

T A S M A N I A.

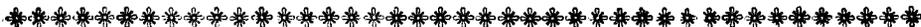


1881.

ANNO QUADRAGESIMO-QUINTO

VICTORIÆ REGINÆ,

No. 5.



AN ACT to further amend *The Waste Lands Act.* A.D. 1881.
[8 November, 1881.]

WHEREAS it is expedient to further amend *The Waste Lands Act:* PREAMBLE.
Be it therefore enacted by His Excellency the Governor of *Tasmania*, 34 Vict. No. 10
by and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:—

1 In this Act the expression “the said Act” means *The Waste Lands Act.* Interpretation.

2 When any land has been withheld or withdrawn from sale, selection, or leasing under the said Act, the Governor in Council may by Proclamation published in the *Gazette*, revoke the Proclamation whereby such land has been withheld or withdrawn from sale, selection, or leasing, or may rescind such Proclamation as to any part of the land so withheld or withdrawn from sale, selection, or leasing; and thereupon the land the subject of such Proclamation shall be open to sale, selection, or leasing at any time to be named therein, not being less than Thirty days from the date thereof. Proclamation withholding, &c. land from sale may be revoked.

Reserves for Water Supply and Timber.

3 The Governor in Council may except from sale, and reserve to Her Majesty, such Land as he sees fit for the construction of dams, reservoirs, aqueducts, watercourses, or other works for the Supply of Water to such Towns or Districts as he sees fit; and all the provisions contained in the Twelfth Section of the said Act shall be applicable to any Land excepted from sale under this Section. Water reserves.

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Governor in Council may lease right of constructing watercourses across Waste Land.

Lease to contain clause of forfeiture on non-completion of works.

Timber reserves.

Governor in Council may prohibit felling timber, &c.

Licence to fell Timber.

Penalty on persons cutting Timber contrary to Proclamation.

Governor in Council may proclaim Gold Field, &c., areas for the purposes of Act.

4 It shall be lawful for the Governor in Council to lease for a period not exceeding Ninety-nine years, and on such terms and conditions as the Governor in Council sees fit, to any person the right of constructing and maintaining, across any Waste Land, watercourses, for the purpose of irrigation, or for the purpose of conveying water to or from any mill or manufactory or other like purpose: and also the right of constructing in the bed of any river or stream, such works as may be necessary for the purpose of regulating the flow of water through such watercourses, and also the right of entering upon any Waste Land, from time to time, for the purpose of maintaining and repairing such watercourses and works (if any): Provided that no lease made under this Section shall extend to the obstruction or endangering of the navigation of any navigable water, or to the prejudice of any person having any vested interest in any such water. Every lease issued under the provisions of this Section shall contain a clause in the nature of a condition of forfeiture in case of non-completion of the works for the purposes for which such lease is made, within a period to be therein specified, in the event of the same not having been previously completed, or in case of the breach or non-performance of any or either of the conditions to be contained in such lease.

5 The Governor in Council may, by Proclamation, except from sale and reserve to Her Majesty such land as he sees fit for the preservation and growth of Timber, and may from time to time, after Sixty days' notice shall be given in the *Gazette*, alter and revoke any such Proclamation.

6 Notwithstanding anything contained in the said Act, or any regulations made thereunder, the Governor in Council may, by Proclamation, declare that no person, although he be duly licensed or otherwise authorised, shall cut or remove live timber or any particular description of timber or bark from such portions of the Waste Lands as are named in such Proclamation, or shall exercise on any such portions the powers or any of them conferred by any licence granted under the said Act or any regulations made thereunder.

7 It shall be lawful for the Commissioner to grant to any person a Licence for felling, removing, and selling the timber or any particular description of timber or bark growing on any Lands available for that purpose, on such terms and conditions as may be provided in that behalf by Regulations under this Act.

8 If any person, contrary to any Proclamation hereinbefore-mentioned or not being duly licensed or otherwise authorised so to do, cuts or removes upon or from any land therein mentioned, any live timber or bark, or any particular description of timber mentioned in any such Proclamation, he shall, in addition to any punishment or penalty provided by any law now or hereafter in force, for every such offence forfeit and pay any sum not exceeding Ten Pounds.

Mining Settlements.

9 The Governor in Council is hereby empowered, from time to time as it may appear expedient so to do, to declare that any portion of the Colony which has been proclaimed a Gold Field, or has been excepted from the operations of *The Waste Lands Act, 1870*, under the

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provisions of Section Three of *The Mineral Lands Act*, 1877, an area for the purposes of this Act, and any such proclamation from time to time to alter and revoke; and during the time that any such proclamation shall be in force no Waste Land situate within the limits of any such area shall be sold or disposed of otherwise than as is hereinafter provided. A.D. 1881.

10 All Waste Land within any such area shall be sold by Public Auction only in the manner and subject to the conditions hereinafter prescribed; and all such land shall, previously to such sale, be surveyed in blocks of not less than One nor more than Thirty acres each. Land to be sold by auction: and to be previously surveyed.

11 The upset price of land sold under this Act shall not be less than One Pound per acre. Upset price.

12 Within Three months and not less than One month next preceding the sale of any land within any such area by auction, the Commissioner shall, by notice to be published in the *Gazette*, declare the time and place at which such auction will be held, and what are the lands to be offered for sale at such auction, and the upset prices at which they will be offered for sale; and lithographed or other plans of the land intended to be sold, showing the several lots for sale, shall be sent by the Commissioner to every Police Office and Post Office nearest to such land or such place as he shall in such notice specify, in order that such plans may be open for public inspection at such places as aforesaid at least Twenty-one clear days before the day of sale. Notice of sale by auction to be published.

13 Previously to the publication of such notice, the Commissioner shall make an estimate of what should be the upset prices of the lands to be specified in such notice, and shall add to such estimate the cost of survey and of the grant deed; and the Commissioner shall submit the same for the consideration of the Governor in Council, who may vary such estimate or approve thereof, and the upset prices named in such estimate, when so varied or approved, shall be the upset prices of the land to be specified in such notice; and from time to time, in any subsequent notice of the intended sale by auction of any land which has been previously offered for sale by auction under this Act and not sold, the upset prices of such land may be raised or lowered according to circumstances, in like manner as they were originally fixed: Provided that the upset price of any land shall never be fixed lower than the lowest upset price fixed by this Act, with the addition of the cost of survey and of the grant deed. Upset prices, how to be ascertained.

14 No lands shall be sold at any such auction at a lower price than the upset price of such lands so fixed and advertised in the last preceding published notice of the intended sale by auction of such lands. Land not to be sold at auction at less than advertised upset price.

15 Within Twenty-one days after every sale by auction of land within any such area, and afterwards whenever he thinks fit, and until the same lands are again put up for sale by auction, the Commissioner shall cause a list of all such lands as were put up for sale at such auction and not sold, with the upset prices at which they were put up at such auction, to be published in the *Gazette*, and shall prefix a notice that any person may purchase any of the said lots at such upset prices by private contract; and the Commissioner shall, after the expiration of Land unsold at auction to be advertised in *Gazette*, and to be sold by private contract to the first applicant within One year after auction, and before the lands

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are again put up
for sale by
auction.

Fourteen days from the date of the first publication of such notice, sell any of such lots at the upset prices mentioned in the notice by private contract to any person who applies to purchase the same: Provided, that if more than one application is made at the same time to purchase the same lot, such lot shall not be sold by private contract, but shall be again put up for sale by auction as soon as may be after such applications are made: Provided also, that such applications to purchase shall be made within One year next after the lands were last put up for sale by auction, and before the publication of any subsequent notice of sale thereof by auction.

Payment of purchase money.

16 Upon the sale of any land within any such area by auction or private contract, the purchaser may either pay the purchase money in ready money, or shall be allowed credit on the terms mentioned in the said Act.

Half purchase money to be expended on roads.

17 One-half of all purchase money received by the Crown for land within any such area sold under the provisions of this Act, shall be set apart and form a fund to be expended from time to time under and by the authority of the Governor in Council for the purpose of making and constructing roads in the vicinity of the land so sold in the manner prescribed in the said Act.

Land sold under this Act open to search for Gold, &c.

18 Any land within any such area sold under this Act shall be open to search or mining for Gold or other Metal or any Mineral thereon in manner hereinafter provided.

Person desiring to search to apply to a Commissioner.

19 Any person desiring to search or mine on any land within any such area sold under this Act, for Gold, shall apply in writing to the Commissioner of Gold Fields residing nearest thereto, and any person desiring to search or mine on any such land for any other Metal or any Mineral shall apply in writing to the Commissioner of Mines for the Mining District in which such land is situate, for permission to search or mine as the case may be on so much of such land as shall be specified in such application.

Commissioner to give notice to occupant or owner of land, of application to search thereon.

20 Upon the receipt of any such application the Commissioner to whom the same is made shall forthwith give notice in writing of such application to the occupant of such land, if any, by leaving the same at his residence, and also to the owner of such land by forwarding the same through the Post to the address of the owner of such land, and if such owner cannot be found such notice shall be published in the *Gazette*, and such notice shall require such owner to nominate and appoint some person to assess the amount of compensation which ought to be paid to such owner for the damage which he will be liable to sustain by reason of such searching or mining, and such Commissioner shall in and by such notice nominate and appoint some other person for the like purpose, and the persons so nominated and appointed shall with such Commissioner be called the Assessors, who shall at such time and place as the Commissioner appoints for that purpose assess and determine the amount which shall be paid by the applicant to such owner, and the amount so assessed and determined shall be paid to such owner before any mining operations shall be commenced on such land.

Appointment of persons to assess compensation to be made.

If such owner shall neglect or refuse for Fourteen days after service upon him of the notice hereinbefore mentioned to nominate and appoin

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any person to assess as aforesaid, then it shall be lawful for the Commissioner to nominate and appoint some person for and on behalf of such owner. A.D. 1881.

For the purposes of this Section the Commissioner may exercise all the powers conferred upon Justices of the Peace by *The Magistrates Summary Procedure Act* for procuring and enforcing the attendance of witnesses before him, and may administer oaths and hear, receive, and examine evidence, and the determination of two of the Assessors upon any question shall be final.

21 In estimating the amount of compensation to be paid as aforesaid the value of all surface improvements made upon such land shall be considered and the loss which such purchaser or owner will be liable to sustain if such applicant shall occupy any of the said land for the purpose of residence in connection with the object of mining, and shall put up any building or other erection thereon, and shall cut down and remove from such land, for any purpose, any trees growing thereon, and also cut, construct, and use races and dams for mining purposes through and upon any part of the said land, and the Assessors shall determine the locality in which, and the area over which mining operations shall be carried on upon such land; but it shall not be lawful for the Assessors to estimate the value of any Gold or other Metal or any Mineral which such land may be supposed to contain. Matters to be considered in estimating compensation.

22 When and so soon as mining operations shall be discontinued upon such land and the Commissioner has certified that mining operations have been discontinued upon such land, the person for the time being who is the owner of such land shall, without making compensation to any person whomsoever, be entitled to resume possession of so much of such land as shall have been occupied under this Act for mining purposes. Land may be resumed when mining operations discontinued.

23 So far as the same can be applied to the purposes and objects of this Act, all Regulations made under any Act or Acts relating to mining for Gold or other Metals or Minerals, and in force when this Act takes effect, and all Regulations made under the said Acts hereafter shall be applicable to and for the purposes and objects of this Act. Regulations applicable for purposes of this Act.

Miscellaneous.

24 It shall be lawful for the purchaser of any land upon credit at any time during the period of credit allowed, and before default in payment of any instalment, to pay off the balance then remaining unpaid under such contract: Provided that in every such case a deduction shall be allowed in the sum added to the price of the land by way of premium for the allowance of credit proportionate to the then unexpired period of credit. Purchaser on credit may pay off at any time.

25 Where any person has purchased land upon credit before the commencement of this Act, such person shall be allowed to pay off the balance of the purchase money of such land on the terms mentioned in the Forty-fifth Section of the said Act notwithstanding its repeal by this Act. Balance due upon land purchased on credit before this Act, how paid off.

26 The provisions contained in Section Thirty-eight of the said Act shall be applicable to all land offered for sale by auction under the Act of the 38th *Victoria*, No. 18, and not sold. Application of Sect. 38 of 34 Vict., No. 10.

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Power to raise money for making roads in vicinity of land selected under 24th Section of 34 Vict. No. 10.

27 So soon as Five hundred acres of land selected for purchase under the Twenty-fourth Section of the said Act in not less than Ten Lots adjoining or within a short distance of each other shall be occupied by the Selectors thereof their tenants or servants, as provided in the Twenty-sixth Section of the said Act, the Governor in Council shall, for the purpose of making roads in the vicinity of the land selected, raise a sum not exceeding One-half of the purchase-money of such Land, exclusive of any addition made thereto for credit, by the issue and sale of Debentures chargeable on the Consolidated Revenue Fund; and all the provisions of the Act of the Parliament of *Tasmania* of the 20th *Victoria*, No. 9, shall apply to the Debentures to be issued in pursuance of this Section, and the amount so raised shall be expended in making and constructing such roads.

Definition of the words "date of such alienation."

28 For the purposes of Section Fifty-four of the said Act the words "the date of such alienation" shall have the following interpretation, that is to say :—

In the case of land selected under Section 24 of the said Act, such words shall mean the date of contract of sale and purchase :

In the case of land sold by auction, such words shall mean the date of such auction sale :

In the case of land sold by private contract, other than land selected under the 24th Section of the said Act, such words shall mean the date of the payment of the deposit money :

In the case of land leased or licensed, such words shall mean the date of such lease or licence.

Repeal.

29 Sections Twenty-eight, Forty-five, and Sixty, of the said Act, and Sections Three and Six of "The Waste Lands Act, 1880," are hereby repealed, but such repeal shall not affect any right or liability acquired or incurred thereunder, or any penalty, forfeiture, or punishment incurred in respect of any offence committed against any of the said Sections, nor any legal proceeding or remedy in respect of any such right, liability, penalty, forfeiture, or punishment as aforesaid, and any such legal proceeding and remedy may be carried on as if this Act had not been passed.

Acts to be read together.

30 This Act and *The Waste Lands Act*, and any Act altering or amending the same, shall, save so far as the same may be altered or amended by this Act, be read and construed together as one Act.

Short Title.

31 This Act may be cited as "The Waste Lands Act, 1881."