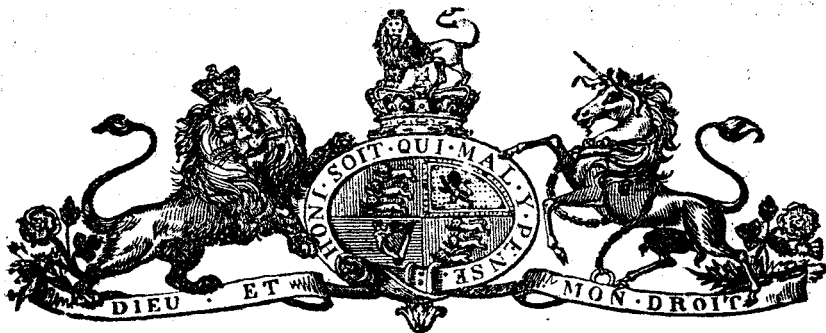


T A S M A N I A.



1870.

ANNO TRICESIMO-QUARTO

VICTORIÆ REGINÆ,

No. 11.



AN ACT to make provision for the Leasing and Occupation of the Waste Lands of the Crown in *Tasmania* for Mineral Purposes.

[18 October, 1870.]

WHEREAS it is desirable to afford facilities for the occupation of the Waste Lands of the Crown for mineral purposes: Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited for all purposes as “The Mineral Leases Act, Short title. 1870.”

2 In this Act, if not inconsistent with the context, the following Interpretation. terms have the meanings hereinafter assigned to them:—

“The Commissioner” shall mean the Commissioner of Crown Lands for the time being under “The Waste Lands Act, 1870.” The Commissioner.

Gazette shall mean *The Hobart Town Gazette*: “Gazette.”

“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.”

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"Waste Lands."

"Waste Lands" shall mean any Lands in this Colony which are or may become vested in the Crown, and which 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.

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

3 It shall be lawful for the Governor in Council if he sees fit, from time to time, upon being satisfied that there is good and sufficient reason for believing that there are minerals or metals on any Waste Lands, by Proclamation in the *Gazette* to except any area of such lands 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 mineral Crown Land may be refused.

4 It shall be lawful for the Commissioner to decline to accede to any application, or to enter into a contract, for the purchase of land under Section Twenty-four of *The Waste Lands Act*, 1870, in any case in which the land selected is known or supposed to contain minerals or metals.

Mining Leases may be granted.

5 It shall be lawful for the Commissioner, with the consent of the Governor in Council, to grant Leases for mining purposes, for any term not exceeding Twenty-one years from the making of any such Lease, of any portion of the Waste Lands of the Crown not exceeding Eighty acres if containing metalliferous rocks, and if containing coal not exceeding Three hundred and twenty acres, with right of renewal for a further period of Fourteen years, by payment of a fine; and also in like manner to grant water rights and other easements for mining purposes, and to fix the amount to be paid by way of rent or royalty for the same respectively: Provided that every such Lease and Grant shall be subject to such terms and conditions as the Governor in Council shall see fit to impose.

Lessee may determine lease.

6 Every lessee shall have power to determine the lease on giving Three calendar months notice in writing to the Commissioner.

Renewal of lease.

7 Any lessee desirous of obtaining a renewal of his Lease shall make application to the Commissioner 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.

8 The amount of fine hereinbefore made payable on any renewal shall be fixed by the Governor in Council at least Twelve calendar months before the expiration of the lease.

Form of lease.

9 Leases shall be in the form in the Schedule (1), 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 Commissioner 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 set forth in the Schedule (2).

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10 It shall be lawful for the Supreme Court, on the application of the Attorney-General, to declare any lease to be void and forfeited if default has been made by the lessee in any or all of the following conditions of such lease; that is to say,—if the rent is not paid yearly in advance to the Colonial Treasurer; or if a sum equal to at least Six Pounds per acre is 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 so leased are 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 permits any portion of the land to be occupied for other than mining purposes without the permission in writing of the Commissioner.

Supreme Court may declare leases void in certain events.

11 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.

Proof of facts.

12 Every 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 of the date of the order.

Order conclusive.

13 For the purpose of ascertaining any question of fact, the 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.

Issue may be directed.

14 The present lessees of Waste Lands 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 within Twelve months after this Act takes effect; and it shall be lawful for the Governor in 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.

15 The present and any future lessees of Waste Lands 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 in 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 Three hundred and twenty acres of land.

Leases may be consolidated.

16 Every memorial mentioned in the last two preceding Sections 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.

17 The Commissioner shall cause notice to be given by publication in the *Gazette* for Four successive weeks of every memorial as last aforesaid.

Memorial to be advertised.

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Persons may oppose.

18 Any person prior to the expiration of the Fourteenth day next after the last publication of the notice mentioned in the last preceding Section 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 *Gazette* for Four successive weeks.

Leases of public reserves for mining purposes.

19 It shall be lawful for the Commissioner, with the consent of the Governor in Council, to grant leases for mining purposes, on such terms and conditions as the Governor in Council sees fit, of any lands reserved by the Crown for roads or other internal communication, whether by land or water, and also any land reserved along the margin of any river or stream, or along the sea-shore, and also any land forming part of the sea-shore, or any land below low water-mark adjacent to the sea-coasts of this Colony: Provided that no lease granted under this Section shall extend to the total obstruction of any road or reservation, or the endangering the use thereof: Provided also, that every lease granted under the provisions of this Section shall contain a clause in the nature of a condition of forfeiture in case of the breach or non-performance of any of the conditions to be contained in such lease.

Licences may be granted to search for minerals.

20 The Commissioner may grant licences to applicants to search for and remove minerals and metals, except Gold, from Waste Lands; and every such licence shall be in force for the period of Twelve months from the date thereof, and shall authorise the person therein named, his assigns, 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 any such licences may be renewed from time to time.

Licensee to have prior right to lease.

21 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.

Leases to be sold.

22 All leases of Waste Lands for mineral purposes shall, except as aforesaid, be put up for sale by public auction, in the same manner as is provided with respect to the sale of Waste Lands.

Lands may be resumed for Township.

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.

Meaning of "Trustees" in next three Sections.

24 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.

25 The holder of a 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

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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.

26 It shall be lawful for the Trustees upon application thereto by any holder 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 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, 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.

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

27 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 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.

28 It shall be lawful for the Governor in 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 fees 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 *Gazette*, shall have the force of Law.

Regulations may be made.

29 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 is then sitting; and if the Parliament is not then sitting, then within Fourteen days from its next sitting for the despatch of business.

To be laid before Parliament.

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SCHEDULE.

(1.)

THIS Indenture made the _____ day of _____ in the year of our Lord 18 _____ between _____ of the one part, and _____ of _____ his heirs, executors, administrators, and assigns, hereinafter designated by the term Lessee, of the other part—Witnesseth that, in consideration of the rent herein reserved, the Commissioner doth (subject to the reservations hereinafter contained) demise and lease unto the said lessee _____ executors, administrators, and assigns, all, &c., 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 minerals and 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, 1870," and the regulations made under the authority of the same Act, To have and to hold the said lands demised with all mines and 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 _____ Pounds 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, the day and year first above written.

Signed, sealed, and delivered by the Commissioner,
in the presence of—

Signed, sealed, and delivered by the above-named _____,
, in the presence of—

(2.)

THAT the lessee, his executors, administrators, or 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 Colonial Treasurer of Tasmania for the time being on behalf of Her Majesty, Her Heirs, or Successors, the reserved rent free and clear of all taxes, rates, and outgoings 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 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 Colony, his and

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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, and 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, 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 Laws and Regulations from time to time in force regulating the leasing and occupation of Waste Lands in Tasmania for mineral purposes : Provided also, that the lease may be declared void and forfeited by order of the Supreme Court of the said Colony, in manner provided by Law, 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 Colonial 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, his 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 in writing : 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.

The following information was obtained from the records of the
 Department of the Interior, Bureau of Land Management, regarding
 the land owned by the State of California, and the land owned
 by the United States Government, in the County of Santa Clara,
 California, as of the date of the filing of this report.
 The land owned by the State of California is as follows:
 (List of land parcels follows, including acreage and location details)
 The land owned by the United States Government is as follows:
 (List of land parcels follows, including acreage and location details)