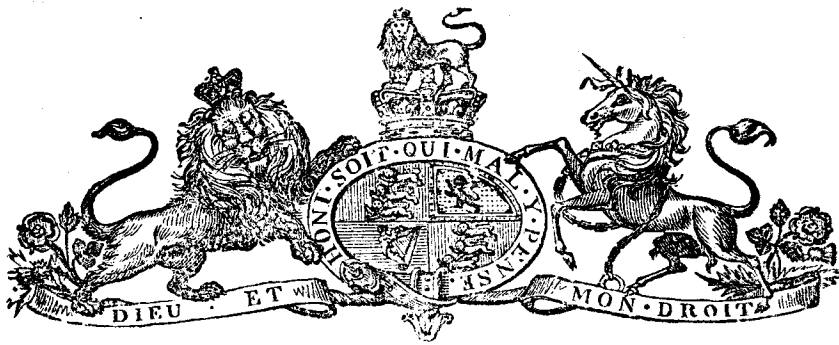


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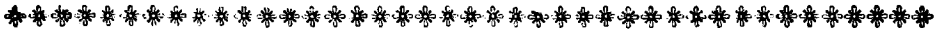


1877.

ANNO QUADRAGESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 7.



AN ACT to make provision for the Leasing and Occupation of the Waste Lands of the Crown in *Tasmania* for Mineral Purposes. A.D. 1877.

[11 *December*, 1877.]

BE it 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 as “The Mineral Lands Act, 1877.” Short title.

2 In this Act, and the Regulations made hereunder— Interpretation.

“Claim” means the portion of land which each person or body of persons is entitled to occupy, or to occupy and mine and work, under the authority of this Act :

“the Commissioner” and “Commissioner” mean one of the Commissioners of Mines :

“*Gazette*” means *The Hobart Town Gazette* :

“Mineral” means any metal or mineral except gold and the ore of any metal or mineral except gold ore :

“Gold” signifies 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 :

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“Lessee” means any person or body of persons to whom a lease has been granted, assigned, or transferred, or in whom any lease is vested, under this or any former Act for mining purposes :

“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 Minerals or Metals whether the same may have been previously disturbed or not, as well as the appropriation of such Metals by the finder thereof to his own use :

“the Minister” means the Minister of Lands and Works for the time being :

“Mining purposes” means the intention to mine and work land for minerals and metals and the ores of metals, except gold :

“Person” shall include any body of persons corporate or unincorporate :

“Prescribed” means prescribed by Regulations made under this Act :

“Waste Lands” means 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, but shall not include any lands leased under the provisions of this or any former Act for mining purposes.

Governor empowered to except defined area of Crown land from operation of Section 24 of 34 Vict. No. 10.

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 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 Minister to decline to accede to any application, or to decline to enter into a contract, for the sale of land under Sections Twenty-four or Thirty-eight of *The Waste Lands Act, 1870*, in any case in which the land selected or applied for is known to the Minister, or is reported by the Commissioner of the District in which such land is situated, to contain minerals.

Discoverer entitled to lease at peppercorn rent in certain cases.

5 Every person who discovers any mineral, which mineral will, in the opinion of a Commissioner, yield a profitable return when mined, such discovery being at least ten miles distant from any place where a mineral of a like kind has before then been found and profitably mined, shall be entitled to a lease under this Act at a peppercorn rent for a term of Twenty-one years of an area of Eighty acres of land on which such mineral has been found by such person as a reward for such discovery,

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with right of renewal for such term and on such conditions as is provided for other lessees under the Thirteenth Section of this Act; provided that the Minister may refuse to grant such lease whenever it shall appear to him that the applicant is not justly entitled to the same.

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6 If any person not holding a lease or lawful authority to search for or mine for minerals under any former Act, or this Act, removes from any Waste Land or any Crown Reserve any minerals except as specimens or for purposes of assay, he shall be liable to a penalty not exceeding Fifty Pounds; and in any proceedings taken against any person hereunder proof that such person holds such lease or other lawful authority shall lie upon him.

Unlicensed persons removing minerals, &c. liable to penalty.

7 It shall be lawful for any Bailiff of Crown Lands to seize and detain any mineral which is being or has been unlawfully removed, or which he has good cause to suspect to have been unlawfully removed from any Waste Lands or any Crown Reserve, and it shall be lawful for any such Bailiff by the authority of a Commissioner to seize and detain any mineral which is being or has been unlawfully removed, or which such Commissioner has good cause to suspect to have been unlawfully removed from any Waste Lands or any Crown Reserve; and any mineral seized as aforesaid may be forfeited to Her Majesty upon proof to the satisfaction of a Commissioner that it has been unlawfully removed as aforesaid.

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

8 Nothing hereinbefore contained shall authorise any person to occupy as aforesaid any Waste Lands of the Crown which have been exempted by the Governor in Council from the operations of mining, or which are 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 lands any trees growing thereon, except for the purposes of mining operations, or for the domestic use of those employed thereon, or to cut or construct any race or dam through or upon any such lands; but nevertheless it shall be lawful for the Governor in Council to authorise the holders of Mineral Leases to occupy under such Mineral Leases, and also to cut and construct races and dains 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 Minister shall see fit to impose.

Certain lands exempted from mining.

9 It shall be lawful for the Minister, with the consent of the Governor in Council, to grant leases, as hereinafter provided, for mining purposes of any portion of the Waste Lands of the Crown: and the Minister may, with the like consent, grant water rights over and sites for the erection of machinery as prescribed upon any Waste Lands, and other easements for mining purposes.

Leases of Waste Lands for mining purposes.

10 It shall be lawful for the Minister, with the consent of the Governor in Council, to grant leases for mining purposes on such terms and conditions, subject to the provisions of this Act, as the Governor in Council sees fit, of

Leases of public reserves for mining purposes.

Any lands reserved by the Governor in Council for roads or other internal communication, whether by land or water:

Any land reserved along the margin of any river or stream or along the sea shore:

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Any land forming part of the sea shore, and any land below low water mark adjacent to the sea coast of this colony :

Any land reserved by the Governor in Council for any public purpose.

But no such lease shall extend to the total obstruction of any road or reservation, or the endangering or preventing the use or enjoyment thereof; and every such lease 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.

Scale of Rent.

11 The amount to be paid by way of rent for any lease of any portion of the Waste Lands shall be as follows :—

For all lands containing coal, shale, slate, or limestone, any sum not less than Two Shillings and Sixpence per acre per annum :

For all lands containing any other minerals, any sum not less than Five Shillings per acre per annum.

Leases not to be granted, &c. to Company not registered in *Tasmania*.

12 No lease shall be granted under this Act, nor shall any lease for mining purposes heretofore granted to any person or Company be transferred, to any Mining Company which is not registered in this Colony nor shall any consolidated lease be issued to any such Company.

Term of lease and area of Waste Lands.

13 Any lease granted under this Act shall be for a term of Twenty-one years from the making thereof, and of any portion of the Waste Lands of the Crown not less than Twenty acres and not exceeding Eighty acres if containing minerals other than those next mentioned, and if containing coal, shale, slate, or limestone, not exceeding Three hundred and twenty acres, with right of renewal for a further period of Fourteen years, upon payment of such yearly rent as the Governor in Council may see fit.

Form of lease.

14 Leases may be in the form in the Schedule (1) or as may be prescribed, or in such other form as the Minister may in any case direct: Provided that each lease shall be by Deed and shall be in duplicate, one part whereof shall be signed, sealed, and delivered by the Minister 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 land described therein and remove the minerals and metals therein and thereunder, under and subject to the conditions and stipulations and clauses of forfeiture set forth in this Act; and every lease shall contain the right of renewal as mentioned in the preceding Section, and be subject to and not inconsistent with the provisions of this Act.

Time for execution.

15 If the Governor in Council shall consent to a lease of the land applied for, notice thereof shall be forthwith given to the applicant, who shall execute the lease within One month after the receipt from the Minister of notice that the Governor in Council consents to the grant thereof and that such lease is ready for execution; and after that time the lessee shall not be allowed to execute the lease unless by the permission of the Minister.

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16 Every lessee shall have power to determine the lease on giving at the expiration of any year of the term of the said lease Six calendar months notice in writing to the Minister, and upon payment of rent in advance equal to the period embraced in such notice.

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Lessee may determine lease.

17 Any lessee desirous of obtaining a renewal of his Lease shall make application in writing to the Minister for renewal, at least Twelve 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.

Renewal of lease.

18 In any case in which it is made to appear to the satisfaction of the Governor in Council by any Mining Company that greater facilities for the working of adjoining mineral lots for which applications for leases have been made would be ensured by the issue of one lease for the whole of the said lots, it shall be lawful for the Governor in Council to authorise the issue of one lease for the whole of the said lots if the same shall not exceed in the whole Three hundred and twenty acres of land, upon the payment of such fee for each such lot as may be prescribed, and the lease so granted shall be subject to all the provisions of this Act.

Amalgamation of lots.

19 Any lessee under this Act or "The Mineral Leases Act, 1870," may, upon payment of all such fees and expenses as may be prescribed, transfer or assign his interest in the lease to any other person, who shall for all purposes be deemed to be the lessee of the land described in such lease; and such transfer or assignment shall be by deed, and in such form as may be prescribed, and shall be registered or recorded in the office of the Minister, and no assignment or transfer shall be valid until the same shall have been so registered or recorded.

Lessees may, with consent of Minister, transfer or assign leases.

20 Lessees under this Act or "The Mineral Leases Act, 1870," may, by memorial to the Governor, apply to surrender any leases of lands contiguous to each other, in order to have a new lease granted to them, or their assigns, of the whole of the lands included in their respective leases; and it shall be lawful for the Governor in Council after the publication of such memorial in four successive numbers of the *Gazette*, and after the time appointed for the receipt and publication of any counter-memorial, as hereinafter provided, 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; but no such new lease shall include more than Three hundred and twenty acres of land, nor be for any term exceeding Twenty-one years from the date of the commencement of the term of the first lease so consolidated; and all such leases shall be subject to the provisions of this Act.

Leases may be consolidated.

21 Any person prior to the expiration of the Fourteenth day next after the last publication of the memorial mentioned in the last preceding Section may, by counter-memorial to the Governor, show cause against the application, stating the reasons against the application, a copy of which counter-memorial shall be forthwith published in Four successive numbers of the *Gazette*.

Persons may oppose.

22 No area of land shall, subject to the provisions contained in Sections Eighteen and Twenty of this Act, be held for Mining

Area of land to be held by One person.

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purposes under this Act by any person of a greater area as regards one kind of mineral than Eighty acres if containing minerals other than those next mentioned, or of a greater area as regards one kind of mineral than Three hundred and twenty acres if containing coal, iron, shale, slate, or limestone.

Leases may be declared void in certain events.

23 It shall be lawful for the Governor in Council, on the application of the Minister, to declare any lease issued under this Act or "The Mineral Leases Act, 1870," to be void and forfeited if it be proved to the satisfaction of the Governor in Council that 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 Three Pounds per acre is not expended in mining in every year on the land so leased, or if One man for every Twenty acres of land so leased is 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 minerals or metals:

If the lessee permits any portion of the land to be occupied for other than mining purposes without the permission in writing of the Minister. Provided always, that nothing herein contained shall prevent the said lessee from allowing any and every miner employed by such lessee on such land occupying at a peppercorn rent a portion of such land for the purpose of residence, garden, yard, and other conveniences, not exceeding in any case one acre, or from depasturing cattle used in connection with the working or mining of such land.

It shall also be lawful for the Governor in Council on the application of the Minister to declare any lease to be void and forfeited—

If the lessee is convicted, under the Twenty-ninth Section of the Act of the Parliament of *Tasmania* of the 27th *Victoria*, No. 8, of having feloniously stolen or severed with intent to steal any mineral or metal from or under any land not leased to or owned by him.

No lease shall be declared void and forfeited under this Section until Thirty days' notice of the intention of the Minister to apply to have such lease declared void and forfeited has been given in the *Gazette*, and also to such lessee.

Notice of voidance of lease to be published.

24 When any lease is declared void and forfeited by the Governor in Council, there shall be published in the *Gazette*, under the hand of the Minister, a notice to the effect that such lease has been declared by the Governor in Council to be void and forfeited, and such notice shall be conclusive evidence that such lease has been lawfully declared void and forfeited, and thereupon the land described in such lease may be dealt with as if no lease had been granted of such land, or such land may be put up for lease by auction if the Minister sees fit.

Fulfilment of conditions with respect to separate areas held by lease.

25 When any person or company is possessed of or holds more than one area of land which might be included in a consolidated lease, and shall employ on any one or more of such areas the same number of men as would be required to fulfil the conditions in respect of each separate

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area as hereinbefore provided, or shall expend on any one or more of such areas the full amount of money which would be required to fulfil the conditions in respect of each separate area as hereinbefore provided, the same shall be deemed and taken to be a performance and fulfilment of such conditions on each such separate area. A.D. 1877.

26 Every applicant for a lease under this Act shall, at the time of application for such lease, and every transferee of any lease under this Act or "The Mineral Leases Act, 1870," shall, immediately after the execution of such transfer, lodge with the Commissioner or Registrar of the District an address within *Tasmania*, with the name of the place where the nearest post office to such address is established, which address shall be registered in a book to be kept for that purpose; and service of any notices required by this Act at such registered address shall be deemed and taken to be good and sufficient notice upon such lessee; and every lessee under "The Mineral Leases Act, 1870," and every transferee of any lease under the said Mineral Leases Act, 1870, shall, within Six months after the passing of this Act, lodge with the Commissioner or Registrar of the District an address as aforesaid within *Tasmania*, which address shall be registered in a book to be kept for that purpose; and service of notices required by this Act or "The Mineral Leases Act, 1870," at such registered address shall be deemed and taken to be good and sufficient notice upon such lessee or transferee: Provided always, that a notice by the Minister requiring such last-mentioned lessee or transferee, within a reasonable time to be therein specified, to lodge and register such address be given by inserting a copy of such notice in Three consecutive numbers of the *Gazette*, and also in Three consecutive numbers of one of the newspapers published in *Hobart Town*, and also in one of the newspapers published in *Launceston*. Registered address.

27 Where by this Act any notice is required to be given to any person, the same may be given either by delivering the same personally, or by leaving the same at the registered address, or at the usual or at the last known place of abode or business in *Tasmania* of such person, or by posting the same to such registered address; and service of any legal process or document at any such registered address, or by posting the same to such registered address, shall be considered good and sufficient service of such process or document upon such lessee, anything in any law contained to the contrary notwithstanding. In case any person should have no registered address, or if it is proved to the satisfaction of the Minister that such person has never resided in *Tasmania*, or that the last place of abode or business in *Tasmania* of such person cannot be ascertained, a copy of any such notice being inserted in the *Gazette* for Three consecutive numbers, and also in Three consecutive numbers of one newspaper published in *Hobart Town* and also in one newspaper published in *Launceston*, shall be deemed and taken as service of such notice on such person. Delivery of notices.

28 If any lessee becomes bankrupt, or if the affairs of such lessee are to be liquidated by arrangement with his creditors under *The Bankruptcy Act, 1870*, his interest in such land shall pass to his Trustee under the said Act, upon such Trustee producing to the Minister the order adjudging such lessee a bankrupt and the resolution of the creditors Interest of bankrupt lessee to pass to trustee.

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appointing such person to be trustee, or the special resolution appointing such person to be trustee under such liquidation.

Interest of lessee may be seized and sold.

29 The interest of any lessee in any land held under this Act or "The Mineral Leases Act, 1870," may be taken in execution and sold by the proper officer, under any Writ of Execution issued out of any Court of competent jurisdiction, or under any Warrant of Distress issued by a Justice.

Lessee of mineral lands to take out gold-mining lease where gold associated with minerals.

30 Where gold is found to exist in any land demised under this Act, or "The Mineral Leases Act, 1870," if the lessee shall desire to mine for such gold, or where gold is associated or combined with any other mineral in any such land, and the nature of the mining operations is, in the opinion of a Commissioner, such as to lead to the removal of such gold, or it is proved to the satisfaction of a Commissioner that such gold is in sufficient quantity to make mining for it alone remunerative, then such lessee shall make application for a gold-mining lease of such auriferous land or any portion thereof as he may think fit under "The Gold Fields Regulation Act, 1870," in addition to any lease he may hold under this or any former Act; and if such lessee wilfully or knowingly conceals the existence of gold in such land, or proceeds to mine for or remove such gold before he has obtained such gold-mining lease, the lease for mining purposes granted to him may be declared void and forfeited by the Governor in Council, in the same manner as leases may be declared void and forfeited by the Governor in Council under this Act.

If such lessee refuses or neglects, after receiving one month's previous notice in writing from a Commissioner that such land is auriferous, to apply for such gold-mining lease, the Minister may, after the expiration of such notice, with the consent of the Governor in Council, grant a lease or leases of such land to any person or persons applying for the same under "The Gold Fields Regulation Act, 1870."

Lands may be resumed for Towns and roads.

31 It shall be lawful for the Governor in Council to resume any portion of the lands comprised in any lease for the purpose of laying out a Town, for constructing Roads or Tramways, or for 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 or metals may be reserved to the Crown or to the lessee from whom the land so sold may have been resumed, who shall be entitled to compensation out of the Consolidated Revenue Fund for all buildings and mining works on such lands when resumed, such compensation to be ascertained by arbitration in such manner as may be prescribed.

Meaning of "Trustees" in next three Sections.

32 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.

33 Any lessee may mine upon or under any street, road, or highway, provided that he applies in writing for and obtains an order in writing signed by the Trustees of the Road District in which the street, road, or highway sought to be mined upon or under is situate, permitting him so to do, upon such terms and conditions and subject to such restrictions as they see fit; and such Trustees shall, before they grant such permission, enquire and determine whether such mining can be carried on without

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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. A.D. 1877.

34 It shall be lawful for such Trustees upon the application of any lessee, 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, or other person duly appointed by 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 lessee 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 notice of such order having been given to such lessee 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.

35 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 any works made or constructed by a lessee under this or any former Act; provided that, before the Trustees give such authority, Seven days notice thereof shall be given to the person lawfully interested in such last-mentioned works, who shall be entitled to compensation out of the funds at the disposal of the Trustees for all damage sustained thereby, and such compensation shall be ascertained by arbitration in such manner as may be prescribed.

Trustees may make roads over mining works.

36 It shall be lawful for the Governor in Council from time to time to make, alter, and rescind regulations for the following purposes, which shall apply to the whole Colony or such portions thereof as may be prescribed:— Regulations.

For prescribing the manner in which applications for leases shall be made, entertained, and dealt with, and the manner in which objections to such applications shall be made and investigated:

For prescribing the shape and position, and for regulating the survey of claims:

For fixing the amount of the fees to be paid upon the application for leases, and for the amalgamation and transfer of leases, and

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other matters required to be done under this Act or the regulations made hereunder :

For prescribing, subject to the provisions of this Act the form of Lease and such other forms as may be necessary or expedient for carrying out the provisions of this Act, and the Regulations made hereunder :

For regulating the occupation of Waste Lands as sites for the erection of machinery and for water rights :

For regulating the cutting, construction, use, and maintenance of races, dams, sluice heads, and reservoirs :

For enforcing and regulating the drainage of claims :

For preventing the accumulation of, and for the removal to some convenient place of sludge, tailings, and other mining refuse :

For the protection from injury and destruction of races, drains, dams, and reservoirs, and other mining works of any kind whatsoever :

For regulating the mode of construction, and materials and strength of embankments of dams, reservoirs, and other mining works of any kind whatsoever :

For the construction and keeping in repair suitable bridges or other crossings where required :

For securing the baling of water from mines :

For prescribing the conditions under which any lessee whose lease may be determined or declared void shall be entitled to compensation for any surface improvements effected by him, or for any machinery erected by him and then being upon the land demised :

For determining the mode in which such compensation shall be assessed and become payable :

For prescribing rules to regulate practice and procedure before a Commissioner :

And generally respecting all other matters and things necessary to give effect to the objects and intentions of this Act so far as the same are not herein provided for; and such regulations may be enforced in case of any breach or default thereof by such penalty not exceeding Twenty Pounds as may be prescribed by such regulations.

All Regulations in force under "The Mineral Leases Act, 1870," when this Act takes effect, shall be deemed to have been made under this Act, and shall remain in force until rescinded by any Regulations made under this Act.

To be published in the *Gazette* and laid before Parliament.

37 All Regulations made by the Governor in Council under this Act shall be published in the *Gazette*, and once in one newspaper published in *Hobart Town*, and once in one newspaper published in *Launceston*, and shall take effect from the date of such publication in the *Gazette* unless otherwise provided in such Regulations; and all such Regulations shall be laid before both Houses of Parliament 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.

Appointment of District Commissioners and Registrars.

38 It shall be lawful for the Governor in Council by notice in the *Gazette* to divide the Colony into Mining Districts and define the

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boundaries thereof, and to alter such districts from time to time, and from time to time to appoint a Commissioner or Registrar, or Commissioners and Registrars for any such District as he sees fit; and such Commissioners and Registrars shall have and exercise such powers and perform such duties as are assigned to or imposed upon such Commissioners or Registrars respectively by this Act, or by any regulations to be made under this Act. A.D. 1877.

39 It shall be lawful for a Commissioner to hear and determine in a summary way any dispute which may arise between any two or more persons under this Act or the Regulations made hereunder, which determination shall be binding and conclusive on all parties, and upon the Minister subject to the right of appeal hereinafter provided. Commissioner to hear and determine disputes.

40 In any proceedings brought before any Commissioner under this Act or the said regulations, such Commissioner shall, for the purposes of this Act and the said regulations have and exercise all the powers conferred upon a Justice of the Peace, by *The Magistrates Summary Procedure Act*, for the purpose of procuring and enforcing the attendance of witnesses and for hearing and determining any complaint brought before him under the said Act, and for enforcing compliance with any order made by him under the said Act; and such Commissioner may in and by any order or determination made by him under this Act award and order that one party shall pay to the other party such costs as to such Commissioner shall seem just and reasonable in that behalf, such costs shall be recoverable in the same manner as any other order made by such Commissioner is enforceable; and such Commissioner shall have power to call and examine such witnesses as he shall see fit for the purposes of any such proceedings. Powers of Commissioner in proceedings.

41 All applications for leases under this Act and any objections thereto shall, until the Colony is divided into Mining Districts, and a Commissioner or Registrar, or Commissioners and Registrars, appointed under this Act, be received by the Minister. Minister to receive applications for leases until Commissioner, &c. appointed.

42 Immediately upon the Colony being divided into Mining Districts, and a Commissioner or Registrar, or Commissioners or Registrars, appointed under this Act, all applications for leases under this Act and any objection thereto shall be received by the Commissioner or Registrar of the District in which such lands are situate, and such Commissioner or Registrar shall, immediately upon receiving such application or any objection thereto, endorse thereon the time of receiving the same, and record and map the said application in his office, and transmit the same respectively to the Minister; and the Minister shall, in the case of any objection being made to any such application, remit the application and objection to such Commissioner, who shall hear and determine the same; and in any case where an objection to an application shall be established, such Commissioner shall reject such application or make such order in reference thereto as the circumstances of the case shall require. When Commissioner, &c. appointed, leases and objections, how dealt with.

43 It shall be lawful for any Commissioner, upon the complaint of any Lessee that any other person has encroached, or trespassed upon the Claim of the complainant, to enquire into the case, and to determine the same in a summary way; and if it appears to such Commissioner that the person Persons encroaching may be removed by a Commissioner.

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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 to cause the person so found to have encroached as aforesaid, his servants, implements, goods and chattels, to be removed by any Bailiff of Crown Lands or any Constable or Constables 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.

Agreement to bar Appeal.

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

Commissioner may state special case for opinion of Supreme Court.

45 In any proceedings brought before any Commissioner under this Act or the said Regulations, such Commissioner shall upon the application of either party, or such Commissioner may without any such application, reserve any question of law or fact arising upon such case in the form of a Special Case for the hearing and determination of the Supreme Court; and every such special case shall be prepared by such Commissioner, and be transmitted forthwith by the Commissioner to the Clerk of the Supreme Court, who shall cause the same to be set down for argument before the said Court.

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

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

Supreme Court to determine the questions on the Case.

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

Its decision to be final.

Case may be sent back for amendment.

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

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

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

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50 The Judges of the Supreme Court may from time to time make and alter Rules and Orders to regulate the practice and proceedings of the Supreme Court under this Act, and such Rules and Orders shall be published at least once in the *Gazette*.

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Supreme Court may make Rules for proceedings.

51 Any person who assaults, obstructs, or resists any Commissioner, or any person duly authorised by any Commissioner to enter upon any Claim or Land or to perform any other act, or any Bailiff of Crown Lands or any Constable or other person in the performance of his duty or in the exercise of his powers under this Act, or any person who, after being removed by any Commissioner 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.

Assault on Commissioner and other offences.

52 All offences against this Act, or any Regulation made hereunder, shall be heard and determined and all penalties shall be recovered in a summary way by and before any Two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*; and any person who deems himself aggrieved by any summary conviction under this Act may appeal against the same in the mode prescribed by *The Appeals Regulation Act*.

Recovery of penalties.

53 This Act shall commence and take effect on the Tenth day of *December*, 1877, and thereupon the Acts set forth in the Schedule (2) shall be repealed, but this repeal shall not affect any thing duly done, or any rights acquired thereunder before the commencement hereof, except so far as by this Act is provided; and every licence and lease issued or granted and in force under any former Act when this Act takes effect shall remain good and valid in law, and may be dealt with in all respects as if issued or granted under this Act.

Repeal.

54 No plaintiff shall recover in any action commenced against any person for anything done in pursuance of this Act or the Regulations made hereunder unless such action is commenced within Three months after the cause of action has accrued, and unless notice in writing has been given to the defendant, One month at least before such action is commenced, of such intended action, signed by the plaintiff or his attorney, specifying the cause of action: nor shall the plaintiff recover in any such action if tender of sufficient amends has been made to him or his attorney by or on behalf of the defendant before such action brought; and in case no such tender is made, it shall be lawful for the defendant in any such action, at any time before issue joined, to pay into Court such sum of money as he thinks proper; and the defendant in every such action may plead the general issue, and give the special matter in evidence, and that the same was done in pursuance and under the authority of this Act or the said Regulations; and if the same appears to have been so done, or if such action or suit has been brought before the expiration of One month next after such notice has been given as aforesaid, or after sufficient satisfaction made or tender as aforesaid, or after the

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time limited for bringing the same as aforesaid, then and in every such case the jury shall find a verdict for the defendant; and upon such verdict, or if the plaintiff is nonsuited or discontinues his action, or if upon demurrer or otherwise judgment is given against the plaintiff, then and in every such case the defendant shall have double costs, and shall have the same remedy for recovering the same as any defendant has for his costs in any other cases by law.

SCHEDULE.

(1.)

THIS Indenture made the _____ day of _____ in the year of our Lord 18 _____ between _____ Minister of Lands and Works (hereinafter called the Minister, which term shall also include the Minister of Lands and Works for the time being) of the one part, and _____ of _____ his heirs, executors, administrators, and assigns, (hereinafter called the Lessee), of the other part—Witnesseth that, in consideration of the rent herein reserved, the Minister 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 ores and minerals, and for effectually separating them from all the soil and other substances mixed with them, and for smelting or reducing such ores 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 Lands Act, 1877," and the regulations made under the authority of the same Act, except and always reserved out of this demise unto the Minister and his agents, servants, and workmen (on behalf of Her present Majesty Queen Victoria, Her heirs and successors) full power and authority at all times during this demise to enter on the land hereby demised and to make or cause to be made through, over, along, or across any part or parts thereof all such water-races, tail-races, drains, dams, sluice-heads, reservoirs, and tramways for public purposes or otherwise as the Minister shall think fit, and also to keep the same in proper repair and condition, and also to deposit on any part of the land hereby demised all soil, stones, and substances which may be dug up or removed in executing any such works as aforesaid. 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 _____ And the Lessee doth

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hereby for himself, his heirs, executors, and administrators, covenant with the Minister that the lessee, his executors, administrators, or assigns, shall yearly during the said term, at the commencement of every current year of the said 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 said term apply the land for any other use or purpose than for the purpose of mining and smelting without the permission in writing of the Minister; and will, during the continuance of the said 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 their agents and workmen, at all proper and reasonable times during the said term, without any interruption from the 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 said 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 said 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 said 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 year during the said term a sum equal to at least Three Pounds for each and every acre of the land comprised in this demise in mining 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 One man for every Twenty acres of the land demised in working upon the said land, and in searching for or raising minerals or metals and will, whenever thereunto required by the Minister 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: And also, 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, and will occupy, mine, and work the land hereby demised, and the minerals and metals therein and thereunder, subject to the conditions, stipulations, and clauses of forfeiture hereinafter set forth: Provided also, that the lease may be declared void and forfeited by the Governor in Council, 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 yearly in advance to the Colonial Treasurer as aforesaid, and if a sum equal to at least Three Pounds per acre be not expended in mining in every year on the land demised, or, if One man for every Twenty 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 minerals or metals; or if the lessee shall permit any portion of the land demised to be occupied other than for mining purposes without the permission in writing of the Minister; except for allowing any and every miner employed by the lessee to occupy at a peppercorn rent a portion of such land for the purpose of residence, garden, yard, and other conveniences, not exceeding in any case one acre, and also for depasturing cattle used in connection with the working or mining of such land or if the lessee is convicted under the twenty-ninth

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section of the Act of the Parliament of *Tasmania* of the 27th *Victoria*, No. 8, of having feloniously stolen or severed with intent to steal any mineral from or under any land not leased to or owned by him: Provided also, that it shall be lawful for the Governor from time to time to resume any land demised for the purpose of laying out a town, for constructing roads or tramways for public utility and convenience. 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 Minister,
in the presence of—

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

(2.)

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>
34 Vict. No. 11.	"The Mineral Leases Act, 1870."
40 Vict. No. 2.	"The Mineral Leases Amendment Act."