



1870.

ANNO TRICESIMO-QUARTO

VICTORIÆ REGINÆ,

No. 6.



AN ACT to make provision for the Management of Auriferous Crown Lands, and for regulating Mining for Gold in *Tasmania*.
[18 October, 1870.]

WHEREAS it is expedient that provision should be made for regulating the mining for Gold on the Waste Lands of the Crown, for the purpose of determining the rights of persons engaged therein, and preserving peace and order : Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

PREAMBLE.

Preliminary.

1 In referring to this Act it shall be sufficient to use the expression "The Gold Fields Regulation Act, 1870."

Short title.

2 This Act shall commence and take effect on the First day of December, 1870.

Commencement of Act.

Interpretation.

3 In the construction and for the purposes of this Act, if not inconsistent with the context or subject-matter, the following terms shall have the respective meanings hereinafter assigned to them ; that is to say,—

Interpretation.

" Authorised person " shall mean and include all Ministers of Religion, Medical Practitioners, and Schoolmasters, and any Commissioner appointed under this Act, or Justice of the Peace,

" Authorised person."

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- and any Clerk, Constable, or other person employed exclusively in the Government Service, and the servants of such persons respectively residing with and in the actual employment of such persons upon any Gold Field, and all females and all children under the age of Fourteen years who only reside and do not mine for Gold upon any Gold Field :
- “Business.” “Business” shall mean and include any profession except that of a Medical Practitioner, and any trade, calling, or occupation except that of Mining, and any vending or disposing of any goods, wares, merchandise, or chattels, whether by hawking or in any other manner, except the hawking of milk, butter, vegetables, or other farm or garden produce :
- “Claim.” “Claim” shall mean the portion of Land which each person or Company is entitled to occupy, or to occupy and mine in, under any Miner’s Right, Licence, or Lease issued under the provisions of this Act :
- “Commissioner.” “Commissioner” shall mean one of the Commissioners of Gold Fields for *Tasmania*, or in and for any Gold Field :
- “Gazette.” “Gazette” shall mean *The Hobart Town Gazette* :
- “Gold.” “Gold” shall signify as well any Gold, as any earth, clay, quartz, stone, or other mineral containing Gold or having Gold mixed therein, or set apart for the purpose of extracting Gold therefrom :
- “Gold Field.” “Gold Field” shall mean any part of the Waste Lands of the Crown on which persons are or may be actually engaged in mining for Gold, and also any Gold Field duly proclaimed under this Act :
- “Mine.” “Mine,” used as a verb, shall extend to and include any mode or method whatsoever whereby the soil or earth, or any rock or stone, may be disturbed, removed, carted, carried, washed, sifted, smelted, refined, crushed, or otherwise dealt with for the purpose of obtaining Gold, whether the same may have been previously disturbed or not, as well as the appropriation of such Gold by the finder thereof to his own use :
- “Mining purposes.” “Mining purposes” shall mean the purpose of obtaining Gold by any such mode or method :
- “Mining partnership.” “Mining partnership” shall mean and include all partnerships and co-adventures entered into by Two or more persons for Mining purposes, not being a Company registered under *The Joint Stock Companies Act*, or *The Companies Act*, 1869 :
- “Trespass.” “Trespass” shall mean unlawful interference in any way whatever with any water-right or other right or easement lawfully enjoyed under this Act.
- “Waste Lands of the Crown.” “Waste Lands of the Crown” shall mean any lands in this Colony which are or may become vested in the Crown, and have not been and are not dedicated to some public use, and shall include all Lands of the Crown which are or may be occupied for pastoral purposes under any Lease or Licence from the Crown :

Regulations.

Regulations of
Governor in
Council as to
documents.

4 It shall be lawful for the Governor in Council from time to time to make such Regulations, not being contrary to the provisions of this

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Act, as appear to be necessary, for prescribing the form of Documents and Leases to be issued under this Act, the modes, times, dates, and places of the issue thereof, and the conditions on which such Leases shall be issued, and such Regulations from time to time to alter, vary, or amend.

5 It shall be lawful for the Governor in Council, subject to the provisions of this Act, from time to time to make such Regulations as may appear to be necessary, for determining the quantity and form of Land which may be occupied for mining purposes by virtue of any Miner's Right issued under this Act, the events on which the title to any Claim or to any share therein shall become forfeited or be deemed to be abandoned, the mode in which the right to any Land occupied by virtue of any Miner's Right issued under this Act or to any share or interest therein may be assigned, the mode in which Claims shall be worked, the quantity and form of Land and the sites which may be occupied for the purpose of residence or business by virtue of any Miner's Right or Business Licence issued under this Act, for registering Claims or any share or interest in any Claim, for imposing on such registration such reasonable Fee as may be necessary for the purpose of defraying the expenses thereof, for disbursing the said Fees for the purpose last aforesaid, for regulating the mode in which the rights and privileges conferred by any Miner's Right issued under this Act may be exercised or enjoyed, for limiting, qualifying, or restricting the exercise and enjoyment of such rights and privileges, for imposing on the exercise or enjoyment of such rights and privileges when exercised or enjoyed by means of puddling machines, quartz machines, or other machines such reasonable and periodical Fees as may be necessary for the purpose of clearing and keeping clear the sludge and water channels connected with such machines, for disbursing the said Fees for the purpose last aforesaid, and generally all such Regulations as may be necessary for the protection of the holders of Miners' Rights and Business Licences issued under this Act in the exercise and enjoyment of the rights, privileges, and interest conferred by this Act; and to prescribe such penalty not exceeding Twenty Pounds for breach of any of such Regulations as the Governor in Council thinks fit.

Regulations of Governor in Council as to Mining.

6 All Regulations made by the Governor in Council under the authority of this Act shall be published in the *Gazette*, and shall take effect from the date of such publication, unless otherwise provided in such Regulations.

Regulations to be published in the *Gazette*.

7 All Regulations duly made under *The Gold Fields Regulation Act*, 1859, and in force when this Act takes effect, shall be deemed to have been made under this Act.

Existing Regulations continued.

8 Every Regulation made by the Governor in Council under the authority of this Act shall be laid before the Legislative Council and House of Assembly within Fourteen days from the making thereof, if Parliament is then in Session, and if not, then within Fourteen days after the commencement of the next Session thereof.

Regulations to be laid before Legislature.

Commissioners.

9 It shall be lawful for the Governor in Council to appoint Officers, to be called Commissioners of Gold Fields for *Tasmania* or for any Gold

Commissioners may be appointed.

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Field, as he sees fit, who shall have power and authority, subject to the provisions of this Act and the Regulations to be made as herein provided, to determine the extent and position of the Claim to which each person or company is entitled under any Miner's Right, Licence, or Lease issued under the provisions of this Act, and to mark such extent or cause the same to be marked.

As to Waste Lands of the Crown.

Governor empowered to except defined area of Crown Land from operation of Sect. 24 of *The Waste Lands Act, 1870.*

10 It shall be lawful for the Governor in Council from time to time, by Proclamation in the *Gazette*, to except any area of the Waste Lands of the Crown described in such Proclamation from the operation of Section Twenty-four of *The Waste Lands Act, 1870*, and any such Proclamation from time to time in like manner to revoke as to the whole or any portion of such area; and as to the area in respect of which any such Proclamation is so revoked, the same may be dealt with as if it had never been included in any such Proclamation.

Applications to purchase auriferous Crown Land may be refused.

11 It shall be lawful for the Commissioner of Crown Lands to decline to accede to any application, or to enter into a contract, for the purchase of Waste Lands of the Crown in any case in which the land selected is known or supposed to be auriferous.

Partial suspension of Pastoral Leases extending over Gold Fields.

12 When any Gold Field shall have been proclaimed upon any of the Waste Lands of the Crown under Lease or Licence for pastoral purposes, the Governor in Council may suspend such Lease or Licence so far as may be necessary for the accommodation of the horses, cattle, and sheep required for the subsistence and convenience of any person holding Miner's Rights or Leases, and for the supply of water, and otherwise for effectually working the said Gold Fields, and shall thereupon return or remit to the Lessee such portion of the rent of such lands as may be reasonable and just.

Proclamation of Gold Field.

Proclamation of Gold Field.

13 The Governor in Council may proclaim such portion of the Colony as he sees fit as and to be a Gold Field for the purposes of this Act.

Business Licences.

Business Licences may be issued.

14 It shall be lawful for the Governor in Council, subject to the provisions of this Act and the Regulations to be made as hereinbefore provided, to cause Licences to be issued which shall be in force for the period of Twelve months from the dates thereof respectively, authorising the holder to occupy Waste Lands of the Crown for the purpose of carrying on business upon any Gold Field; and the Fee to be paid for every such Licence shall be such sum, if any, not exceeding Ten Pounds, as may from time to time be fixed by the Governor in Council.

Miner's Rights.

Miners' Rights may be issued.

15 It shall be lawful for the Governor in Council, subject to the provisions of this Act and the Regulations to be made as hereinbefore provided, to cause documents to be issued each of which shall be called a Miner's Right, and shall be granted to any person applying for the same upon payment of such fee, if any, not exceeding One Pound as may from time to time be fixed by the Governor in Council.

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16 Every Miner's Right shall be in force from the date thereof to the thirty-first day of *December* then next, and shall during the said period authorise the holder to mine for Gold upon any of the Waste Lands of the Crown, and to occupy, except as against Her Majesty, for the purpose of residence in connection with the object of mining so much of the said lands as may be prescribed under the Regulations to be made as hereinbefore mentioned, and, subject to such Regulations for either of the purposes aforesaid, to put up, and at any time to remove, any building or other erection, and also to cut and remove from such lands, for mining purposes and for personal use only, any trees growing thereon, and also to cut, construct, and use races and dams for mining purposes through and upon any Waste Lands of the Crown, and to divert and use for mining purposes any water which Her Majesty could lawfully divert and use; and every such holder shall during the continuance of such Miner's Right be deemed in Law to be possessed, except as against Her Majesty only, of the Land which is occupied by virtue of such Miner's Right, and the property in such Land and every share and interest therein shall be deemed a chattel interest for all purposes; and during such continuance as aforesaid all Gold then being in and upon his Claim shall, except as against Her Majesty, be deemed in Law to be the absolute personal property of such holder: Provided, that no person shall be entitled by this Act, or under any such Regulation as aforesaid, to occupy for the purpose of residence more than one-fourth of an acre of Land.

Duration and effect of Miners' Rights.

17 Nothing hereinbefore contained shall authorise any such person to occupy as aforesaid any Waste Land of the Crown which has been exempted by the Governor in Council from the operations of Mining, or which is lawfully and *bonâ fide* used as a yard or garden, or for any race or dam, or for any house, out-house, shed, or other building, or to cut or remove from any such Land any trees growing thereon, or to cut or construct any race or dam through or upon any such Land; but nevertheless it shall be lawful for the Governor in Council to authorise the holders of Miners' Rights to occupy under such Miners' Rights, and also to cut and construct races and dams for the purposes aforesaid through or upon any Waste Lands of the Crown which may have been so exempted as aforesaid, subject to such conditions and restrictions as the Governor in Council imposes.

Certain Lands excepted from Mining.

Mining Leases.

18 It shall be lawful for the Governor in Council to grant Leases for any term not exceeding Ten years from the making of any such Lease of any auriferous Waste Lands of the Crown for Mining purposes, and also to grant water-rights and other easements for such purposes, and to fix the amount to be paid by way of rent or royalty for the same respectively: Provided always, that no such Lease shall be granted until the expiration of One month after notice of the intention to grant the same has been published in the *Gazette* by the Commissioner of Crown Lands.

Mining Leases may be granted.

19 In case any Lease granted under the authority of this Act, or of any Act authorising the granting of Leases for Mining purposes, is liable to be forfeited or determined for breach of any Condition or otherwise, or in case the term thereby granted has expired, possession of the land demised shall and may be recovered on behalf of Her Majesty in such manner as may be provided by any of the Conditions of the Lease.

Ejectment by Order of the Supreme Court.

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or (if there is no such Condition) it shall be lawful for the Supreme Court on the application of the Attorney-General to declare any such Lease to be void and forfeited; and the proceedings therein shall be the same, and the Order therein enforced in like manner, as in the case of any other Order of the said Court in its Common Law Jurisdiction.

Proof of facts.

20 In any proceeding under the last preceding Section to obtain any such Order of Forfeiture, the averment that the Defendant has made default in the specific condition mentioned in the application by the Attorney-General shall be sufficient *prima facie* evidence of such fact.

Order conclusive.

21 Every such Order of the Supreme Court shall be final and conclusive: Provided that the Court shall have power to relieve against a forfeiture incurred within Six months after the date of such Order.

Issue may be directed.

22 For the purpose of ascertaining any question of fact, the said Court may, in its discretion, settle and direct an issue to be tried in the manner provided by "The Common Law Procedure Act" for the trial of questions of fact without formal pleadings.

Mining upon and under Roads, &c.

Meaning of "Trustees" in next 3 Sections.

23 For the purposes of the next three Sections, the expression "Trustees" means the Trustees of a Road District, or where there is no Road District then the persons or body of persons having the care and management of streets, roads, and highways.

Mining upon or under public roads.

24 The holder of a Miner's Right or Lease under this Act may mine upon or under any street, road, or highway, provided that he applies in writing for permission so to do, to, and obtains an order in writing signed by the Trustees permitting him so to do upon such terms and conditions and subject to such restrictions as they see fit, from the Trustees of the Road District in which the street, road, or highway sought to be mined upon or under is situate; and such Trustees shall, before they grant such permission, enquire and determine whether such mining can be carried on without injury to adjoining property, or injury or obstruction to such street, road, or highway; and such Trustees may, if they see fit, refuse any such permission.

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

25 It shall be lawful for the Trustees upon application thereto by any holder of a Miner's Right or of a Lease under this Act, and upon the report of any Engineer or Surveyor that a sluice-box, tramway, or culvert can be laid or constructed on or under any such public road, street, or highway, without any substantial injury to, or obstruction of, the traffic thereon, and that such sluice-box, tramway, or culvert is necessary for the due and proper working of any mine, or for the conveyance of water for mining purposes, by order in writing made after inspection by some officer of such Trustees of the road, street, or highway mentioned in such report, subject to the rights of occupiers of adjoining or contiguous lands, to allow such sluice-box, tramway, or culvert to be laid or constructed by any holder of a Miner's Right or Lease under this Act, for the purpose of conveying any water, tailings, sludge, or waste water, or earth: Provided that such works shall be so constructed as not to substantially injure such road, street, or highway, or obstruct the traffic thereon; and if after the construction of any such sluice-box, tramway, or culvert under such order it is made to appear to such Trustees that the same does so injure such road, street,

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or highway, or obstruct the traffic thereon, it shall be lawful for such Trustees to order that the obstruction be removed, and if after Seven days from the date of such last-mentioned order the obstruction caused by such sluice-box, tramway, or culvert is not removed or remedied, the same shall be deemed a nuisance, and the person who obtained the said first-mentioned order, or the owner or occupier, shall be liable to a penalty not exceeding Twenty Pounds; and the said nuisance may be abated by an order of any Justice upon proof of the said last-mentioned order, and of the disobedience thereof.

26 It shall be lawful for the Trustees to authorise any person to make or construct any roads or temporary or permanent ways or other works over, across, or through any part of such works made or constructed by the holder of a Miner's Right or Lease under this Act: Provided that, before such Trustees shall give such authority, Seven days notice thereof shall be given to the person lawfully interested in such last-mentioned works.

Trustees may
make roads over
Mining works.

Unlawful Mining upon Crown and Private Land.

27 Any person not being the holder of a Miner's Right or of a Lease under this Act who mines for Gold upon any Waste Lands of the Crown, and any person who employs any such unauthorised person so to mine, and any person not being the holder of a Miner's Right, Licence, or Lease duly empowering him in that behalf, and not being an authorised person within the meaning of this Act, who occupies any Waste Lands of the Crown in or becomes resident upon or at any Gold Field, shall incur a penalty not exceeding Ten Pounds.

Penalty for
Mining or occupy-
ing Crown Land
without authority.

28 Any person who mines or employs any person to mine for Gold in any Land belonging to a private individual without the consent of the owner thereof, or his duly authorised agent, shall incur the like penalty as is mentioned in the last preceding Section.

Penalty for
Mining on private
Land without
permission.

Encroachments.

29 It shall be lawful for any Commissioner or any Justice of the Peace, upon the complaint of any person holding a Miner's Right, or any Licence or Lease under the provisions of this Act, that any other person has encroached, or trespassed upon the Claim of the complainant, to proceed forthwith to the spot for the purpose of investigating the matter of such complaint, and to enquire into the case, and on his own view, or upon the oath of any witness, to determine the same in a summary way; and if it appears to such Commissioner or Justice that the person complained against has so encroached by occupying, mining, or undermining such Claim, or in any other way whatsoever, or that the person complaining has so encroached or trespassed upon the Claim of the person complained against, it shall be lawful for such Commissioner or Justice to cause the person so found to have encroached as aforesaid, his servants, implements, goods and chattels, to be removed from the Claim so encroached upon, or direct the discontinuance of such trespass, or may, if he sees fit at any time after the complaint has been made, prohibit the working of such Claim by any or either party until the dispute shall be finally decided.

Persons encroach-
ing may be
removed by a
Commissioner or
Justice.

30 It shall be lawful for any such complainant or person complained of, or for such Commissioner or Justice, previous to the hearing of any

Assessors may be
called in.

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such complaint, to require that Two persons holding Miners' Rights or a Lease under this Act shall assist such Commissioner or Justice as Assessors, and thereupon such Commissioner or Justice shall select Two persons duly qualified from amongst those who are present and ready to attend and be sworn as such Assessors, or shall summon any number not exceeding Four persons duly qualified as aforesaid, and shall select Two from amongst those who may attend at the time appointed, and shall administer to such persons as may attend and be selected, whether summoned or not, an oath to the effect that such persons severally will well and truly enquire into the matter of the complaint then submitted and a true finding and decision give according to the evidence, and such persons so sworn shall be and act as Assessors, and such Commissioner or Justice and Assessors shall hear and determine every such complaint of encroachment, and shall also find whether any and what Gold has been unlawfully or improperly removed from such Claim, and whether any and what damage has been sustained by such encroachment, and the decision of a majority consisting of such Commissioner or Justice and One Assessor shall be binding.

Finding of
Commissioner
or Justice and
Assessors.

Gold abstracted
and damages
awarded may be
recovered.

31 It shall be lawful for such Commissioner or Justice and Assessors upon the hearing of any complaint as aforesaid, or for such Commissioner and any One Justice, or for any Two or more Justices upon proof of any Gold having been removed as aforesaid, of which any such finding as aforesaid shall be sufficient evidence, to cause any Gold which may have been taken or removed from such Claim to be summarily seized and delivered to the person encroached upon, and also to order any damages ascertained as aforesaid, not exceeding in amount Fifty Pounds, to be paid by the person so having encroached or trespassed; and in case of non-payment thereof to cause the same to be recovered by distress and sale of the goods and chattels of such person in the manner prescribed by Law for the recovery of any sum adjudged by Justices of the Peace as a pecuniary penalty or compensation: Provided, that no person shall be imprisoned for default in payment of any such damages for a longer period than Three Months.

If Assessors do
not attend,
Commissioner
or Justice may
adjourn.

In case the
required number
of Assessors do
not attend ad-
journed meeting,
the Commissioner
or Justice may
proceed.

32 In the event of the non-attendance of the requisite number of Assessors at the appointed time, the Commissioner or Justice present shall if required by either party adjourn the hearing of the complaint; and if at the time to which the same has been adjourned there is not a sufficient number of Assessors in attendance after due summons, such Commissioner or Justice may proceed to hear and decide with One such Assessor if One is in attendance, or without any Assessor if none is present; and the acts and decision of the said Commissioner or Justice and such Assessor as is in attendance, or of such Commissioner or Justice alone if no Assessor is in attendance, shall be as valid and effectual as if the regular number had been in attendance and had acted with such Commissioner or Justice: Provided, that during such adjournment as aforesaid the Commissioner or Justice may order the working of the Claim alleged to have been encroached upon to be suspended.

Fees may be
demanded.

33 Previously to the entertaining of any complaint as aforesaid, such Commissioner or Justice shall demand and receive from the complainant a Fee of One Pound, and until such fee has been paid such Commissioner or Justice shall refuse to attend to any such complaint: Provided, that if the decision is against the person complained of, such person may be ordered to repay such Fee to the complainant, and the determination by whom the Fee is to be paid shall, in every case, form

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part of the decision of such Commissioner or Justice, or such Commissioner or Justice and Assessors, as the case may be, and such Fee may be recovered as herein directed in regard to any compensation awarded to any complainant.

34 If any person holding a Miner's Right or Lease issued under the provisions of this Act, having been duly summoned, disobeys such summons and fails to attend at such time and place as may be named therein, or duly attends but refuses to be sworn as aforesaid, it shall be lawful for such Commissioner or Justice upon proof that such person was duly summoned, or upon such person refusing to be sworn, unless some reasonable cause for such non-attendance or refusal is made to appear to such Commissioner or Justice, to inflict a penalty not exceeding Five Pounds, which penalty may be levied in a summary way; and for the purpose of enforcing payment of any such penalty, the Commissioner shall have the powers of a Justice of the Peace; and every such person who attends in obedience to any such summons, and is sworn to act as Assessor, shall be entitled to demand and receive the sum of Five Shillings for the hearing of every such complaint, which shall be paid by such of the parties as the Commissioner or Justice, with or without Assessors, as the case may be, may determine and order to pay the same.

Penalty for non-attendance, &c., as Assessor.

35 Complaints of disturbance or infringement of rights to the use of water for Mining purposes may be heard and determined in like manner, as nearly as may be, as is hereinbefore provided in respect of complaints relating to encroachments; and the Commissioner or Justice, with or without Assessors, as the case may be, is hereby empowered to make such order and direct such proceedings as may be deemed necessary for remedying such disturbance or infringement.

Disturbance of water rights.

Partnership Questions.

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

Commissioner may entertain partnership questions.

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Assessors may also be summoned in other cases.

37 The provisions relating to Assessors as applied to cases of encroachment or trespass may at the instance of the complainant, or the person complained against, or of such Commissioner or Justice, be applied to the case of any other complaint or information in which such Commissioner or Justice has jurisdiction under the last preceding Section.

Evidence.

Witness must answer questions which may criminate.

38 No person shall, in any civil Suit, Action, or proceeding, be permitted to refuse to answer any question which is relevant and material to the matter in issue on the ground that he may criminate himself under the last preceding Section, but no answer given by any such person shall be given in evidence upon the trial of any information for any offence committed under such Section.

Fees.

Fees payable in advance, and appropriation thereof.

39 All Fees payable by virtue of this Act shall be payable in advance, and, if not otherwise directed by this Act, shall be paid to Her Majesty, Her Heirs and Successors, and form part of the Land Fund.

Offences.

Assault on Commissioner and other offences.

40 Any person who insults, assaults, obstructs, or resists any Commissioner or Justice, or any person duly authorised by any Commissioner or Justice to enter any Claim or Land or to perform any other act, or any other person in the performance of his duty or in the exercise of his powers under this Act, or who, after being removed by any Commissioner or Justice under the provisions of this Act from any Claim or other place, forcibly or clandestinely retakes or retains, or endeavours to retake or retain, possession thereof or of any portion thereof or of any share therein, or who upon or in consequence of any decision under this Act of any competent authority assaults or threatens to assault any person in whose favour such decision has been made, shall incur a penalty not exceeding Fifty Pounds.

Forgery of mining Documents or Leases.

41 If any person forges or alters any Document or Lease authorised to be issued under this Act, or uses or utters any such forged or altered Document or Lease knowing the same to be forged or altered, with intent in any of the cases aforesaid to defeat the provisions of this Act, or to defraud, he shall be guilty of a misdemeanor, and shall on conviction before the Supreme Court be subject to imprisonment for any period not exceeding Three Years, with or without hard labour, at the discretion of the Court.

Penalty for concealing Royalty.

42 If the holder of any Lease issued under the provisions of this Act by any fraudulent device or contrivance defrauds or attempts to defraud Her Majesty of any Gold or money payable or reserved by such Lease, or with such intent as aforesaid conceals or makes a false statement as to the amount of any Gold procured by him, such person shall be guilty of a misdemeanor, and shall on conviction thereof before the Supreme Court be subject to fine and imprisonment at the discretion of the Court.

Stealing Gold.

43 If any person steals or severs with intent to steal any Gold from any Claim or from any Land comprised in any Lease granted under this Act every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in cases of simple larceny.

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44 Any holder of a Lease or Miner's Right issued under the provisions of this or any other Act who shall by any fraudulent device or contrivance defraud or attempt to defraud Her Majesty, or any person authorised to receive the same, of any money or Gold payable or reserved by such Lease or Miner's Right, or conceal or make a false statement as to the amount of any Gold procured by him, or falsify any account with a fraudulent intent, and all officers and servants of such holder, and other persons whomsoever who shall knowingly be concerned in any such fraud or attempted fraud, whether with or without the knowledge or concurrence of such holder, shall be deemed guilty of a misdemeanor.

Punishment for fraud.

45 If any person with intent to defraud his co-partner, co-adventurer, joint tenant or tenant in common in any Claim, or in any share or interest in any Claim, secretly keeps back or conceals any Gold found in or taken from such Claim, every such person shall be guilty of felony, and being convicted thereof shall be liable to be punished in the same way as if he had feloniously stolen the same.

Punishment of fraud on partners.

Legal Procedure.

46 All proceedings for any infringement of any of the provisions of this Act, or of any of the Regulations established by the Governor in Council as aforesaid, the hearing and determining of which is not herein otherwise specially provided for, shall be had and taken by or before any Two or more Justices of the Peace in a summary way in the mode prescribed by *The Magistrates Summary Procedure Act*.

Summary proceeding for offences.

19 Vict. No. 8.

47 Any person ordered or adjudged to forfeit or pay any penalty, damages, compensation, or forfeiture amounting to Ten Pounds or upwards, who feels himself aggrieved by the judgment of the Commissioner, Justice or Justices, with or without Assessors, adjudicating, or before whom he was convicted, may appeal therefrom in the mode prescribed by *The Appeals Regulation Act*.

Appeal from Justice or Commissioner.

19 Vict. No. 10.

48 Previously to the hearing of any complaint, the parties thereto may agree to accept the decision of the Commissioner, Justice or Justices, with or without Assessors as the case may be, as final; and a Memorandum of every such Agreement shall be entered by the Commissioner, Justice or Justices, and kept by them respectively; and no Appeal shall in such case be made from the decision of the Commissioner or Justices as aforesaid.

Agreement to bar Appeal.

49 Upon the hearing of any case before such Commissioner, Justice or Justices as aforesaid, it shall be lawful for such Commissioner, Justice or Justices (if he or they shall think fit) to reserve any question in the form of a Special Case for the opinion of the Supreme Court, and in such case no decree or order shall be made in respect of any matter on which such question shall have been reserved until such opinion has been given; and every such special case shall, after it has been prepared by such Commissioner or Justice, be transmitted by the Commissioner or Justice to the Clerk of the Supreme Court, who shall cause the same to be set down for argument before the said Court.

Commissioner or Justice may state special case for opinion of Supreme Court.

50 Whenever any such Special Case has been reserved, or any such Appeal brought, it shall be lawful for the Commissioner or Justice who reserved such case, or from the decree, decision, or order of whom the Appeal has been brought, on the application

In case of a special case or appeal an injunction, &c. and stay of

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proceedings may
be had.

of any of the parties interested in such Case or Appeal, to make such order for an injunction, or receiver, or payment of money into Court, or in the case of an Appeal for stay of proceedings or otherwise, and upon such terms as such Commissioner or Justice thinks proper; but without such order no Appeal shall operate as a stay of proceedings.

Saving of Royal Prerogative.

Saves Royal
Prerogative.

51 Nothing in this Act contained shall be deemed to abridge or control the Royal Prerogative.

Repeal.

Repeal of 23 Vict.
No. 26.

52 On and after the day on which this Act commences and takes effect, *The Gold Fields Regulation Act, 1859*, shall be hereby repealed: Provided that such repeal shall not affect—

- (1.) Anything duly done before this Act commences and takes effect:
- (2.) Any liability accruing before this Act commences and takes effect:
- (3.) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act commences and takes effect:
- (4.) The institution of any legal proceeding, or any other remedy for enforcing or recovering any such liability, penalty, forfeiture, or punishment as aforesaid.