of this Act for mining for gold, and for all minerals other than gold.
- (b) If the grant for such land contains, or would contain when issued, a reservation to the Crown of any mineral or minerals particularly specified therein, then such lands shall be open under the provisions of this Act for mining for gold, as well as for the particular mineral or minerals specified in such reservation, but for no other mineral whatsoever.
- (c) If such land shall have been alienated, or be in process of alienation under the nineteenth section of the “Crown Lands Alienation Act of 1861,” or if having been selected under any other section of the said Act, or if having been held under mineral lease, and in either such case having been converted into a mineral conditional purchase, then such lands shall be open under the provisions of this Act for mining for gold only, or for any ore, the chief and most profitable metallic product of which is gold.

Lands alienated prior to “Crown Lands Act of 1861” open to mining under the provisions of this Act.

Reservations in grants good and valid.

Lands alienated under “Crown Lands Acts of 1861 and 1884” may be mined upon under provisions of this Act.

What lands open to mining for all minerals.

Lands open to mine for gold as well as certain specified minerals.

Lands open to gold-mining only.

(d)

Mining on Private Lands.

- (d) If the grant for such land contains, or would contain when issued, no reservation of minerals, then in every such case the land shall be open under the provisions of this Act for mining for gold only, or for any ore, the chief and most profitable metallic product of which is gold. If no reservation in grants to be open to gold-mining only.
- 5 6. After the passing of this Act, all lands granted or vested in trust by the Crown for the purposes of a race-course, cricket ground, recreation reserve, park, or permanent common, irrespective of whether the deed of grant (if any) contains a reservation of minerals or the contrary, and all lands held under Tramway, Irrigation, or Power leases, 10 or leases for Water Supply, whether granted under any special Act or otherwise, shall be open for mining thereon or thereunder for gold or minerals other than gold subject to the provisions of this Act: Provided that nothing herein shall be held to apply to alienated 15 lands situated within the boundaries of any town or village, or to lands vested in trust for or dedicated to any public purpose, other than those hereinbefore mentioned, unless the Governor shall have first proclaimed in the *Government Gazette* that any such lands particularised in such proclamation shall be subject to the provisions 20 of this Act. And in all cases, whether on private lands or Crown lands, wherever a lease is granted to mine under such land only and without the right of mining on the surface thereof, the Governor may stipulate at what vertical depth from the surface such lease shall commence. Lands vested in trust or under lease may be mined upon. Town and village lands not open. Depth from surface at which underground leases shall commence.
- 25 7. Every grant hereafter issued for land alienated or which shall be alienated under any Act or vested in trust by the Crown for any public purpose shall contain a reservation to the Crown of all minerals which such lands shall contain. And such minerals are hereby expressly so reserved, and the land so alienated or so vested in trust 30 shall be subject to all the provisions of this Act with respect to mining thereon or thereunder. All minerals to be reserved in grants issued for future alienations.
- 35 8. The Governor shall, as soon as practicable and in the prescribed form, provide a "Register of Crown Grants" with respect to all lands alienated prior to the passing of this Act except lands 40 situated within towns or villages whether such lands have been alienated in fee simple or vested in trust for public purposes. And such Register shall classify the lands according to the mineral reservations or otherwise contained in the grants thereof, and shall have a copy of each form of mineral reservation (if any) at the head of its various columns, and 45 such Register shall be divided into so many parts as there are Land Districts, and a copy of the part appertaining to each district shall be kept at the respective Land Offices, and be open to inspection of the public in the prescribed manner. And with respect to lands in process of alienation only and for which no Crown grant shall have 50 issued, then the "Register of Crown Grants" shall set forth the form of mineral reservation (if any) which such grant would be subject to when issued. And in case any lands other than those herein exempted shall not be found classified in such Register it shall be taken as *prima facie* evidence that such land has been alienated since the passing of this Act and is therefore available for mining thereon or thereunder for all minerals including gold, subject to the provisions herein contained. Register of reservations in Crown grants to be provided.

Mining on Private Lands.

PART II.

Proceedings in connection with Mining.

9. It shall be lawful for the Warden of any mining district to grant to any person in the prescribed manner an authority in duplicate to enter into and upon any private land which is subject to the operations of mining under the provisions of this Act, and on serving the duplicate of such authority on the owner or occupier thereof, such person shall either personally or by his agent be entitled to search and examine the surface of such land, but shall not be entitled to commence to mine thereon or thereunder until the amount of compensation, to be ascertained as hereinafter provided, shall have been paid, and a lease from the Governor to such person shall have been first obtained. And any person applying for authority to examine the surface of such private land, or for a mining lease thereof, shall (if the Register of Crown grants has been provided but not otherwise) accompany such application with a certified copy of the form of mineral reservation contained in the grant of such land, and such certified copy shall be supplied by the Land Agent of the district wherein such land is situated, and shall be a correct extract from the Register of Crown grants, or shall certify that a grant of such land is not included in such Register.

Authority to examine surface may be granted by the Warden.

10. Any person having received authority from the Warden to examine the surface of such private land for mining purposes shall be deemed to be in possession as against other applicants for the same land for a period of one month from the date of such authority to the full extent of the area allowed in such class of lands to be leased: Provided that such authorised person if requested so to do by other authorised persons desirous of occupying the adjoining land shall approximately define the boundaries of such area.

Authorised person considered first applicant.

11. Any duly authorised person desiring to obtain a lease for mining purposes of such private land, or any portion thereof, as under the provisions of this Act shall become open to lease, may, without incurring any liability for trespass, enter upon such land, either personally or by an agent, and in the prescribed manner, define the boundaries of the portion intended to be applied for. And any owner, occupier, or other person who shall obstruct such authorised person in the performance of any such act, or who shall interfere with, remove, destroy, or deface any boundary mark so made or any necessary notice posted in connection therewith, shall, on conviction thereof, be liable for the first offence to a penalty not exceeding ten pounds, or on conviction of a second or any subsequent offence, to a penalty not exceeding fifty pounds. And in like manner any surveyor may enter upon any private land for the purpose of defining the boundaries of the portion sought to be leased, or for any other purpose under this Act, in pursuance of and bearing an order of the Minister or of a Warden.

Owner or occupier obstructing applicant.

12. The Governor, in the name and on behalf of Her Majesty, shall have power under the provisions of this Act to grant to any person a lease of such private lands, to be effectual either on and below the surface, or on one or more limited portions of the surface and below the whole area or to be effectual below the surface only, for the purpose of mining thereon or thereunder, either for gold only, or for minerals other than gold, regard being had to the reservations (if any) contained in the Crown grants thereof, except in the case of certain lands vested in trust and referred to in section six hereof, but in the case of lands alienated prior to or on the twenty-fourth day of January, in the year one thousand eight hundred and fifty, regard shall be had to the proclamation of His Excellency Sir Charles Augustus Fitzroy,

Governor may grant lease.

Regard must be had to reservations in grants.

Fitzroy,

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Fitzroy, Governor, published in the *Government Gazette*, on the twenty-ninth day of January, in the year aforesaid, whereby all reservations of coal, with the rights of the Crown incident thereto, were, by His Excellency's command, for ever abandoned. And such lease shall confer
 5 the right of cutting and constructing on the lands thereby demised races, drains, dams, reservoirs, or tramways, and erecting thereon buildings and machinery in connection with such mining, but not otherwise, and generally for doing all such acts and things as shall be requisite for efficiently mining the said land, with full right of ingress, egress, and
 10 regress for the purposes herein provided; but such lease shall in nowise give the lessee the right to use water artificially conserved by the owner of such land, or to fell trees, strip bark, or cut timber on such land, or to depasture horses, cattle, or sheep thereon, or to remove earth or rock therefrom, except in connection with such mining operations,
 15 without the consent of the owner and occupier: Provided that the power herein given to grant leases shall not, except with the consent of the owner, extend to within one hundred yards on the surface of any land which is *bonâ fide* in use as a garden, orchard, or pleasure ground, or to either the surface or below the surface of any restricted
 20 portion of such land whereon is erected or constructed any substantial building, bridge, dam, reservoir, well, or other valuable improvement: Provided further that it shall be for the Minister to determine whether any improvement referred to in this section is of a substantial or valuable character, and to define the area within which mining
 25 operations may be excluded.

Lease gives right to occupy for all purposes connected with mining.

Not to approach within 100 yards of garden, &c., without owner's consent.

13. Within one month from the date of the aforementioned authority such authorised person may in the prescribed manner apply to the Minister for a lease of such land, and on receipt of such application, accompanied by the prescribed sum by way of rent and
 30 fees, the Minister shall cause a notice to be served on the owner and occupier of such land. And in case the whole or any part of the surface thereof is required, such notice shall so state, and if a part only is required, such notice shall define such part, and shall also request from the owner and occupier respectively such particulars of
 35 their estate and interest therein as the Minister shall deem necessary for carrying out the objects and intentions of this Act, and within twenty-one days therefrom such owner or occupier shall give such particulars to whomsoever such notice shall direct.

Notice to owner and occupier.

14. All notices required by this Act to be served upon the owner
 40 or occupier of any private land shall either be served personally on such persons or left at their usual place of abode (if the same can after diligent inquiry be found), and in case the owner shall be absent from the Colony or he or his agent cannot after diligent inquiry be found, the notices shall be left with the occupier of the land, or if there be
 45 no such occupier, shall be affixed upon some conspicuous part of the land, and in the latter case such notice shall be advertised in two issues of a newspaper circulating in the district in which the land is situated. And the affixing of such notices in addition to the aforementioned advertisements shall be deemed service of notice on the
 50 owner and occupier.

Service of notices.

15. The Governor may appoint mining appraisers as may from time to time be found necessary, who may also hold other offices in the Public Service, and shall be paid such salaries or fees as the Governor shall direct, and any such mining appraiser, on being authorised by
 55 the Minister so to do, shall assess the amount of compensation to be made to the owner and occupier of such lands respectively for the loss which he or they may sustain by way of damage which may be caused through mining operations either on, in, or under such land to the surface thereof, or to any crop growing thereon, or to any buildings,
 structures,

Appraisers to be appointed who shall assess surface damages.

Mining on Private Lands.

structures, or other improvements erected or constructed thereupon: Provided that with respect to the land of which a lease of the surface is required (not being less than one acre), such compensation as aforesaid shall in no case exceed the then ascertained market value of such
5 land for other than mining purposes.

16. On receipt of an application for a lease under this Act, Either party may appeal to Minister. unless such application be accompanied by a document signed by the applicant and the owner and occupier (if any), or their respective agent or agents, certifying that they have mutually agreed as to the
10 amount of compensation, whether by way of money, shares, or otherwise, to be paid by the applicant to the owner and occupier, the Minister shall authorise a mining appraiser to assess the amount of compensation to be paid to the owner and occupier respectively, and it shall be the
15 duty of such mining appraiser, without loss of time, to forward his assessment to the Minister, who shall thereupon, by notices of even date, acquaint the applicant and the owner and occupier (if any) with the amount of such assessment, and shall specify the time within which the same shall be paid. And in the event of the applicant or the
20 owner or occupier being dissatisfied with such assessment, either party may, within twenty-one days of the date of such notices, apply to the Minister to have such assessment reviewed, and the Minister shall thereupon refer such matter to the Warden, who shall fix a time and place for holding an inquiry, not being more than thirty days from the receipt of such reference, and shall give due notice thereof to all the parties
25 interested therein, and at the time and place so appointed shall hear, receive, and examine such evidence as shall be produced by any of the parties, and shall thereupon determine the amount of compensation to be paid to such owner or occupier in respect of his or their respective claim or claims, and may specify the time within which and to whom
30 the same shall be paid; and the decision of the Warden in all such cases shall be final, and he may make an order for the payment of such costs of Court as shall appear to him just: Provided always that the Warden may upon cause shown, adjourn the hearing to any other time or place, but such adjournment shall not be for a longer period than
35 fourteen days. When the amount of compensation so awarded shall have been paid, a lease for mining under the provisions of this Act may in due course be issued by the Governor.

17. In the event of the applicant for a lease failing to pay Applicant failing to pay award. the amount of compensation within the time specified, all moneys
40 accompanying the application for such lease shall thereupon become forfeited to the Crown, and shall be paid into the Consolidated Revenue. And in the event of such owner or occupier refusing or neglecting to supply the particulars of his estate and interest in such land as
45 requested so to do by the Minister, such refusal or neglect shall in no way act as a bar to an award being made by such mining appraiser or a final decision of the Warden being arrived at. On the amount of such compensation being paid into Court, the Warden shall in due course
50 pay to the owner or occupier the amount to which he is entitled. And in case such owner or occupier shall for the space of three months Owner or occupier failing to accept award. refuse or fail to accept or claim the amount of compensation so assessed or determined, such amount shall be passed to the Treasury
55 Suspense Account and be held in trust for such owner or occupier, but without interest accruing thereon, and if not claimed within six years from the time of the receipt thereof by the Treasury such amount shall be paid into the Consolidated Revenue.

18. During the progress of mining operations the lessee having Lessee must fence if requested. a lease of below the surface only of such land, may apply to the Minister for a lease of a portion or any number of additional portions of the surface thereof: Provided that such lessee shall if required in
writing

Mining on Private Lands.

writing so to do by the owner or occupier without delay cause a secure fence to be erected around the shafts, machinery, or other works in connection with such mining: Provided also that if at any time the surface of any part of such land or any building, erection, or structure thereon belonging to such owner or occupier for which full compensation has not been previously paid shall be damaged by reason of such mining operations, the Minister, on application by the owner or occupier, accompanied by such fees as may be prescribed, shall cause an assessment of such damages to be made by a mining appraiser, who shall have power to assess both the amount of damage (if any) and also the costs of such assessment. And if the cause of such damage be disputed by either party, such mining appraiser may, if necessary, call in the aid of a mining engineer or surveyor, who, as well as such appraiser, shall have power to examine the surface or underground workings of such mine. And the lessee shall, during ordinary working hours, and within a reasonable time, comply with any request of such mining appraiser, engineer, or surveyor to furnish the usual appliances and aid necessary for descending to and ascending from such underground workings, and for examining thereinto as often as may reasonably be found necessary, and in the event of any lessee refusing or neglecting so to do, such lease shall be liable to forfeiture by the Governor in Council. And within twenty-one days from the date of the notice of such assessment either party may appeal to the Minister; and such appeal shall be dealt with by the Warden whose decision shall be final, as in the case of ascertaining surface damages at the time of application for a lease; and should the lessee fail for the space of one month after the date of the notice informing him of the assessment—if no appeal shall have been made, or of the final decision of the Warden, as the case may be—to pay the amount assessed to whomsoever such notice shall direct, such amount shall be recoverable by the owner or occupier under the ordinary process of law.

Appraiser may award further damages.

19. Nothing herein contained shall be construed as rendering it obligatory on the Governor to grant a lease to any person applying for the same, notwithstanding that he may have complied with the provisions of this Act and the regulations hereunder, but in case his application shall be refused he shall be informed of the reasons for such refusal. And a lease may be granted notwithstanding that the person applying for the same may not in every respect have complied with such regulations, and the Minister may alter, amend, and modify any application for a lease, and may reduce or increase the area of land of which a lease is applied for either on or below or both on and below the surface, or may direct a Warden to hold an inquiry in open Court with reference to any matter touching an application for a lease under this Act, and at all such inquiries the evidence shall be taken on oath.

Not obligatory to grant leases.

20. In any case where *bonâ fide* mining operations were being carried on under agreement upon any private land on the sixth day of October, one thousand eight hundred and ninety-two, a joint application by the parties to such agreement, or by their representatives, for a special lease, if made within two months after this Act comes into force, and if accompanied by an attested copy of such agreement, shall have priority over all other applications with respect to the land defined therein. And such private agreement then existing shall in no way be disturbed or interfered with by the operations of this Act, except with respect to any royalty payable to the Crown which the land may be subject to and which in all cases shall be chargeable as if such land was leased under the provisions of this Act. And in the event of mining operations being carried on by the owner of such land at the time of the passing of this Act, any such

Special leases may be granted.

Existing agreements protected.

Mining on Private Lands.

such application made by him shall, if made within two months as aforesaid, have a like priority, and be subject in the same manner to such royalty as hereinafter provided; or in any case where active mining operations have not been commenced, and the owner has
 5 obtained from the Governor a permit to mine for, win, and remove gold or minerals other than gold from such private land, such owner may within two months after the passing hereof apply in the prescribed manner to convert such permit into a lease under this Act; and in all
 10 cases hereinbefore referred to in this section, such leases shall not be subject to the payment of rent, but the royalties reserved to the Crown shall be those provided for in this Act and none other.

Permits may be converted into leases.

21. Any person who prior to the passing of this Act shall have obtained a permit from the Secretary for Lands or the Secretary for
 15 private land may, within two months as aforesaid, apply for and in such event shall have a preferent claim for a lease under this Act, but such lease shall with respect to rent, royalty, tribute, and other matters be subject to all the provisions of this Act: Provided that two months after the passing of this Act all such permits shall become extinguished
 20 and inoperative, and the power of granting such permits is hereby repealed, all other Acts to the contrary notwithstanding. And if the holder of such permit shall fail for a period of two months as aforesaid to apply for the conversion thereof into a lease under this Act, any other person may thereafter apply for a lease of such land, and the
 25 Governor may grant the same as if such permit had not been issued.

Permit to dig and search gives preferent claim to lease.

22. The owner of any private land may at any time apply for a lease of such land for mining purposes; but except as hereinbefore provided, he shall have no preferential right to such lease as against any
 30 other application of prior or even date. In the event of there being no conflicting application, or of such conflicting application having been refused, the Minister may dispense with the preliminary proceedings, applicable in other cases, and may grant such lease, subject to the provisions of this Act with respect to royalty, but free from the charge of any rent or tribute. In other respects such lease shall be
 35 granted, subject to all the provisions of this Act and the regulations thereunder, as if the lessee were not the owner of such land.

Owner may obtain a lease.

23. The term for which a lease may be granted under this Act shall not exceed twenty years, but may, subject to such conditions as
 40 the Governor may approve, be renewed for a further period not exceeding twenty years, and the yearly rental reserved to the owner of the land in respect of such leases, shall be two shillings and sixpence per acre for land whereof the mining will be confined to minerals other than gold, and twenty shillings per acre for land applied for for
 45 gold mining purposes. The area of a lease shall not exceed five acres in the case of ordinary auriferous lands, and shall not exceed forty acres in the case of alluvial auriferous land where the mining operations will be conducted through basaltic rock formations, or where the quantity of water is such as to necessitate the erection of steam machinery, or where, in the opinion of the Minister, a large
 50 outlay of money is necessary to make such land available for gold-mining purposes. And no lease of land for mining for minerals other than gold shall be granted of an area greater than eighty acres except in the case of land containing coal, and in such case the area shall not exceed six hundred and forty acres. Where practicable such leases
 55 shall be granted in conformity with the existing divisions of such land, but in all other cases such leases shall be measured in the prescribed form. The areas and rents herein specified shall apply to leases whether for only below the surface or for both on and below the surface.

Duration of lease.

Rents payable.
 Area of lease.

Mining on Private Lands.

24. In the event of more than one application being made for the same land, or any part thereof, the application, except as hereinbefore provided, which shall have been first received in manner prescribed shall have priority, and in the event of two or more applications for the same land being received at the same time it shall be determined by lot which application shall take precedence. And except when the lease applied for will cover the whole of a measured portion all such areas shall be surveyed before the issue of a lease, and in the event of any applicant refusing or neglecting to execute such lease for the space of one month after notice shall have been given him of such lease being ready for execution such lease shall be liable to forfeiture, with all moneys paid thereon, and all such leases shall, within one month after execution thereof, be registered with the Mining Registrar in Sydney, who shall forward a copy thereof to the Mining Registrar of the Division in which such land is situated, and thereafter all transfers of such leases or of any portion thereof shall be so registered within one month after the date of such transfer.

Applications how dealt with.

25. All leases granted under the authority of this Act shall be granted subject to such royalties as are hereinafter set forth on the metals and minerals obtained from such land, and the value thereof shall be taken to mean their value, in the case of coal, at the pit mouth; and in the case of metalliferous ores, their value shall be estimated in such way as shall be prescribed. And every lessee under this Act, in whose lease a royalty is reserved, shall keep a correct set of books, and shall in the prescribed manner enter therein the value of all metals or minerals won from the mine, and the amount of royalty payable thereon; and such books shall at all times be open to the inspection of such person as the Minister or the owner may from time to time appoint, and an abstract of the same, which shall have been previously verified by statutory declaration made before a justice of the peace or a commissioner for affidavits, shall, in the months of July and January in each year be published in the *Government Gazette* and in a newspaper circulating in the district wherein such mine is situated.

Royalty how ascertained.

Lessee to keep books.

26. The amount of royalty payable to the Crown shall be paid into the Treasury or to such public officer as the Minister shall direct at least once in every half year. And any lessee or the director or manager of any company holding a lease under this Act, who shall neglect or fail to pay such amount during the half-year within which the same becomes payable, or within one month thereafter, shall be deemed guilty of a misdemeanour. And in the event of any lessee or director or manager of such company who shall fail to enter or to cause to be entered in books kept for that purpose the full value of all minerals obtained from such private land, and the amount of royalty payable thereon, or shall make false entries in such books or cause such books to be falsified, shall be deemed guilty of a misdemeanour; and the lease upon which such royalty was payable, with all moneys paid thereon, shall be absolutely forfeited if the Governor shall think fit. And after the expiration of six months from the passing of this Act, any person who shall, contrary to the provisions hereof, take, mine, or remove any gold or minerals other than gold from any such private land, shall be deemed guilty of a misdemeanour. Any person convicted of an offence declared by this section to be a misdemeanour shall be liable to a penalty not exceeding fifty pounds, or may be imprisoned at the discretion of the Court for any term not exceeding three months.

Non-payment of royalty a misdemeanour.

False entries a misdemeanour.

Penalty for misdemeanour.

27. Notwithstanding anything to the contrary in any other Act provided, after the passing of this Act no royalties shall be charged on behalf of the Crown on any metals or minerals obtained from alienated

No royalties to the Crown from private lands except under this Act.

Mining on Private Lands.

alienated lands, or lands in process of alienation other than those hereinafter set forth. All leases granted under the provisions of this Act shall be subject to the following royalties, that is to say:—

- 5 (a) Mining for minerals other than gold. — Whenever any mineral lease is granted of lands on which all minerals have been reserved, or of lands where some minerals only have been specifically reserved, the Crown shall reserve a royalty of two and a half per centum on the value of the minerals obtained therefrom, and for which such lease shall have
10 been granted. And except in the case of lands referred to in section six hereof, no lease will be granted under this Act to work minerals other than gold which have not been reserved to the Crown.
- 15 (b) All rents shall commence from the date of the approval of the lease, and shall be paid in the prescribed manner half-yearly in advance. All royalties accruing for the preceding six months shall, during the months of July and January, be payable in the prescribed manner, up to the end of June and the end of December respectively.
- 20 (c) It shall be necessary for the applicant for a lease or the lessee to be the holder of a miner's right to establish or maintain a title to a lease for gold-mining purposes under this Act.
- 25 28. The owner of any private land shall be at liberty to enter into an agreement in writing with any holder of a miner's right giving such holder power to take possession of such land for gold mining purposes as if it were Crown land, subject to the regulations of the Mining Board in force for the time being, and it shall not be necessary to obtain a mining lease under the provisions of this Act for such private land so occupied as aforesaid under miners' rights: Provided
30 that every such agreement shall within seven days thereafter be registered with the Mining Registrar for the district in which such land is situated, in accordance with regulations to be made by the Governor: And in such case no royalty shall be payable to the Crown, the owner, or occupier, on the gold obtained therefrom, whether such
35 gold has been specifically reserved to the Crown or otherwise.
- 40 29. Adjoining lands or lands disconnected by roads only and held under separate leases may be worked conjointly as one mine, provided such contiguous lands shall not in the aggregate exceed the area allowed respectively for leases under this Act, and except as hereinafter provided such mines shall be continuously worked according to the practice of efficient mining. And every lease granted under the authority of this Act shall contain a provision that if the lessee, his executors, administrators, or assigns fail at any time during the term of such lease to fulfil the conditions and covenants therein contained, or to
45 use the land *bonâ fide* for the purposes for which it shall be demised, such lease shall for any such failure be liable to forfeiture and may be forfeited on the authority of the Governor: Provided that if at any time the mine shall become unworkable from any cause which, in the opinion of the Warden, would necessitate a suspension
50 of mining operations, he may grant such suspension for a period not exceeding three months, and, in the event of operations having wholly ceased in connection with such mine for a period of six months, the lease shall thereupon become absolutely void and determined.
- 55 30. The lessee shall be entitled at any time, with the consent of the Governor, to surrender his lease. And in case any such lease shall become forfeited, or determined by any breach of covenant or condition or otherwise, or in case the term thereby granted shall have expired, possession of the land thereby demised may be recovered

Royalty to the Crown when minerals are reserved.

No mineral lease granted where minerals not reserved.

When rents payable. Royalties when payable.

Miner's rights necessary.

Power to owner of private land to enter into agreement with holder of miner's right to occupy for mining purposes.

Adjoining lands may be worked as one area.

Failing to fulfil conditions lease may be forfeited.

Possession how recovered.

Mining on Private Lands.

- recovered in such manner as may be set forth by any of the provisions of the lease, or if there be no such provision, it shall be lawful for the Attorney-General, on behalf of Her Majesty, to bring a suit in any Court of competent jurisdiction to recover possession of
 5 such land, and such suit may be commenced and carried on, and the proceedings therein may be the same and the judgment enforced in like manner as in the case of any other suit in such Court. Land, possession to which has been so recovered, or which has been abandoned, forfeited, or surrendered by the lessee, or of which the lease
 10 has expired by effluxion of time, shall revert to the owner or occupier thereof, but may at any time thereafter be again mined upon or mined under, subject to the provisions contained herein: Provided also that in the event of any such lease being forfeited for any breach of the conditions or covenants contained therein, or in the event of such lease
 15 having expired by effluxion of time or being otherwise determined, or in the event of the owner of such land having by the authority of the Governor re-entered and taken possession of such land, the former lessee, his executors, administrators, or assigns shall be at liberty within six months thereafter to remove all machinery and
 20 buildings erected over the same, and all appliances, tools, and material (other than the poppet-legs or brace erected over any shaft or any material already used for the purpose of keeping open the shafts, adits, or mine) belonging to such former lessee, or to his executors, administrators, or assigns.
- 25 31. The jurisdiction, powers, and authorities conferred by or under the "Mining Act, 1874," or any Act amending or repealing the said Act, upon Wardens or Inspectors of Mines shall apply to and may be exercised in respect of all private lands the subject of any agreement or lease under this Act, and in respect of all questions affecting
 30 such lands or interests therein, or matters in dispute arising out of or connected with mining upon or under such land; and for that purpose the said Act shall be read in connection with, and as forming part of, this Act. And the word land as used in the said Mining Act shall be deemed to comprise any private land the subject of an agree-
 35 ment or lease under this Act. And the provisions of the said Mining Act relating to appeals from the decisions of Wardens and Mining Appeal Courts shall, except as hereinbefore provided in sections sixteen and eighteen hereof with respect to compensation, be read and construed as forming part of this Act. Jurisdiction of Wardens.
- 40 32. Subject to compensation as provided for in section fifteen hereof, the Governor may, in the prescribed manner, grant a Mining-race lease of any private land, irrespective of any mineral reservations with respect to such lands, for the purpose only of cutting
 45 mining-races thereon and conveying water or detritus through or over such land to or from any mine, whether such mine be held under the provisions of this Act, or under the provisions of the "Mining Act of 1874," or any Act amending the same, and such leases shall be subject to the regulations to be provided hereunder, and to any special provisions the Governor may deem necessary to make. Leases may be granted through which to carry Mining-races.
- 50 33. In like manner the Governor may grant a lease of any area of private lands for the purpose of a tramway or a machine site, or for smelting works, or water conservation, or for any other
 55 purpose in connection with mining, and the rent to be reserved for the owner of the land in leases granted under this and the preceding section shall be determined in the same manner as if it were a question of compensation for surface damages, and such leases shall be subject to such special provisions as the Governor may deem necessary. Leases may be granted for machine site, smelting works, &c.
34. Whenever land is required for the purposes of a mining village, and no Crown land is available, it shall be lawful for the
 Governor Lands may be resumed for village purposes.

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Governor to resume any private land which may be found necessary for this purpose under the provisions of the "Lands for Public Purposes Acquisition Act," or any amendment thereof; and the the acquisition of any such lands for "mining village" purposes is hereby declared to be a "public undertaking" within the meaning of the seventh section of the "Lands for Public Purposes Acquisition Act," and all the provisions of the said Acts in respect of resumptions, whether as to the manner of making resumptions and the effect thereof, the accruing of claims for compensation and the method of determining the amount thereof, the payment of such compensation, or otherwise shall be deemed to be applicable to the resumption of any such lands as aforesaid, in as full and ample a manner as if the aforesaid seventh section of the said Act specified as a "public undertaking" the resumption of any such lands as aforesaid for the purposes of this section,—subject however to the following qualifications:—

(a) The word "Minister" wheresoever occurring in the said Acts shall, with respect and in relation to any lands resumed, or resumption effected, for the purposes of this section, be taken to mean the Minister for Lands for the time being, who with his successors in that office is hereby declared to be a corporation sole under the name of "The Minister for Lands," and by that name to have perpetual succession and an official seal, to sue and be sued, plead and be impleaded, answer and be answered unto, and take all legal proceedings in all Courts and places whatsoever; and the notice of claim for compensation and abstract of title referred to in section three of the "Land for Public Purposes Acquisition Act Amendment Act" shall be sent to the Minister for Lands as well as to the Crown Solicitor, and not to the Minister for Public Works or the Minister for Public Instruction.

(b) Lands resumed for the aforesaid purposes shall, in lieu of vesting in the Minister within the meaning of the said Acts, vest in Her Majesty, Her Heirs and Successors according to law, and in lieu of vesting for the purposes of the said Acts and subject to the powers thereby conferred, shall, upon such vesting in Her Majesty as aforesaid, become ordinary Crown lands: Provided always that the notification in the *Gazette* declaring that any such lands as aforesaid have been resumed shall operate to reserve such lands from sale and lease or from the operation of miners' rights, mineral licenses, or business licenses, until the Minister shall by notification in the *Gazette* have revoked such reservation.

PART III.

35. Notwithstanding anything to the contrary in Part II of this Act, the Warden may grant a Prospecting license to any person being the holder of a miner's right, and such license shall entitle the holder thereof to enter upon any private land which is subject to the operations of mining for gold under the provisions of this Act, and to mark off and occupy a Prospecting area of the dimensions and in manner provided for in any Mining Act or regulations in force for the time being and appertaining to mining for gold on Crown lands, and such prospector shall have the right within such prospecting area to dig and search for gold subject to the provisions herein contained.

And whenever alluvial deposits containing gold of a payable character are discovered such discovery shall forthwith be reported to the Warden, who

Where alluvial gold deposits occur.

Land may be resumed.

Mining on Private Lands.

who shall report the same to the Minister, and on his being satisfied of the payable nature of such discovery the Minister may cause the land or any part thereof to be resumed for mining purposes, and on notification of such resumption appearing in the *Gazette*, the owner thereof shall be
 5 entitled to compensation for the value of such land for other than mining purposes, and in the event of there being a tenant or rightful occupier of such land, other than the owner, such occupier shall be entitled to compensation for the loss of his interest therein. All such resumptions shall be effected under the provisions of the "Land
 10 for Public Purposes Acquisition Act" or any amendment thereof; and the acquisition of any such lands for "alluvial gold-mining" purposes is hereby declared to be a "public undertaking" within the meaning of the seventh section of the "Lands for Public Purposes Acquisition Act." And all the provisions of the said Acts in respect of resumptions,
 15 whether as to the manner of making resumptions and the effect thereof, the accruing of claims for compensation and the method of determining the amount thereof, the payment of such compensation, or otherwise shall be deemed to be applicable to the resumption of any such lands as aforesaid, in as full and ample a manner as if the afore-
 20 said seventh section of the said Act specified as a "public undertaking" the resumption of any such lands as aforesaid for the purposes of this section,—subject however to the following qualifications:—

- (a) The word "Minister" wheresoever occurring in the said Acts
 25 shall, with respect and in relation to any lands resumed, or resumption effected, for the purposes of this section, be taken to mean the Minister for Mines for the time being, who with his successors in that office is hereby declared to be a corporation sole under the name of the "The Minister for
 30 Mines," and by that name to have perpetual succession and an official seal, to sue and be sued, plead and be impleaded, answer and be answered unto, and take all legal proceedings in all Courts and places whatsoever; and the notice of claim for compensation and abstract of title referred to in section three of the "Land for Public Purposes Acquisition Act
 35 Amendment Act" shall be sent to the Minister for Mines as well as to the Crown Solicitor, and not to the Minister for Public Works or the Minister for Public Instruction.
- (b) Lands resumed for the aforesaid purposes shall, in lieu of
 40 vesting in the Minister within the meaning of the said Acts, vest in Her Majesty, Her Heirs and Successors according to law, and in lieu of vesting for the purposes of the said Acts and subject to the powers thereby conferred, shall, upon such vesting in Her Majesty as aforesaid, become ordinary Crown
 45 lands, and without any further notification shall be reserved until such reservation be revoked by the Governor; and whenever such revocation shall take place, the then owner of the estate of which such land originally formed a part shall be entitled to re-purchase or re-lease such land at a
 50 price or rental to be determined by the Minister for Lands after appraisalment by the Land Board, and failing such repurchase or release the land shall be dealt with as ordinary Crown lands.

Qualifications of the aforesaid Acts.

Former owner to have preferent right to repurchase.

36. Before authorising any person to enter upon such private
 55 land for prospecting purposes, the Warden shall hold an inquiry, of which due notice shall be given to the owner and occupier (if any), as well as the applicant, and shall thereat assess the amount of money to be deposited by the applicant for a prospecting license towards covering the damage to the surface of such land likely to be caused by
 mining

Deposit to cover surface damage.

Mining on Private Lands.

mining operations being conducted thereon; and the Warden may make such stipulations and conditions with respect to such mining operations as shall appear to him necessary and expedient, and shall have power to enforce the same in all cases.

5 37. Whenever a notification of resumption as aforesaid shall appear in the *Gazette*, the authorised prospector, in the event of his being the discoverer of such payable deposits, and having duly reported the same to the Warden shall be deemed to be the first applicant for a prospecting claim under his miner's right; and the date of publication
10 of such notification in the *Gazette* shall be reckoned as the date of application of such prospecting claim; but in all other respects as to area, labour conditions, and other matters, the application shall be dealt with subject to the regulations in force for the time being authorising the occupation of Crown lands for mining purposes, and in the event
15 of an auriferous quartz vein being discovered in such prospecting area, the holder or holders thereof shall report the same to the Warden, and within thirty days thereafter shall be entitled to apply for a lease of such land in accordance with the provisions of section thirteen of this Act, and he or they shall in such case be deemed to be the first
20 applicant or applicants as the case may be. And in the event of such land not being proved to contain payable alluvial deposits of gold it shall not be resumed for mining purposes.

Prospector to have preferent right to claim.

If auriferous veins are discovered, prospector may apply for a lease.

38. Whenever in any section of this Act the expression "prescribed" is used in connection with any matter referred to in the
25 context, and whenever in any section of this Act "Regulations" are mentioned in connection with any such matter as aforesaid the Governor may in every such case frame regulations for the purpose of giving effect to the provisions of such section. And for the purpose of carrying this Act into full effect generally the Governor may make
30 regulations which may provide for their enforcement by penalties not exceeding in any case fifty pounds, and shall, upon being published in the *Gazette*, be valid in law: Provided that a copy of every such regulation shall be laid before both Houses of Parliament within
35 fourteen days from the publication thereof if Parliament be then in Session, or otherwise within fourteen days after the commencement of the next ensuing session.

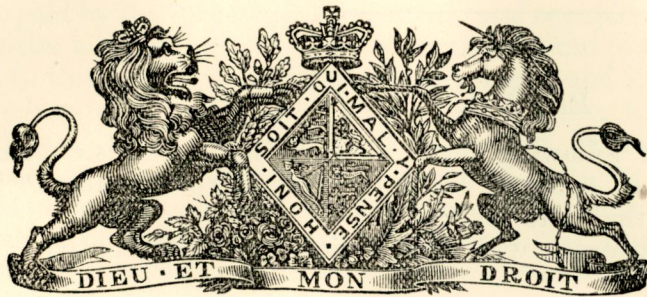
Governor may make regulations.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Legislative Assembly Chamber,
Sydney, 5 December, 1893. }*

F. W. WEBB,
Clerk of the Legislative Assembly.

New South Wales.



ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. .

An Act to legalise Mining on Private Lands; to provide for charging Rents and Royalties in connection therewith; to validate certain Crown grants; to provide for the resumption of land for certain purposes; to make better provision for and in connection with mining on Crown Lands in certain particulars; to effect such amendments in the Statutes as may be necessary to give this Act full force and effect; and for purposes consequent upon, connected with, or incidental to the aforementioned objects.

WHEREAS from time to time since the establishment of the Colony of New South Wales Crown lands within the said Colony have been alienated, subject to various reservations in the Crown grants with respect to gold and minerals other than gold, and in the public interest it is now deemed necessary to give legal effect to such reservations: And whereas certain other lands have from time to time been alienated without express reservation of any minerals which might afterwards be found therein, but having regard to the well established laws of England whereby it has been held from time immemorial that the royal metal gold does not pass from the Crown unless by express conveyance in the grant of such lands: And whereas, for the well being of the State, it is now deemed necessary that all such lands should be made available for the operations of mining thereon or thereunder for such gold as may be found therein: And whereas it is deemed expedient to define the royalties and rents

Preamble.

Mining on Private Lands.

to be derived under the operations of this Act either on behalf of the Crown or on behalf of the landowner, as hereinafter provided: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative
5 Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Mining on Private Lands" Short title.
Act."

PART I.

10 2. In this Act the following terms shall, if not inconsistent with the subject matter or context, have the respective meanings
hereby assigned to them (that is to say):— Interpretation of terms.

"Governor"—The Governor with the advice of the Executive Council.

15 "Minister"—The Minister for Mines for the time being.

"Gold"—As well any gold as any earth or rock containing gold, or having gold intermixed therewith.

"Coal"—Bituminous coal, anthracite, lignite, kerosene shale, and natural coke.

20 "Minerals other than gold"—Coal and any of the following metals, or any ore containing the same, viz.:—Platinum, silver, mercury, nickel, bismuth, copper, tin, cobalt, antimony, lead, manganese, and iron, or any other substance which may from time to time, by proclamation of the Governor, published in
25 the *Gazette*, be declared a "mineral" within the meaning of this Act.

"All Minerals"—The minerals, metals, or ores of metals enumerated in the three immediately preceding subsections.

30 "Owner"—The owner or conditional purchaser of any land dealt with under the provisions of this Act, whether such title is completed or not, or any trustee for such land, if vested in trust.

35 "Occupier"—The person in occupation of such land, whether as conditional lessee, the valid applicant for a conditional lease, the lessee of any land for tramway, irrigation, water supply or power purposes, whether under any special Act or otherwise, or a tenant.

"Applicant"—The person applying for a mining lease under this Act.

40 "Lessee"—The holder of a lease under this Act, or his executors, administrators, or assigns.

45 "Private land"—Any land included within the provisions of this Act, whether alienated or in process of alienation, or vested in trust, or demised by lease under any of the forms hereinafter referred to, or land held under any valid application for such lease.

50 "Mining," or "To mine"—To sink shafts, construct drives, adits, tunnels, or surface excavations, or to remove earth, rock, metals, or ores, or to wash, crush, smelt, or conduct any operation in connection with mining.

"Mining-race"—Any artificial channel, flume, aqueduct, tunnel, culvert, or pipe for the conveyance of water or detritus; also the natural bed of any creek or gully in which water or detritus is conducted in connection with mining.

"Warden"

Mining on Private Lands.

- “Warden”—Any Warden appointed under the Act thirty-seventh Victoria number thirteen, or any Act relating to mining, who may be in charge of the mining district or division denoted by the context where the expression is used, or any Warden acting for him or in his stead, or (if none such is denoted) any Warden.
- “Prescribed”—Prescribed by this Act or any regulation made thereunder.
- “Royalty”—The share or duty claimed by the State on the produce of the mine held by lease under this Act.
3. From and after the passing of this Act all lands alienated on or prior to the twenty-fourth day of January, in the year one thousand eight hundred and fifty, whether the Crown grants thereof had issued at that date or otherwise, shall, subject to the provisions of this Act, be open to mine thereon or thereunder for gold or such minerals other than gold as have been reserved in the Crown grant issued therefor, save and except coal. And all lands alienated after the twenty-fourth day of January, one thousand eight hundred and fifty, and prior to the eighteenth day of October, one thousand eight hundred and sixty-one, whereof the grants contain a reservation of all minerals to the Crown, shall, subject to the provisions of this Act, be open to mine thereon or thereunder for all minerals, including gold: Provided that where the said grants contain no reservation of minerals the mining on such lands herein specially referred to shall be confined to mining for gold only.
4. All Crown grants issued, or purporting to be issued, under the provisions of the “Crown Lands Alienation Act of 1861,” or any Act amending the same, including all grants issued by virtue of volunteer land orders as well as grants issued, or purporting to be issued, under the provisions of the “Crown Lands Act of 1884,” or any amendment thereof, shall be deemed to have been and to be good and valid in law for all purposes of this Act.
5. All lands alienated or in process of alienation under the provisions of the “Crown Lands Alienation Act of 1861,” or any Act amending the same, as well as all lands alienated or in process of alienation, under the provisions of the “Crown Lands Act of 1884,” or any amendment thereof, shall be subject to the operations of mining under the provisions of this Act to the following extent, but no further:—
- (a) If the grant for such land contains, or would, under the provisions of the said Acts, or any amendments thereof, contain, when issued, a reservation to the Crown of all minerals which the said land contains, then such land shall be open under the provisions of this Act for mining for gold, and for all minerals other than gold.
- (b) If the grant for such land contains, or would contain when issued, a reservation to the Crown of any mineral or minerals particularly specified therein, then such lands shall be open under the provisions of this Act for mining for gold, as well as for the particular mineral or minerals specified in such reservation, but for no other mineral whatsoever.
- (c) If such land shall have been alienated, or be in process of alienation under the nineteenth section of the “Crown Lands Alienation Act of 1861,” or if having been selected under any other section of the said Act, or if having been held under mineral lease, and in either such case having been converted into a mineral conditional purchase, then such lands shall be open under the provisions of this Act for mining for gold only, or for any ore, the chief and most profitable metallic product of which is gold.
- (d)

Lands alienated prior to “Crown Lands Act of 1861” open to mining under the provisions of this Act.

Reservations in grants good and valid.

Lands alienated under “Crown Lands Acts of 1861 and 1884” may be mined upon under provisions of this Act.

What lands open to mining for all minerals.

Lands open to mine for gold as well as certain specified minerals.

Lands open to gold-mining only.

Mining on Private Lands.

- (d) If the grant for such land contains, or would contain when issued, no reservation of minerals, then in every such case the land shall be open under the provisions of this Act for mining for gold only, or for any ore, the chief and most profitable metallic product of which is gold.
- 5
6. After the passing of this Act, all lands granted or vested in trust by the Crown for the purposes of a race-course, cricket ground, recreation reserve, park, or permanent common, irrespective of whether the deed of grant (if any) contains a reservation of minerals or the contrary, and all lands held under Tramway, Irrigation, or Power leases, or leases for Water Supply, whether granted under any special Act or otherwise, shall be open for mining thereon or thereunder for gold or minerals other than gold subject to the provisions of this Act: Provided that nothing herein shall be held to apply to alienated
- 10
- 15 lands situated within the boundaries of any town or village, or to lands vested in trust for or dedicated to any public purpose, other than those hereinbefore mentioned, unless the Governor shall have first proclaimed in the *Government Gazette* that any such lands particularised in such proclamation shall be subject to the provisions
- 20 of this Act. And in all cases, whether on private lands or Crown lands, wherever a lease is granted to mine under such land only and without the right of mining on the surface thereof, the Governor may stipulate at what vertical depth from the surface such lease shall commence.
- 25
7. Every grant hereafter issued for land alienated or which shall be alienated under any Act or vested in trust by the Crown for any public purpose shall contain a reservation to the Crown of all minerals which such lands shall contain. And such minerals are hereby expressly so reserved, and the land so alienated or so vested in trust
- 30 shall be subject to all the provisions of this Act with respect to mining thereon or thereunder.
- 35
8. The Governor shall, as soon as practicable and in the prescribed form, provide a "Register of Crown Grants" with respect to all lands alienated prior to the passing of this Act except lands situated within towns or villages whether such lands have been alienated in fee simple or vested in trust for public purposes. And such Register shall classify the lands according to the mineral reservations or otherwise contained in the grants thereof, and shall have a copy of each form of mineral reservation (if any) at the head of its various columns, and
- 40 such Register shall be divided into so many parts as there are Land Districts, and a copy of the part appertaining to each district shall be kept at the respective Land Offices, and be open to inspection of the public in the prescribed manner. And with respect to lands in process of alienation only and for which no Crown grant shall have
- 45 issued, then the "Register of Crown Grants" shall set forth the form of mineral reservation (if any) which such grant would be subject to when issued. And in case any lands other than those herein exempted shall not be found classified in such Register it shall be taken as *primâ facie* evidence that such land has been alienated
- 50 since the passing of this Act and is therefore available for mining thereon or thereunder for all minerals including gold, subject to the provisions herein contained.

If no reservation in grants to be open to gold-mining only.

Lands vested in trust or under lease may be mined upon.

Town and village lands not open.

Depth from surface at which underground leases shall commence.

All minerals to be reserved in grants issued for future alienations.

Register of reservations in Crown grants to be provided.

Mining on Private Lands.

PART II.

Proceedings in connection with Mining.

9. It shall be lawful for the Warden of any mining district to grant to any person in the prescribed manner an authority in duplicate to enter into and upon any private land which is subject to the operations of mining under the provisions of this Act, and on serving the duplicate of such authority on the owner or occupier thereof, such person shall either personally or by his agent be entitled to search and examine the surface of such land, but shall not be entitled to commence to mine thereon or thereunder until the amount of compensation, to be ascertained as hereinafter provided, shall have been paid, and a lease from the Governor to such person shall have been first obtained. And any person applying for authority to examine the surface of such private land, or for a mining lease thereof, shall (if the Register of Crown grants has been provided but not otherwise) accompany such application with a certified copy of the form of mineral reservation contained in the grant of such land, and such certified copy shall be supplied by the Land Agent of the district wherein such land is situated, and shall be a correct extract from the Register of Crown grants, or shall certify that a grant of such land is not included in such Register.

Authority to examine surface may be granted by the Warden.

10. Any person having received authority from the Warden to examine the surface of such private land for mining purposes shall be deemed to be in possession as against other applicants for the same land for a period of one month from the date of such authority to the full extent of the area allowed in such class of lands to be leased: Provided that such authorised person if requested so to do by other authorised persons desirous of occupying the adjoining land shall approximately define the boundaries of such area.

Authorised person considered first applicant.

11. Any duly authorised person desiring to obtain a lease for mining purposes of such private land, or any portion thereof, as under the provisions of this Act shall become open to lease, may, without incurring any liability for trespass, enter upon such land, either personally or by an agent, and in the prescribed manner, define the boundaries of the portion intended to be applied for. And any owner, occupier, or other person who shall obstruct such authorised person in the performance of any such act, or who shall interfere with, remove, destroy, or deface any boundary mark so made or any necessary notice posted in connection therewith, shall, on conviction thereof, be liable for the first offence to a penalty not exceeding ten pounds, or on conviction of a second or any subsequent offence, to a penalty not exceeding fifty pounds. And in like manner any surveyor may enter upon any private land for the purpose of defining the boundaries of the portion sought to be leased, or for any other purpose under this Act, in pursuance of and bearing an order of the Minister or of a Warden.

Owner or occupier obstructing applicant.

12. The Governor, in the name and on behalf of Her Majesty, shall have power under the provisions of this Act to grant to any person a lease of such private lands, to be effectual either on and below the surface, or on one or more limited portions of the surface and below the whole area or to be effectual below the surface only, for the purpose of mining thereon or thereunder, either for gold only, or for minerals other than gold, regard being had to the reservations (if any) contained in the Crown grants thereof, except in the case of certain lands vested in trust and referred to in section six hereof, but in the case of lands alienated prior to or on the twenty-fourth day of January, in the year one thousand eight hundred and fifty, regard shall be had to the proclamation of His Excellency Sir Charles Augustus Fitzroy,

Governor may grant lease.

Regard must be had to reservations in grants.

Mining on Private Lands.

Fitzroy, Governor, published in the *Government Gazette*, on the twenty-ninth day of January, in the year aforesaid, whereby all reservations of coal, with the rights of the Crown incident thereto, were, by His Excellency's command, for ever abandoned. And such lease shall confer

5 the right of cutting and constructing on the lands thereby demised races, drains, dams, reservoirs, or tramways, and erecting thereon buildings and machinery in connection with such mining, but not otherwise, and generally for doing all such acts and things as shall be requisite for efficiently mining the said land, with full right of ingress, egress, and

10 regress for the purposes herein provided; but such lease shall in nowise give the lessee the right to use water artificially conserved by the owner of such land, or to fell trees, strip bark, or cut timber on such land, or to depasture horses, cattle, or sheep thereon, or to remove earth or rock therefrom, except in connection with such mining operations,

15 without the consent of the owner and occupier: Provided that the power herein given to grant leases shall not, except with the consent of the owner, extend to within one hundred yards on the surface of any land which is *bonâ fide* in use as a garden, orchard, or pleasure ground, or to either the surface or below the surface of any restricted

20 portion of such land whereon is erected or constructed any substantial building, bridge, dam, reservoir, well, or other valuable improvement: Provided further that it shall be for the Minister to determine whether any improvement referred to in this section is of a substantial or valuable character, and to define the area within which mining

25 operations may be excluded.

Lease gives right to occupy for all purposes connected with mining.

Not to approach within 100 yards of garden, &c., without owner's consent.

13. Within one month from the date of the aforementioned authority such authorised person may in the prescribed manner apply to the Minister for a lease of such land, and on receipt of such application, accompanied by the prescribed sum by way of rent and

30 fees, the Minister shall cause a notice to be served on the owner and occupier of such land. And in case the whole or any part of the surface thereof is required, such notice shall so state, and if a part only is required, such notice shall define such part, and shall also request from the owner and occupier respectively such particulars of

35 their estate and interest therein as the Minister shall deem necessary for carrying out the objects and intentions of this Act, and within twenty-one days therefrom such owner or occupier shall give such particulars to whomsoever such notice shall direct.

Notice to owner and occupier.

14. All notices required by this Act to be served upon the owner

40 or occupier of any private land shall either be served personally on such persons or left at their usual place of abode (if the same can after diligent inquiry be found), and in case the owner shall be absent from the Colony or he or his agent cannot after diligent inquiry be found, the notices shall be left with the occupier of the land, or if there be

45 no such occupier, shall be affixed upon some conspicuous part of the land, and in the latter case such notice shall be advertised in two issues of a newspaper circulating in the district in which the land is situated. And the affixing of such notices in addition to the aforementioned advertisements shall be deemed service of notice on the

50 owner and occupier.

Service of notices.

15. The Governor may appoint mining appraisers as may from time to time be found necessary, who may also hold other offices in the Public Service, and shall be paid such salaries or fees as the Governor shall direct, and any such mining appraiser, on being authorised by

55 the Minister so to do, shall assess the amount of compensation to be made to the owner and occupier of such lands respectively for the loss which he or they may sustain by way of damage which may be caused through mining operations either on, in, or under such land to the surface thereof, or to any crop growing thereon, or to any buildings,

structures,

Appraisers to be appointed who shall assess surface damages.

Mining on Private Lands.

structures, or other improvements erected or constructed thereupon: Provided that with respect to the land of which a lease of the surface is required (not being less than one acre), such compensation as aforesaid shall in no case exceed the then ascertained market value of such 5 land for other than mining purposes.

16. On receipt of an application for a lease under this Act, unless such application be accompanied by a document signed by the applicant and the owner and occupier (if any), or their respective agent or agents, certifying that they have mutually agreed as to the 10 amount of compensation, whether by way of money, shares, or otherwise, to be paid by the applicant to the owner and occupier, the Minister shall authorise a mining appraiser to assess the amount of compensation to be paid to the owner and occupier respectively, and it shall be the 15 duty of such mining appraiser, without loss of time, to forward his assessment to the Minister, who shall thereupon, by notices of even date, acquaint the applicant and the owner and occupier (if any) with the amount of such assessment, and shall specify the time within which the same shall be paid. And in the event of the applicant or the 20 owner or occupier being dissatisfied with such assessment, either party may, within twenty-one days of the date of such notices, apply to the Minister to have such assessment reviewed, and the Minister shall thereupon refer such matter to the Warden, who shall fix a time and place for holding an inquiry, not being more than thirty days from the receipt of such reference, and shall give due notice thereof to all the parties 25 interested therein, and at the time and place so appointed shall hear, receive, and examine such evidence as shall be produced by any of the parties, and shall thereupon determine the amount of compensation to be paid to such owner or occupier in respect of his or their respective claim or claims, and may specify the time within which and to whom 30 the same shall be paid; and the decision of the Warden in all such cases shall be final, and he may make an order for the payment of such costs of Court as shall appear to him just: Provided always that the Warden may upon cause shown, adjourn the hearing to any other time or place, but such adjournment shall not be for a longer period than 35 fourteen days. When the amount of compensation so awarded shall have been paid, a lease for mining under the provisions of this Act may in due course be issued by the Governor.

17. In the event of the applicant for a lease failing to pay the amount of compensation within the time specified, all moneys 40 accompanying the application for such lease shall thereupon become forfeited to the Crown, and shall be paid into the Consolidated Revenue. And in the event of such owner or occupier refusing or neglecting to supply the particulars of his estate and interest in such land as requested so to do by the Minister, such refusal or neglect shall in no 45 way act as a bar to an award being made by such mining appraiser or a final decision of the Warden being arrived at. On the amount of such compensation being paid into Court, the Warden shall in due course pay to the owner or occupier the amount to which he is entitled. And in case such owner or occupier shall for the space of three months 50 refuse or fail to accept or claim the amount of compensation so assessed or determined, such amount shall be passed to the Treasury Suspense Account and be held in trust for such owner or occupier, but without interest accruing thereon, and if not claimed within six years from the time of the receipt thereof by the Treasury such amount 55 shall be paid into the Consolidated Revenue.

18. During the progress of mining operations the lessee having a lease of below the surface only of such land, may apply to the Minister for a lease of a portion or any number of additional portions of the surface thereof: Provided that such lessee shall if required in writing

Either party may appeal to Minister.

Warden to determine amount of compensation.

Applicant failing to pay award.

Owner or occupier failing to accept award.

Lessee must fence if requested.

Mining on Private Lands.

writing so to do by the owner or occupier without delay cause a secure fence to be erected around the shafts, machinery, or other works in connection with such mining: Provided also that if at any time the surface of any part of such land or any building, erection, or structure thereon belonging to such owner or occupier for which full compensation has not been previously paid shall be damaged by reason of such mining operations, the Minister, on application by the owner or occupier, accompanied by such fees as may be prescribed, shall cause an assessment of such damages to be made by a mining appraiser, who shall have power to assess both the amount of damage (if any) and also the costs of such assessment. And if the cause of such damage be disputed by either party, such mining appraiser may, if necessary, call in the aid of a mining engineer or surveyor, who, as well as such appraiser, shall have power to examine the surface or underground workings of such mine. And the lessee shall, during ordinary working hours, and within a reasonable time, comply with any request of such mining appraiser, engineer, or surveyor to furnish the usual appliances and aid necessary for descending to and ascending from such underground workings, and for examining thereinto as often as may reasonably be found necessary, and in the event of any lessee refusing or neglecting so to do, such lease shall be liable to forfeiture by the Governor in Council. And within twenty-one days from the date of the notice of such assessment either party may appeal to the Minister; and such appeal shall be dealt with by the Warden whose decision shall be final, as in the case of ascertaining surface damages at the time of application for a lease; and should the lessee fail for the space of one month after the date of the notice informing him of the assessment—if no appeal shall have been made, or of the final decision of the Warden, as the case may be—to pay the amount assessed to whomsoever such notice shall direct, such amount shall be recoverable by the owner or occupier under the ordinary process of law.

Appraiser may award further damages.

19. Nothing herein contained shall be construed as rendering it obligatory on the Governor to grant a lease to any person applying for the same, notwithstanding that he may have complied with the provisions of this Act and the regulations hereunder, but in case his application shall be refused he shall be informed of the reasons for such refusal. And a lease may be granted notwithstanding that the person applying for the same may not in every respect have complied with such regulations, and the Minister may alter, amend, and modify any application for a lease, and may reduce or increase the area of land of which a lease is applied for either on or below or both on and below the surface, or may direct a Warden to hold an inquiry in open Court with reference to any matter touching an application for a lease under this Act, and at all such inquiries the evidence shall be taken on oath.

Not obligatory to grant leases.

20. In any case where *bonâ fide* mining operations were being carried on under agreement upon any private land on the sixth day of October, one thousand eight hundred and ninety-two, a joint application by the parties to such agreement, or by their representatives, for a special lease, if made within two months after this Act comes into force, and if accompanied by an attested copy of such agreement, shall have priority over all other applications with respect to the land defined therein. And such private agreement then existing shall in no way be disturbed or interfered with by the operations of this Act, except with respect to any royalty payable to the Crown which the land may be subject to and which in all cases shall be chargeable as if such land was leased under the provisions of this Act. And in the event of mining operations being carried on by the owner of such land at the time of the passing of this Act, any such

Special leases may be granted.

Existing agreements protected.

Mining on Private Lands.

such application made by him shall, if made within two months as aforesaid, have a like priority, and be subject in the same manner to such royalty as hereinafter provided; or in any case where active mining operations have not been commenced, and the owner has
 5 obtained from the Governor a permit to mine for, win, and remove gold or minerals other than gold from such private land, such owner may within two months after the passing hereof apply in the prescribed manner to convert such permit into a lease under this Act; and in all cases hereinbefore referred to in this section, such leases shall not be
 10 subject to the payment of rent, but the royalties reserved to the Crown shall be those provided for in this Act and none other.

Permits may be converted into leases.

21. Any person who prior to the passing of this Act shall have obtained a permit from the Secretary for Lands or the Secretary for Mines to dig and search for gold or minerals other than gold in any
 15 private land may, within two months as aforesaid, apply for and in such event shall have a preferent claim for a lease under this Act, but such lease shall with respect to rent, royalty, tribute, and other matters be subject to all the provisions of this Act: Provided that two months after the passing of this Act all such permits shall become extinguished
 20 and inoperative, and the power of granting such permits is hereby repealed, all other Acts to the contrary notwithstanding. And if the holder of such permit shall fail for a period of two months as aforesaid to apply for the conversion thereof into a lease under this Act, any other person may thereafter apply for a lease of such land, and the
 25 Governor may grant the same as if such permit had not been issued.

Permit to dig and search gives preferent claim to lease.

22. The owner of any private land may at any time apply for a lease of such land for mining purposes; but except as hereinbefore provided, he shall have no preferential right to such lease as against any other application of prior or even date. In the event of there being
 30 no conflicting application, or of such conflicting application having been refused, the Minister may dispense with the preliminary proceedings, applicable in other cases, and may grant such lease, subject to the provisions of this Act with respect to royalty, but free from the charge of any rent or tribute. In other respects such lease shall be
 35 granted, subject to all the provisions of this Act and the regulations thereunder, as if the lessee were not the owner of such land.

Owner may obtain a lease.

23. The term for which a lease may be granted under this Act shall not exceed twenty years, but may, subject to such conditions as the Governor may approve, be renewed for a further period not
 40 exceeding twenty years, and the yearly rental reserved to the owner of the land in respect of such leases, shall be two shillings and sixpence per acre for land whereof the mining will be confined to minerals other than gold, and twenty shillings per acre for land applied for for
 45 gold mining purposes. The area of a lease shall not exceed five acres in the case of ordinary auriferous lands, and shall not exceed forty acres in the case of alluvial auriferous land where the mining operations will be conducted through basaltic rock formations, or where the quantity of water is such as to necessitate the erection of steam machinery, or where, in the opinion of the Minister, a large
 50 outlay of money is necessary to make such land available for gold-mining purposes. And no lease of land for mining for minerals other than gold shall be granted of an area greater than eighty acres except in the case of land containing coal, and in such case the area shall not exceed six hundred and forty acres. Where practicable such leases
 55 shall be granted in conformity with the existing divisions of such land, but in all other cases such leases shall be measured in the prescribed form. The areas and rents herein specified shall apply to leases whether for only below the surface or for both on and below the surface.

Duration of lease.

Rents payable.

Area of lease.

Mining on Private Lands.

24. In the event of more than one application being made for the same land, or any part thereof, the application, except as herein-before provided, which shall have been first received in manner prescribed shall have priority, and in the event of two or more applications for the same land being received at the same time it shall be determined by lot which application shall take precedence. And except when the lease applied for will cover the whole of a measured portion all such areas shall be surveyed before the issue of a lease, and in the event of any applicant refusing or neglecting to execute such lease for the space of one month after notice shall have been given him of such lease being ready for execution such lease shall be liable to forfeiture, with all moneys paid thereon, and all such leases shall, within one month after execution thereof, be registered with the Mining Registrar in Sydney, who shall forward a copy thereof to the Mining Registrar of the Division in which such land is situated, and thereafter all transfers of such leases or of any portion thereof shall be so registered within one month after the date of such transfer.

Applications how dealt with.

25. All leases granted under the authority of this Act shall be granted subject to such royalties as are hereinafter set forth on the metals and minerals obtained from such land, and the value thereof shall be taken to mean their value, in the case of coal, at the pit mouth; and in the case of metalliferous ores, their value shall be estimated in such way as shall be prescribed. And every lessee under this Act, in whose lease a royalty is reserved, shall keep a correct set of books, and shall in the prescribed manner enter therein the value of all metals or minerals won from the mine, and the amount of royalty payable thereon; and such books shall at all times be open to the inspection of such person as the Minister or the owner may from time to time appoint, and an abstract of the same, which shall have been previously verified by statutory declaration made before a justice of the peace or a commissioner for affidavits, shall, in the months of July and January in each year be published in the *Government Gazette* and in a newspaper circulating in the district wherein such mine is situated.

Royalty how ascertained.

Lessee to keep books.

26. The amount of royalty payable to the Crown shall be paid into the Treasury or to such public officer as the Minister shall direct at least once in every half year. And any lessee or the director or manager of any company holding a lease under this Act, who shall neglect or fail to pay such amount during the half-year within which the same becomes payable, or within one month thereafter, shall be deemed guilty of a misdemeanour. And in the event of any lessee or director or manager of such company who shall fail to enter or to cause to be entered in books kept for that purpose the full value of all minerals obtained from such private land, and the amount of royalty payable thereon, or shall make false entries in such books or cause such books to be falsified, shall be deemed guilty of a misdemeanour; and the lease upon which such royalty was payable, with all moneys paid thereon, shall be absolutely forfeited if the Governor shall think fit. And after the expiration of six months from the passing of this Act, any person who shall, contrary to the provisions hereof, take, mine, or remove any gold or minerals other than gold from any such private land, shall be deemed guilty of a misdemeanour. Any person convicted of an offence declared by this section to be a misdemeanour shall be liable to a penalty not exceeding fifty pounds, or may be imprisoned at the discretion of the Court for any term not exceeding three months.

Non-payment of royalty a misdemeanour.

False entries a misdemeanour.

Penalty for misdemeanour.

27. Notwithstanding anything to the contrary in any other Act provided, after the passing of this Act no royalties shall be charged on behalf of the Crown on any metals or minerals obtained from alienated

No royalties to the Crown from private lands except under this Act.

Mining on Private Lands.

alienated lands, or lands in process of alienation other than those herein-after set forth. All leases granted under the provisions of this Act shall be subject to the following royalties, that is to say:—

- 5 (a) Mining for minerals other than gold.— Whenever any mineral lease is granted of lands on which all minerals have been reserved, or of lands where some minerals only have been specifically reserved, the Crown shall reserve a royalty of two and a half per centum on the value of the minerals obtained therefrom, and for which such lease shall have
10 been granted. And except in the case of lands referred to in section six hereof, no lease will be granted under this Act to work minerals other than gold which have not been reserved to the Crown.
- 15 (b) All rents shall commence from the date of the approval of the lease, and shall be paid in the prescribed manner half-yearly in advance. All royalties accruing for the preceding six months shall, during the months of July and January, be payable in the prescribed manner, up to the end of June and the end of December respectively.
- 20 (c) It shall be necessary for the applicant for a lease or the lessee to be the holder of a miner's right to establish or maintain a title to a lease for gold-mining purposes under this Act.
- 25 28. The owner of any private land shall be at liberty to enter into an agreement in writing with any holder of a miner's right giving such holder power to take possession of such land for gold mining purposes as if it were Crown land, subject to the regulations of the Mining Board in force for the time being, and it shall not be necessary to obtain a mining lease under the provisions of this Act for such private land so occupied as aforesaid under miners' rights: Provided
30 that every such agreement shall within seven days thereafter be registered with the Mining Registrar for the district in which such land is situated, in accordance with regulations to be made by the Governor: And in such case no royalty shall be payable to the Crown, the owner, or occupier, on the gold obtained therefrom, whether such
35 gold has been specifically reserved to the Crown or otherwise.
- 40 29. Adjoining lands or lands disconnected by roads only and held under separate leases may be worked conjointly as one mine, provided such contiguous lands shall not in the aggregate exceed the area allowed respectively for leases under this Act, and except as hereinafter provided such mines shall be continuously worked according to the practice of efficient mining. And every lease granted under the authority of this Act shall contain a provision that if the lessee, his executors,
45 administrators, or assigns fail at any time during the term of such lease to fulfil the conditions and covenants therein contained, or to use the land *bonâ fide* for the purposes for which it shall be demised, such lease shall for any such failure be liable to forfeiture and may be forfeited on the authority of the Governor: Provided that if at any time the mine shall become unworkable from any cause which, in the opinion of the Warden, would necessitate a suspension
50 of mining operations, he may grant such suspension for a period not exceeding three months, and, in the event of operations having wholly ceased in connection with such mine for a period of six months, the lease shall thereupon become absolutely void and determined.
- 55 30. The lessee shall be entitled at any time, with the consent of the Governor, to surrender his lease. And in case any such lease shall become forfeited, or determined by any breach of covenant or condition or otherwise, or in case the term thereby granted shall have expired, possession of the land thereby demised may be recovered

Royalty to the Crown when minerals are reserved.

No mineral lease granted where minerals not reserved.

When rents payable. Royalties when payable.

Miner's rights necessary.

Power to owner of private land to enter into agreement with holder of miner's right to occupy for mining purposes.

Adjoining lands may be worked as one area.

Failing to fulfil conditions lease may be forfeited.

Possession how recovered.

Mining on Private Lands.

recovered in such manner as may be set forth by any of the provisions of the lease, or if there be no such provision, it shall be lawful for the Attorney-General, on behalf of Her Majesty, to bring a suit in any Court of competent jurisdiction to recover possession of
 5 such land, and such suit may be commenced and carried on, and the proceedings therein may be the same and the judgment enforced in like manner as in the case of any other suit in such Court. Land, possession to which has been so recovered, or which has been abandoned, forfeited, or surrendered by the lessee, or of which the lease
 10 has expired by effluxion of time, shall revert to the owner or occupier thereof, but may at any time thereafter be again mined upon or mined under, subject to the provisions contained herein: Provided also that in the event of any such lease being forfeited for any breach of the conditions or covenants contained therein, or in the event of such lease
 15 having expired by effluxion of time or being otherwise determined, or in the event of the owner of such land having by the authority of the Governor re-entered and taken possession of such land, the former lessee, his executors, administrators, or assigns shall be at liberty within six months thereafter to remove all machinery and
 20 buildings erected over the same, and all appliances, tools, and material (other than the poppet-legs or brace erected over any shaft or any material already used for the purpose of keeping open the shafts, adits, or mine) belonging to such former lessee, or to his executors, administrators, or assigns.

25 31. The jurisdiction, powers, and authorities conferred by or under the "Mining Act, 1874," or any Act amending or repealing the said Act, upon Wardens or Inspectors of Mines shall apply to and may be exercised in respect of all private lands the subject of any agreement or lease under this Act, and in respect of all questions affecting
 30 such lands or interests therein, or matters in dispute arising out of or connected with mining upon or under such land; and for that purpose the said Act shall be read in connection with, and as forming part of, this Act. And the word land as used in the said Mining Act shall be deemed to comprise any private land the subject of an agree-
 35 ment or lease under this Act. And the provisions of the said Mining Act relating to appeals from the decisions of Wardens and Mining Appeal Courts shall, except as hereinbefore provided in sections sixteen and eighteen hereof with respect to compensation, be read and construed as forming part of this Act.

40 32. Subject to compensation as provided for in section fifteen hereof, the Governor may, in the prescribed manner, grant a Mining-race lease of any private land, irrespective of any mineral reservations with respect to such lands, for the purpose only of cutting
 45 mining-races thereon and conveying water or detritus through or over such land to or from any mine, whether such mine be held under the provisions of this Act, or under the provisions of the "Mining Act of 1874," or any Act amending the same, and such leases shall be subject to the regulations to be provided hereunder, and to any special provisions the Governor may deem necessary to make.

50 33. In like manner the Governor may grant a lease of any area of private lands for the purpose of a tramway or a machine site, or for smelting works, or water conservation, or for any other purpose in connection with mining, and the rent to be reserved for the owner of the land in leases granted under this and the preceding
 55 section shall be determined in the same manner as if it were a question of compensation for surface damages, and such leases shall be subject to such special provisions as the Governor may deem necessary.

34. Whenever land is required for the purposes of a mining village, and no Crown land is available, it shall be lawful for the
 Governor

Former lessee
may remove
machinery.

Jurisdiction of
Wardens.

Appeals.

Leases may be
granted through
which to carry
Mining-races.

Leases may be
granted for machine
site, smelting works,
&c.

Lands may be
resumed for village
purposes.

Mining on Private Lands.

Governor to resume any private land which may be found necessary for this purpose under the provisions of the "Lands for Public Purposes Acquisition Act," or any amendment thereof; and the the acquisition of any such lands for "mining village" purposes is hereby declared to be a "public undertaking" within the meaning of the seventh section of the "Lands for Public Purposes Acquisition Act," and all the provisions of the said Acts in respect of resumptions, whether as to the manner of making resumptions and the effect thereof, the accruing of claims for compensation and the method of determining the amount thereof, the payment of such compensation, or otherwise shall be deemed to be applicable to the resumption of any such lands as aforesaid, in as full and ample a manner as if the aforesaid seventh section of the said Act specified as a "public undertaking" the resumption of any such lands as aforesaid for the purposes of this section,—subject however to the following qualifications:—

(a) The word "Minister" wheresoever occurring in the said Acts shall, with respect and in relation to any lands resumed, or resumption effected, for the purposes of this section, be taken to mean the Minister for Lands for the time being, who with his successors in that office is hereby declared to be a corporation sole under the name of "The Minister for Lands," and by that name to have perpetual succession and an official seal, to sue and be sued, plead and be impleaded, answer and be answered unto, and take all legal proceedings in all Courts and places whatsoever; and the notice of claim for compensation and abstract of title referred to in section three of the "Land for Public Purposes Acquisition Act Amendment Act" shall be sent to the Minister for Lands as well as to the Crown Solicitor, and not to the Minister for Public Works or the Minister for Public Instruction.

(b) Lands resumed for the aforesaid purposes shall, in lieu of vesting in the Minister within the meaning of the said Acts, vest in Her Majesty, Her Heirs and Successors according to law, and in lieu of vesting for the purposes of the said Acts and subject to the powers thereby conferred, shall, upon such vesting in Her Majesty as aforesaid, become ordinary Crown lands: Provided always that the notification in the *Gazette* declaring that any such lands as aforesaid have been resumed shall operate to reserve such lands from sale and lease or from the operation of miners' rights, mineral licenses, or business licenses, until the Minister shall by notification in the *Gazette* have revoked such reservation.

PART III.

35. Notwithstanding anything to the contrary in Part II of this Act, the Warden may grant a Prospecting license to any person being the holder of a miner's right, and such license shall entitle the holder thereof to enter upon any private land which is subject to the operations of mining for gold under the provisions of this Act, and to mark off and occupy a Prospecting area of the dimensions and in manner provided for in any Mining Act or regulations in force for the time being and appertaining to mining for gold on Crown lands, and such prospector shall have the right within such prospecting area to dig and search for gold subject to the provisions herein contained. And whenever alluvial deposits containing gold of a payable character are discovered such discovery shall forthwith be reported to the Warden, who

Where alluvial gold deposits occur.

Land may be resumed.

Mining on Private Lands.

who shall report the same to the Minister, and on his being satisfied of the payable nature of such discovery the Minister may cause the land or any part thereof to be resumed for mining purposes, and on notification of such resumption appearing in the *Gazette*, the owner thereof shall be
 5 entitled to compensation for the value of such land for other than mining purposes, and in the event of there being a tenant or rightful occupier of such land, other than the owner, such occupier shall be entitled to compensation for the loss of his interest therein. All such resumptions shall be effected under the provisions of the "Land
 10 for Public Purposes Acquisition Act" or any amendment thereof; and the acquisition of any such lands for "alluvial gold-mining" purposes is hereby declared to be a "public undertaking" within the meaning of the seventh section of the "Lands for Public Purposes Acquisition Act." And all the provisions of the said Acts in respect of resumptions,
 15 whether as to the manner of making resumptions and the effect thereof, the accruing of claims for compensation and the method of determining the amount thereof, the payment of such compensation, or otherwise shall be deemed to be applicable to the resumption of any such lands as aforesaid, in as full and ample a manner as if the afore-
 20 said seventh section of the said Act specified as a "public undertaking" the resumption of any such lands as aforesaid for the purposes of this section,—subject however to the following qualifications:—

- (a) The word "Minister" wheresoever occurring in the said Acts shall, with respect and in relation to any lands resumed, or
 25 resumption effected, for the purposes of this section, be taken to mean the Minister for Mines for the time being, who with his successors in that office is hereby declared to be a corporation sole under the name of the "The Minister for Mines," and by that name to have perpetual succession and an official seal, to sue and be sued, plead and be impleaded,
 30 answer and be answered unto, and take all legal proceedings in all Courts and places whatsoever; and the notice of claim for compensation and abstract of title referred to in section three of the "Land for Public Purposes Acquisition Act Amendment Act" shall be sent to the Minister for Mines as well as to the Crown Solicitor, and not to the Minister for Public Works or the Minister for Public Instruction.
- (b) Lands resumed for the aforesaid purposes shall, in lieu of
 40 vesting in the Minister within the meaning of the said Acts, vest in Her Majesty, Her Heirs and Successors according to law, and in lieu of vesting for the purposes of the said Acts and subject to the powers thereby conferred, shall, upon such vesting in Her Majesty as aforesaid, become ordinary Crown lands, and without any further notification shall be reserved
 45 from sale and from occupation for other than mining purposes until such reservation be revoked by the Governor; and whenever such revocation shall take place, the then owner of the estate of which such land originally formed a part shall be entitled to re-purchase or re-lease such land at a
 50 price or rental to be determined by the Minister for Lands after appraisalment by the Land Board, and failing such repurchase or release the land shall be dealt with as ordinary Crown lands.

36. Before authorising any person to enter upon such private
 55 land for prospecting purposes, the Warden shall hold an inquiry, of which due notice shall be given to the owner and occupier (if any), as well as the applicant, and shall thereat assess the amount of money to be deposited by the applicant for a prospecting license towards covering the damage to the surface of such land likely to be caused by
 mining

Qualifications of the
aforesaid Acts.

Former owner to
have preferent
right to repurchase.

Deposit to cover
surface damage.

Mining on Private Lands.

mining operations being conducted thereon; and the Warden may make such stipulations and conditions with respect to such mining operations as shall appear to him necessary and expedient, and shall have power to enforce the same in all cases.

- 5 37. Whenever a notification of resumption as aforesaid shall appear in the *Gazette*, the authorised prospector, in the event of his being the discoverer of such payable deposits, and having duly reported the same to the Warden shall be deemed to be the first applicant for a prospecting claim under his miner's right; and the date of publication
 10 of such notification in the *Gazette* shall be reckoned as the date of application of such prospecting claim; but in all other respects as to area, labour conditions, and other matters, the application shall be dealt with subject to the regulations in force for the time being authorising the occupation of Crown lands for mining purposes, and in the event
 15 of an auriferous quartz vein being discovered in such prospecting area, the holder or holders thereof shall report the same to the Warden, and within thirty days thereafter shall be entitled to apply for a lease of such land in accordance with the provisions of section thirteen of this Act, and he or they shall in such case be deemed to be the first
 20 applicant or applicants as the case may be. And in the event of such land not being proved to contain payable alluvial deposits of gold it shall not be resumed for mining purposes.

Prospector to have preferent right to claim.

If auriferous veins are discovered, prospector may apply for a lease.

- 25 38. Whenever in any section of this Act the expression "prescribed" is used in connection with any matter referred to in the context, and whenever in any section of this Act "Regulations" are mentioned in connection with any such matter as aforesaid the Governor may in every such case frame regulations for the purpose of giving effect to the provisions of such section. And for the purpose of carrying this Act into full effect generally the Governor may make
 30 regulations which may provide for their enforcement by penalties not exceeding in any case fifty pounds, and shall, upon being published in the *Gazette*, be valid in law: Provided that a copy of every such regulation shall be laid before both Houses of Parliament within fourteen days from the publication thereof if Parliament be then in
 35 Session, or otherwise within fourteen days after the commencement of the next ensuing session.

Governor may make regulations.

