



ANNO TRICESIMO PRIMO

VICTORIÆ REGINÆ.

A.D. 1867.

No. 23.

An Act to repeal "The Mineral Leases Act, 1862," and to make other provisions for the leasing and occupation of the Waste Lands of the Crown in the Province of South Australia for mineral purposes.

[Assented to, 19th December, 1867.]

WHEREAS it is desirable to repeal "The Mineral Leases Act, 1862," and to afford additional facilities for the occupation of the waste lands of the Crown for mineral purposes—Be it therefore Enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:—

1. "The Mineral Leases Act, 1862," is hereby repealed: Provided the repeal of the said Act shall not thereby invalidate anything heretofore lawfully done under the provisions of the said Act; and no Enactment by the said Act repealed shall be hereby revived.

2. The waste lands of the Crown may be leased, in blocks not exceeding six hundred and forty acres, for the purpose of mining for any mineral or metal, except gold, for a period not exceeding fourteen years, at an annual rental of Two Shillings and Sixpence per acre, with a right of renewal for two further periods of fourteen years each, on payment of a fine on each renewal of not more than One Hundred Pounds per acre of the land so leased: Provided that nothing in this clause shall be construed to affect any existing right.

3. Every

The Mineral Leases Act.—1867.

Lessee may determine lease.

3. Every lessee shall have power to determine the lease on giving three calendar months' notice in writing to the Commissioner of Crown Lands and Immigration.

Renewal of lease.

4. Any lessee desirous of obtaining a renewal of his lease shall make application to the Commissioner of Crown Lands and Immigration for renewal at least eighteen calendar months before the expiration of the current term of such lease; and in default of such application the right of the lessee to a renewal shall be forfeited.

Fine on renewal.

5. The amount of fine hereinbefore made payable on any renewal shall be fixed by the Governor, with the advice and consent of the Executive Council, at least twelve calendar months before the expiration of the term of the lease.

Form of lease.

6. Leases shall be in the form in Schedule A to this Act, or to the effect thereof, and shall be by deed, and each lease shall be in duplicate, one part whereof shall be signed by the said Governor and be sealed with the seal of the Province, and the other part shall be signed, sealed, and delivered by the lessee, and shall bind such lessee, his heirs, executors, administrators, and assigns to occupy, mine, and work the said land, and the minerals and metals therein and thereunder, under and subject to the conditions, and stipulations, and clauses of forfeiture as are set forth in Schedule B to this Act.

Leases need not be put up to auction.

7. Notwithstanding anything contained in "The Waste Lands Act," it shall not be necessary to cause the lands proposed to be leased to be put up to auction, except as next hereinafter provided.

Except renewed, surrendered, or forfeited leases.

8. On surrender of any lease, except for the purpose of obtaining a new lease, as hereinafter provided, and on the forfeiture of any lease, and on the expiration of any lease, a lease of the lands comprised therein shall, within six months after the date of such surrender, be offered for sale by public auction to the highest bidder, of which sale at least one calendar month's notice shall be given in the *Government Gazette*, and in case such lease is not sold the land comprised therein may be treated as waste lands of the Crown.

Supreme Court may declare leases void in certain events.

9. It shall be lawful for the Supreme Court, on the application of the Attorney-General, to declare void and forfeited any lease if default shall have been made by the lessee in any or all of the following conditions of such lease, that is to say—If the rent be not paid yearly in advance to the Treasurer, or if a sum equal to at least Six Pounds per acre be not expended in every two years on the land so leased for mining purposes, or, at the option of the lessee, if three men for every eighty acres of land leased be not employed for at least nine months in each year of the term of the lease in working on the land leased and in searching for or raising ores, or if the lessee shall permit any portion of the land to be occupied for other than mining purposes without the permission in writing of the Commissioner of Crown Lands and Immigration.

10. In

The Mineral Leases Act.—1867.

10. In any proceeding under the last preceding clause to obtain any such order of forfeiture, the averment that the defendant has made default in the specific condition mentioned in the application shall be sufficient *primâ facie* evidence of such fact. Proof of fact.
11. Every order of the Supreme Court shall be final and conclusive: Order conclusive.
 Provided that the said Supreme Court shall have power to relieve against a forfeiture incurred within six months of date of order.
12. For the purpose of ascertaining any question of fact, the said Court may, at their discretion, settle and direct an issue to be tried in manner provided by the "Supreme Court Procedure Amendment Act," for the trial of questions of fact without formal pleadings. Issue may be directed.
13. The present lessees of the waste lands of the Crown for mineral purposes, or the assigns of the said several lessees respectively, may by memorial to the Governor apply to be permitted to surrender their present leases, and to obtain the benefit of this Act, such memorial to be lodged in the office of the Commissioner of Crown Lands and Immigration, within twelve months from the passing hereof; and it shall be lawful for the Governor, with the advice and consent of the Executive Council, to grant such application, or some modification thereof, and to fix the term of the new lease, or refuse the same as may appear necessary and expedient. Present lessees may surrender lease.
14. The present and any future lessees of the waste lands of the Crown for mineral purposes may by memorial to the Governor apply to surrender any leases of lands contiguous to each other to which they may be entitled in order to have a new lease granted to them of the whole of the lands included in their respective leases; and it shall be lawful for the Governor, with the advice and consent of the Executive Council, to grant such application, or some modification thereof, and to fix the term of the new lease, or refuse the same as may appear necessary and expedient: Provided that no such new lease shall include more than six hundred and forty acres of land. Leases may be consolidated.
15. Every memorial mentioned in the last two clauses shall state the amount of capital expended on the land to which the memorial relates, and the quantity and value of the minerals raised therefrom, and the value of buildings, plant, and machinery thereon, and any further particulars which may be required by any regulation made in pursuance of this Act. Contents of memorial.
16. The Commissioner of Crown Lands and Immigration shall cause notice to be given by publication in the *Government Gazette* for four successive weeks, of every memorial as last aforesaid. Memorial to be advertized.
17. Any person, prior to the expiration of the fourteenth day next after the last publication of the notice, may, by memorial to the Governor, show cause against the application, stating the reasons against the application, a copy of which memorial shall be forthwith published in the *Government Gazette* for four successive weeks. Persons may oppose.

18. In

The Mineral Leases Act.—1867.

Need not be put up to auction.

18. In the cases provided in the 13th and 14th clauses, the leases shall not be first put up to auction.

Licences may be granted to search for minerals.

19. The Commissioner of Crown Lands and Immigration for the time being may grant licences to applicants to search for and remove minerals and metals, except gold, from the waste lands of the Crown; and every such licence shall be in force for the period of twelve months from the date thereof, and shall authorize the person therein named, his assigns, licencees, servants, and workmen, during the currency of such licence, to mine and work the land described therein, and to remove and carry away such minerals and metals therefrom; and such licences may be from time to time renewed.

Licences to have prior right to lease.

20. The holder of any licence shall have a preferential right to make application for a lease of the land described in such licence, and no lease shall be granted of such land to any other person except after notice to the holder of the licence; but no renewed licence shall be granted after an application has been made for a lease of the land described in such licence.

Regulations may be made.

21. It shall be lawful for the Governor, with the advice and consent of the Executive Council, from time to time to make, vary, and alter any regulations respecting the terms and conditions upon which licences and leases of lands shall be granted for the purpose of mining for minerals and metals, except gold; respecting the form of applications for and defining the shape and position of the lands proposed to be leased or worked; the amount of fee to be paid for licences; the transfer of licences and leases; and respecting all other matters and things necessary to give effect to this Act; and every such regulation, when published in the *Government Gazette*, shall have force of law.

To be laid before Parliament.

22. A copy of all regulations made under the authority of this Act shall be laid before the Parliament within fourteen days from the publication thereof, if the Parliament be then sitting; and if the Parliament shall not then be sitting, then within fourteen days from its next sitting for the dispatch of business.

Lands may be resumed for townships.

23. It shall be lawful for the Governor, on the application of any lessee, to resume any portion of the lands comprised in any such lease for the purpose of laying out a township, or other purpose of public convenience; and at any sale that may be made of any of the lands so resumed the right of working for minerals may be reserved to the Crown, or to the lessee from whom the land so sold may have been resumed.

24. This Act may be cited as "The Mineral Leases Act, 1867."

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

D. DALY, Governor.

SCHEDULES

The Mineral Leases Act.—1867.

SCHEDULES REFERRED TO.

A.

South [Royal Arms] Australia.

This indenture made the _____ day of _____ in the year of Our Lord One thousand Eight Hundred and Sixty _____ between _____

_____ of the one part and _____ for _____ Heirs Executors Administrators and Assigns hereinafter designated by the term "Lessee" of the other part

Now this indenture witnesseth that in consideration of the rent the said Governor-in-Chief doth (subject to the reservations hereinafter contained) demise and lease unto the said Lessee _____ Executors Administrators and Assigns All

together with all ways waters watercourses privileges and appurtenances to the same now belonging or therewith occupied or enjoyed Together also with full and free liberty for the said Lessee _____ Executors Administrators and Assigns and

agents and workmen in and upon the said land hereby demised to dig sink drive make and use all such pits shafts levels watercourses and other works which it may be necessary to use in finding seeking for winning working and obtaining the copper and other ores not being gold therein contained and also to appropriate and use such part of the said lands either underground or on the surface as may be proper and requisite as well for depositing and laying down such ores and minerals and placing and heaping the waste refuse and rubbish which may be worked along with them from time to time as for washing and obtaining such ore and minerals and for effectually separating them from all the soil and other substances mixed with them and for smelting or reducing such ore into metal and also for supplying the said mines and works with water or with good and fresh air as for freeing the same from water or foul air and for the purposes aforesaid to erect make and employ all such fire steam water or other engines buildings smelting works furnaces workmen's houses shops crushing mills sheds or hovels machinery and works as may be proper and reasonable together also with liberty for him and them to erect upon the said land hereby demised smelting works and furnaces hovels and other offices belonging to or necessary for the said works and all other necessary or convenient powers authorities privileges and advantages for all or any of the purposes aforesaid subject to the provisions of the Mineral Leases Act One Thousand Eight Hundred and Sixty-seven To have and to hold the said lands demised with all mines veins of copper and other minerals (except and subject as aforesaid) and all and singular other the premises with their appurtenances unto the said Lessee _____ Executors Administrators and

Assigns from the _____ day of _____ One Thousand Eight Hundred and _____ for and during the full term of _____ years from thence next ensuing and fully to be complete and ended Yielding and Paying therefor yearly unto Her Majesty Her Heirs and Successors in advance on the _____ day of _____ and thenceforth in advance at the commencement of every current year during the said term the yearly rent or sum of _____ of lawful British money the first payment of such rent in advance to be made on the _____ day of _____

In Witness whereof the said parties to these presents have hereunto set their Hands and Seals in the day and year first above written.

Signed Sealed and Delivered by his Excellency _____ in the presence of _____ }

Signed Sealed and Delivered by the above-named _____ in the presence of _____ }

B.

The Mineral Leases Act.—1867.

B.

That the Lessee his Executors Administrators and Assigns shall yearly during the term at the commencement of every current year of the term pay or cause to be paid in advance to the Treasurer of South Australia for the time being on behalf of Her Majesty Her Heirs and Successors the reserved rent free and clear of all taxes rates and outgoing whatsoever And will not during the continuance of the term apply the land for any other use or purpose than for the purpose of mining and smelting without the permission of the Commissioner of Crown Lands and Immigration in writing And will during the continuance of the term work and carry on such mines in a fair orderly skilful and workmanlike manner And also that it shall be lawful for Her Majesty Her Heirs and successors and to and for the Governor for the time being of the said Province his and their agents and workmen at all proper and seasonable times during the term without any interruption from the said Lessee or his agents servants or workmen to enter into and upon the premises and into and upon any mines or works that may be found therein to view and examine the condition thereof and whether the same be worked in a proper skilful and workmanlike manner and for such purpose to make use of any of the railroads or other roads or ways machinery and works belonging to such mines and premises And also that the Lessee his Executors Administrators or Assigns will not at any time during the continuance of the term place or leave any waste or dead heaps refuse or rubbish which may be brought out of the said mines and premises near to any river brook or channel of water whereby such waste or dead heaps refuse or rubbish may reasonably be supposed to be liable to be disturbed or carried away by floods or other natural causes And also will build and keep in proper repair a sufficient and substantial stone wall or other fence round all the pits and shafts which may at any time during the term be open in any part of the demised premises or elsewhere for the purpose of this demise so as effectually to prevent all access thereto by all kinds of cattle And also will at all times during the continuance of the term keep and preserve the said mines and premises from all unnecessary injury and damage and also all the levels drifts shafts pits sumps watercourses houses erections sheds washing places puddles and other conveniences roads and ways in good order repair and condition and in such state and condition at the end or other sooner determination of the said term deliver peaceable possession thereof And also will lay out and expend in every two years during the said term a sum equal to at least Six Pounds for each and every acre of the land comprised in this demise in working the mines on the said land or at the option of the said Lessee his Executors Administrators and Assigns shall during at least nine months in each year of the term employ and keep employed not less than three men for every eighty acres of the land demised in mining upon the said land and in searching for or raising ores and will whenever thereunto required by the Commissioner of Crown Lands and Immigration or Inspector of Mines of the said Province furnish him with satisfactory evidence that such sum of money has been laid out or such mining operations carried on for the objects and purposes aforesaid And also that it shall be lawful for the holder of a lease of the run or of any portion thereof on which the land demised may have been surveyed to have free access at all times to any surface water or any water which such person may have procured by artificial means upon the land demised with or without cattle horses sheep and other live stock and to use and enjoy such water for the purpose of consumption by such cattle horses sheep and live stock and generally for his own benefit use and advantage as he shall think proper That the Lessee his Executors Administrators and Assigns will observe and conform to and hold the demised premises according to the several orders and regulations from time to time in force regulating the tenor of Waste Lands in South Australia for mineral purposes Provided also that the lease may be declared void and forfeited by order of the Supreme Court of the said Province in manner provided in said Act if default shall be made by the Lessee his Executors Administrators or Assigns in all or any of the following conditions that is to say if the rent be not paid in advance to the Treasurer as aforesaid and if a sum equal to at least Six Pounds per acre be not expended every two years on the land demised or at the option of the Lessee

Executors
Administrators or Assigns if three men for every eighty acres of the land demised be not employed for at least nine months in each year of the term of the demise in working on the land demised and in searching for or raising ores or if the Lessee shall permit any portion of the land demised to be occupied other than for mining purposes without the permission of the Commissioner of Crown Lands and Immigration in writing

Provided

The Mineral Leases Act.—1867.

Provided also that it shall be lawful for the Governor from time to time to resume any land demised for the purpose of making roads for public utility and convenience.