

Mining Act 1891

Public Act 1891 No 33

Date of assent 21 September 1891

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An Act to consolidate and amend the Laws relating to Mines and Mining.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1 Short Title.

The Short Title of this Act is “The Mining Act, 1891.”

Commencement.

It shall come into operation on the first day of January, one thousand eight hundred and ninety-two; which shall be deemed to be the commencement of the Act. But at any time after the passing of this Act the Governor may from time to time make regulations and appointments, establish Courts and districts, and do all things necessary towards bringing this Act into operation, but so as that such regulations, appointments, or other things shall not take effect before such commencement.

2 Act not to apply to coal or coal-mining.

Nothing in this Act contained shall apply to coal or mining or searching for coal.

3 Act may be proclaimed in force as to precious stones.

The Governor may, by Order in Council, from time to time declare that any of the provisions of this Act shall apply to mining for diamonds and any other precious stones, and may also define the districts wherein any such Order in Council shall take effect.

4 Interpretation.

In this Act, if not inconsistent with the context,—

“Boy” means a male person not under the age of twelve years and under the age of fourteen years:

“Business” means vending or disposing of goods, wares, and merchandise in shops, or in other manner than by hawking under a license lawfully issued and in force for that purpose:

“Certificate of competency” means a certificate granted by the Board of Examiners to a mine-manager or engine-driver:

“Claim” means and includes a parcel or any number of parcels of Crown land lawfully taken up and occupied under or by virtue of the provisions of this Act, or any regulations made thereunder, for the purpose of mining for gold, but shall not include any land comprised in any license granted under this Act or in any lease or license granted under any Act heretofore in force authorising the granting of leases for mining purposes:

“Crown lands” includes all lands of the Crown occupied under any license or lease for depasturing or agricultural purposes, and all demesne lands of the Crown, and all other land whereof the title is vested in the Crown, and also any other land whatever over which the Governor shall, by lease, agreement, or otherwise, have obtained power to authorise mining thereon; but, except where specially otherwise provided, does not include any land licensed or leased under any Act relating to Crown lands with the right of acquiring the fee-simple thereof:

“Dam” and “reservoir” mean and include any natural as well as any artificial depository of water:

“District” and “mining district” mean a mining district constituted under this Act:

“Endowment” means and includes any land or any portion thereof set apart under any Act of the General Assembly by way of endowment, for any public body or authority, whether the fee-simple of such land is vested in trustees as hereinafter defined, or is under their control, and shall apply so long only as such vesting or control shall continue:

“Gold” includes any earth, sand, clay, quartz, stone, mineral, or other substance containing gold or silver, or having gold or silver mixed therein, or set apart for the purpose of extracting gold or silver therefrom:

“Inspector of Mines” or “Inspector” means an Inspector of Mines appointed under this Act, and in relation to any Inspector in particular means the Inspector whose office is nearest to the locality where a mine is situate:

“Legal manager” of a mine means the manager appointed to such office under any Act for the time being in force authorising such appointment:

“Licensed holding” means that portion of land for which a license is granted for mining purposes under this Act, or for which a license or lease has been granted under any former Act:

“Local authority” means a Borough or County Council, a Town or Road Board, or a Harbour Board:

“Machinery” means and includes steam and other engines, boilers, furnaces, stampers, winding and pumping gear, whims, windlasses, chains, trucks, tramways, tackle, blocks, ropes, tools, pipes, fluming, water-gates and valves, and

all appliances of whatsoever kind used for the treatment of ores or for any mining purpose:

“Mine” includes any place, pit, shaft, drive, level, or other excavation, drift, gutter, lead, vein, lode, or reef, whether held under mineral lease, licensed holding, certificate, or miner’s right, or whether occupied without any title, wherein or whereby is or shall be or has been carried on any operation for or in connection with the purpose of obtaining any metal or mineral by any mode or method, or of stacking or otherwise storing any substance as containing any metal or mineral, or wherein operations are carried on for the treatment of the products of any mine:

“Mine,” as a verb, includes any mode or method, of working whereby the soil or earth, or any rock or stone, may be removed or otherwise dealt with for the purpose of obtaining gold, or any metal or mineral other than gold:

“Miner’s right” includes also a consolidated miners’ right:

“Mining manager” or “manager” means the manager having the principal control and working of any mine; and does not include the legal manager of such mine:

“Mining purposes” and “mining operations” mean mining for gold, or any metal or mineral other than gold, and include the erection of machinery and the construction of works connected with such purposes or operations, and the doing of all lawful acts incident or conducive thereto:

“Mining Registrar” or “Registrar” means a Mining Registrar appointed under this Act:

“Minister” means the Minister of Mines, and includes such member of the Executive Council as may be discharging the functions of that office for the time being:

“Owner” for the purposes of Part VI. of this Act, relating to the regulation of mines, means any person or body corporate who is the immediate proprietor or lessee or licensee or occupier of any mine or any part thereof, and does not include a person or body corporate who merely receives a royalty, rent, tribute, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or license for the working thereof; and in the case of a company incorporated under any Act relating to mining companies or joint-stock companies shall include the manager of such company, and in any other case the person having the management of mining operations carried on in any mine; but any contractor or tributer for the working of any mine or any part thereof, or for doing any specific work therein, shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability:

“Person” includes corporations, local authorities, and incorporated or registered companies:

“Prescribed” means prescribed by this Act or by any regulations made thereunder:

“Private lands” means lands alienated by the Crown in fee-simple, and include land held under license or lease from the Crown with the right of acquiring the fee-simple thereof:

“Public reserve” means and includes any lands now or hereafter to be set apart for any of the purposes mentioned in the First Schedule to “The Public Reserves Act, 1881,” or any portion thereof, whether or not the same respectively is or may remain vested in Her Majesty, or is or may be vested in trustees as hereinafter defined, or is or may be under their control:

“Trustees,” in relation to a public reserve, means and includes all persons and authorities, whether incorporate or not, and all corporate bodies and local authorities in whom any reserve or endowment is vested, or under whose control it is as hereinbefore mentioned; and, in respect to reserves vested in Her Majesty, means the Governor:

“Run” means any portion of Crown lands occupied by virtue of a lease or license for depasturing purposes:

“Sea,” as the boundary or part of boundary of any mining district proclaimed under this Act, or which has been proclaimed under any Act heretofore in force, shall mean low-water mark on the shore of such sea:

“Share” means a share or interest in any claim or licensed holding, as defined in this Act, together with all right and interest belonging to such claim or holding, and includes a share or interest in the capital, stock, and property of a mining partnership under this Act:

“Sluice-head,” “Government head,” and “head” of water means a stream of water capable of discharging sixty cubic feet of water per minute:

“Special claim” is a claim of greater area and of irregular form granted by the Warden subject to special terms and conditions:

“This Act” includes regulations made thereunder:

“Tribute” means payment of a percentage or portion of the earnings and proceeds of the mine to the owner thereof by the person or persons having permission to work therein:

“Tributer” means any person who has made an agreement with the owner of any claim or licensed holding for the right to mine therein or thereon upon the terms of paying to such owner a portion of the gold or other mineral taken from such claim or licensed holding:

“Warden” means any person appointed to be Warden under this Act:

“Water-race,” “branch-race,” or “race” means any artificial channel or ditch or tail-race for the conveyance of water or water and refuse through or into which water or water and refuse is diverted or conveyed, either for mining purposes or for the purpose of driving machinery for irrigation, or for any industrial pursuit, and includes the right to the water named in the grant of such race:

Words in this Act referring to a Court, district, office, authority, Judge, Warden, or officer shall be construed distributively as referring to each Court, district, office, authority, Judge, Warden, or officer to which or to whom the provision is applicable:

Words in this Act referring to a particular Court, office, or officer shall be construed as referring to the Court or office in the district, or to the officer having jurisdiction or exercising his functions within the district, wherein arose the matter in relation to which the reference is made;

“Youth” means a male person not under the age of fourteen years and under the age of eighteen years.

PRELIMINARY

5 Repeal and saving clause. First Schedule.

From and after the commencement of this Act the several Acts and part of an Act mentioned in the First Schedule to this Act annexed are hereby repealed; but such repeal shall not affect—

- (1.) The past operation of any of the said Acts:
- (2.) Anything lawfully done under or validated by any Act hereby repealed:
- (3.) Any right, title, interest, or privilege acquired, or any liability incurred, under any Act hereby repealed or any regulations made thereunder:
- (4.) Any appointment made under or made valid by any Act hereby repealed:
- (5.) Any penalty, forfeiture, or other punishment incurred in respect of any offence against any Act hereby repealed or any regulations made thereunder:
- (6.) Any suit or other proceeding depending in any Court, or before any Judge, Warden, or other person.

6 Matters arising under repealed Acts to be determined thereunder.

All questions arising in relation to any Act or part of any Act repealed by this Act or by “The Mining Act, 1886,” or by any Act in force previously to the last-mentioned Act, or any title acquired thereunder respectively, shall, unless where otherwise is specially provided, and notwithstanding such repeal, be determined under such Act, and not under this Act; and any such repealed Act, so far as may be necessary for the determination of such questions, or for the purpose of continuing and perfecting any matter or thing commenced or in progress thereunder, shall be deemed to be unrepealed and in full force.

Provided, however, that all mining leases authorised to be granted under “The Mines Act, 1877,” or under any Act repealed thereby, and remaining unexecuted by any of the parties thereto on or before the twenty-third of December in the year one thousand eight hundred and eighty-seven, are hereby cancelled, and no such lease shall be capable of execution after the said day, and if so executed shall be absolutely null and void.

7 Proclamations, &c., to continue in force.

All Orders in Council, Proclamations, appointments, awards, orders, and rules or regulations made under any Act heretofore in force and in force at the time of the commencement of this Act shall, if not inconsistent with the provisions of this Act, continue and be in force until respectively amended, altered, or revoked under the provisions of this Act.

8 Existing districts to be districts under Act.

Every mining district and gold-mining district constituted under any of the Acts repealed by "The Mining Act, 1886," or by this Act shall be deemed to be a mining district constituted under this Act; and every Court constituted under the said Acts or either of them shall be deemed to be a Court constituted under this Act.

9 Existing rights not affected.

Every miner's right, business license, mineral lease, licensed holding, water-race license, certificate, permit, or order issued under "The Mining Act, 1886," shall be deemed respectively to have been issued under this Act.

Every miner's right, business license, water-race license, certificate, and lease issued under any Act repealed by "The Mining Act, 1886," shall respectively continue in force, and confer the same rights and privileges, and entail the same obligations and penalties, as if the last-mentioned Act and this Act had not been passed; and all questions arising in relation to any such repealed Act or any title acquired thereunder shall, notwithstanding such repeal, be determined under such Act and not under "The Mining Act, 1886," or this Act; and the said Acts, so far as may be necessary for the determination of such questions, shall be deemed to be unrepealed and in full force.

10 Titles under former Acts may be exchanged for titles under Act.

The holder of any claim, special claim, licensed holding, lease, license, water-race, dam, reservoir, machine-business- or residence-site, or grant, certificate, permit, or order, held, occupied, or enjoyed under any Act of the General Assembly in force previous to the commencement of this Act, or any regulation issued thereunder, in any district in which this Act is in operation may surrender and yield up the same; and in such case such owner shall be entitled to obtain a title to the land comprised in such claim, licensed holding, lease, or license, or to such water-race, dam, or reservoir, or to such machine-business- or residence-site under this Act, which title shall have the same force and effect as though it had been originally granted under this Act.

11 Proclamations, &c., may be altered or revoked in part or in whole.

Every Proclamation, Order in Council, order, rule, or regulation authorised to be made under this Act may be made from time to time, and may be made applicable to all the districts within the colony, or to any particular districts

therein, or to portions of districts only, and may be made applicable to particular classes of claims within any district or districts, and may be made to apply in any manner partially or generally, in relation to matter, person, or place. And in similar manner may from time to time be amended, altered, revoked, or cancelled in part or in whole, either in relation to matter, person, or place.

Compensation. Assessment

12 Compensation claims to be determined by agreement or under Public Works Act.

All claims for compensation in respect of any matters arising under this Act, or for value of improvements or other matters whatsoever, shall, unless otherwise specially provided, be settled by agreement between the Minister and the claimant within the time prescribed by this Act, or shall otherwise be determined in the manner provided in Part III. of "The Public Works Act, 1882," for which purpose the said Part III. shall be deemed to be incorporated with this Act, but shall be read and construed subject to the special provision of this Act, and also of the following, that is to say,—

The word "Minister" in the said Part III. shall for the purposes of this Act" mean the Minister of Mines, and not the Minister for Public Works; and

In assessing the value of any land which may be taken under this Act, in no case shall any compensation be paid in respect of any gold or silver lying or supposed to be under such surface.

13 Before what Court claims to be heard.

If any such claim for compensation as aforesaid is not settled by agreement the same shall, if it exceeds two hundred and fifty pounds, be heard and determined by a Judge of the Supreme Court; and if it does not exceed two hundred and fifty pounds, then by a Resident Magistrate having jurisdiction where such land is situated.

In either of such cases the Judge or Resident Magistrate, as the case may be, shall sit alone without Assessors, and be deemed to be a Compensation Court under Part III. of "The Public Works Act, 1882," and shall have and may exercise all such jurisdiction and authority as a Compensation Court would have under the said Part III.

In every such claim, except where it is herein otherwise specially provided, the Minister shall be the respondent.

14 Claims, how to be made.

Every claim for compensation shall, be made in writing, addressed to the Minister, within six months from the date when the same shall have arisen where the claimant shall reside within the colony, and within twelve months

where the claimant shall reside elsewhere, and no claims for compensation shall be allowed unless made within such respective periods.

- (1.) Every such claim shall include the claimant's full demand, stating—
 - (a.) The several areas and descriptions of the lands taken or injuriously affected in respect of which he makes his claim, and the nature and particulars of his interest therein; and if he claim as owner, and the land is encumbered, leased, or subject to any easement, he shall give particulars of such encumbrance, lease, or easement:
 - (b.) Each matter on account of which he claims compensation, with full particulars of the nature and extent of the claim:
 - (c.) The amount which he claims respectively for land taken, or for land injuriously affected, giving in both cases the amount for each item of such claim separately:
 - (d.) The total amount claimed:
 - (e.) His full Christian name and surname, together with his address, which address shall be deemed to be the last known place of abode or business of the claimant within the meaning of section three of "The Public Works Act, 1882," unless and until special notice in writing of a change of address is delivered to the respondent.
- (2.) If the case is to be heard before a Compensation Court, and the claimant does not give full particulars of such claim, or does not specify in his claim the amount claimed for each matter on account of which he claims compensation, the Minister may, by notice in writing, require him to furnish such particulars; and if such particulars are not supplied twenty-one days before the date appointed for the sitting of the Compensation Court to hear the claim the Court may, if it think fit, upon the application of the Minister, made before or at the hearing, order the claimant to furnish such particulars, and may adjourn the further hearing of the claim until such particulars are supplied, and until the Minister has had reasonable time to consider the same, and may order that the costs of such adjournment shall be borne by the claimant.

15 Settlement of claim when Public Trustee is owner of land.

In any case where the Public Trustee is the owner of any land in respect of which any claim for compensation is made under this Act, or where the control and management of such land is vested in him by law, he may make any agreement with the Minister in respect of such compensation, or as to the value of any land affected, taken, or injured, as he thinks reasonable, and every such agreement shall be binding on every person or interest which the Public Trustee represents.

16 Compensation, how to be paid.

The compensation, whether agreed upon or determined under “The Public Works Act, 1882,” when the same shall be awarded to be paid by the Minister, shall be paid out of the goldfields revenue of the county or counties in which the matter of the compensation arose, and, when so agreed upon or ascertained as herein provided, shall be paid thereout by warrant under the hand of the Governor directed to the Colonial Treasurer. But nevertheless the Colonial Treasurer, on the recommendation of the Minister, may pay one moiety only of such compensation out of the aforesaid revenue and the remainder out of the Consolidated Fund, or the whole out of such fund.

17 Claims against the Queen or the Government.

Nothing in this Act shall be deemed to give any person any right or claim to compensation as against Her Majesty the Queen or the Government of the colony where the injury in respect of which the same is claimed is not one in respect of which such compensation can be legally claimed.

Appointments, &c.

18 Receivers of Gold Revenue.

The Governor may from time to time appoint within any mining district as many fit persons to be Receivers of Gold Revenue therein as he shall think necessary, to whom shall be paid all rents, royalties, and fees arising within the district which shall be receivable under this Act. And the Governor may appoint any Receiver of Land Revenue to be at the same time Receiver of Gold Revenue for any one or more mining districts or portions of mining districts under this Act.

19 Post-offices at which payments may be made and licenses issued.

The Governor also may appoint from time to time post-offices at which miners' rights and business licenses respectively may be issued by, and any such payments as aforesaid may be made to, the Postmaster or chief officer in charge of any such post-office, and such payments shall be deemed as valid as if made to the Receiver of Gold Revenue; and may prescribe regulations for the transmission of any such payments by the Postmaster to such Receiver.

20 Mining Registrars.

The Governor may appoint for any mining district, or for any two or more mining districts or portions of mining districts, a fit person, to be called a Mining Registrar, for carrying out the provisions of this Act and of any regulation to be made hereunder respecting the registration of any claim, licensed holding, special claim, water-race, water right, dam, reservoir, residence-site, land, tenement, or easement held under the provisions of this Act or any Act repealed hereby, or any sale, assignment, lease, partition, mortgage, reassign-

ment, surrender, or release thereof respectively, or of any share or interest therein.

21 Inspectors of Mines.

The Governor may from time to time appoint such competent persons as he shall think fit to be Inspectors of Mines under this Act, who may from time to time exercise their functions within any part of the colony.

22 Officers not to have personal interest.

No Warden, Inspector, Mining Registrar, Manager of any water-race belonging to Her Majesty, or employes under him, or Receiver of Gold Revenue under this Act shall be allowed to hold any interest whatever in any mine in the district in which he is authorised by the Governor or Minister to act.

23 Inspectors to inspect mines, and see Act carried out.

It shall be the duty of the Inspector generally to see that the provisions of this Act, and any regulations made thereunder, are complied with and carried out, and from time to time to visit and inspect mines and all machinery used therein other than steam engines and boilers. For this object he, or any person whom he may appoint in writing, may at all convenient times inspect any mine and any workings connected therewith, and for that purpose may use all convenient means and appliances belonging to the mine by which such inspection may be facilitated; and the owner and mining-manager of the mine, and all contractors, tributers, miners, workmen, and others working in such mine, shall afford such assistance as may be reasonably required for facilitating such inspection.

Penalty for obstructing Inspectors.

Every person who shall refuse to permit the use of such means and appliances, or shall refuse to render such assistance, or shall obstruct the Inspector or the person so appointed by him as aforesaid in making such inspection, shall forfeit and pay for every such offence a penalty not exceeding fifty pounds.

24 How Inspector's costs to be paid.

All costs incurred by the Inspector, or which may be awarded against him in any proceedings under this Act, shall be paid out of the goldfields revenue of the district in which the land the subject of the proceedings is situate, if such land be Crown land, and out of the goldfields revenue, payable to the Native owners of the land or the private owners of the land, if the said land be Native land or private land; and in no case shall the Inspector be personally liable for such costs.

Part I MINING OPERATIONS

Miners' Rights and Business Licenses

25 Miners' rights. Annual fee. Second Schedule.

Documents, not transferable, to be called "miners' rights," and to be in force for twelve months from the date thereof, shall be issued, in the form set forth in the Second Schedule, to any person, not under the age of fourteen years, applying for the same, upon payment in advance of the sum of ten shillings in respect of a right authorising the holder thereof to mine on Crown lands, and of twenty shillings in respect of a right authorising such holder to mine on Native lands and Crown lands, or such other sum as shall not be less than the sum which the Governor may have agreed to pay to the owners of the land as consideration for the right to mine thereon.

A miner's right for which ten shillings has been paid shall be in force throughout the colony, in all parts thereof outside of a Native district.

A miner's right for which twenty shillings has been paid shall be in force within the Native district where it is taken out, and in respect of Crown lands throughout all other parts of the colony outside of any other Native district.

"Native district" in this section means exclusively that part of a mining district wherein the land is the property of Natives, but over which the Governor, on Her Majesty's behalf, has by agreement with such owners obtained the right of mining.

26 Special provision as to miners' rights within Native districts.

The Governor, on receipt of a resolution to that effect from the Councils of the respective boroughs and counties entitled to any portion of the goldfields revenue of any district wherein an augmented fee, as mentioned in the last-preceding section, is paid for miners' rights issued in respect of mining on Native lands, shall direct the Colonial Treasurer to pay out of the goldfields revenue of such district, or other revenue derived from such district in respect of mining therein, the difference between the ten shillings fee payable in respect of ordinary miners' rights and the augmented fee payable for miners' rights issued in the said district.

The Colonial Treasurer shall pay such difference accordingly to the Warden for distribution to the Native owners, and shall deduct the total amount so paid in any year within any district from the total amount of the goldfields revenue accruing in such district before any apportionment thereof is made amongst the boroughs and counties therein.

No such direction as aforesaid shall be given by the Governor unless he shall receive a resolution as aforesaid from the Councils of all the boroughs and

counties entitled as aforesaid; and no such resolution shall be capable of being altered or revoked.

The Governor shall notify in the *Gazette* any direction given under this section in respect of any district; and from and after the date of any such notification the fee to be payable in respect of the issue of miners' rights therein shall be the same as may for the time being be payable in respect of miners' rights issued in respect of mining on Crown lands.

27 Consolidated miners' rights. Second Schedule.

Documents, not transferable, to be called "consolidated miners' rights," and to be in force for twelve months from the date thereof, shall be issued, in the form set forth in the Second Schedule, to any person, agent, or company applying for the same on payment, in advance, of a sum at the rate of the sum payable for a single miner's right for one year multiplied by the number of miners' rights which the consolidated right is to represent.

28 Business license. Second Schedule.

Documents to be called "business licenses," and to be in force for twelve or six months from the date thereof, as the case may be, shall be issued, in the form set forth in the Second Schedule, to any person applying for the same on payment, in advance, of three pounds for a yearly license and one pound ten shillings for a half-yearly license respectively.

29 Form of miners' rights and business licenses.

"Miners' rights," "consolidated miners' rights," and "business licenses" shall be signed by the Warden or Mining Registrar, or a Postmaster who is authorised to issue them, and dated on the day on which they are issued.

- (1.) Every miner's right shall contain the Christian or first name and surname and the residence of (in case of a miner's right) the person in whose favour the same shall be issued, and (in case of a consolidated miners' right) the manager or trustee or trustees to whom, and the name of the company on whose behalf, the same shall be issued.
- (2.) Every business license shall contain the Christian name or first name and surname and the occupation and residence of the person in whose favour the same shall be issued.

30 In case of loss, duplicate right may be issued.

In any case where a miner's right, consolidated miners' right, or business license may have been lost or destroyed, and the existence of such right or license can be proved, a duplicate of such right or license may be issued in lieu of such lost or destroyed right or license until the due expiration of the

same, and comprising the like rights and privileges, and for which the fee of one shilling shall be paid.

A statutory declaration shall in all such cases be made as to identity and the facts of the case.

31 Renewal of miner's right after expiry,

If the holder of either a miner's right or a business license shall neglect, on the expiration thereof, to take out a new right or license, as the case may be, a new right or license dated of the day of such expiration may nevertheless be granted to such holder upon production of such expired right or license within one month from such expiration, and within three months upon payment of the sum of five shillings in addition to the ordinary price of a miner's right or business license as aforesaid; and every new right or license so issued shall be in such one of the forms in the Fourth Schedule as shall be applicable, and shall be of the same force and efficacy as if issued on the day of the expiration of the former right or license.

32 Miners' rights not limited.

Any number of miners' rights may be issued to any person applying for the same, and the holder of such miners' rights shall be entitled to occupy, either separately or conjointly, a corresponding number of claims: Provided that in respect of each claim in the number of claims so taken up there shall be employed at least one man.

33 Shareholders in companies need not have miners' rights.

It shall not be necessary, for any purpose whatever, for any shareholder in any incorporated company to take out or be the holder of a miner's right in respect of any shares held by him in such company.

34 Consolidated right to a company.

A consolidated miners' right shall on his or their application be granted to the manager or any trustee or trustees of any company of persons who shall have agreed to work in partnership or in conjunction any claim or claims registered under the provisions hereof, on behalf of the persons who shall from time to time be members of such company, and shall during its continuance be held by the manager or the trustee or trustees for the time being of such company on behalf of such last-mentioned persons, and shall be in lieu of and represent and be of the same force and effect as a number of miners' rights granted for the same period of time equal to the number of miners' rights by virtue of which the said claim or claims shall have originally been taken possession of.

35 Effect of consolidated miners' right.

When any consolidated miners' right shall be granted, the miners' rights of the persons in whose behalf the same shall be granted shall be retained by them,

and such persons shall be, by virtue of such consolidated miners' right, respectively deemed holders of miners' rights within the meaning of this Act during the continuance of such consolidated right. But nothing herein contained shall be deemed to make it obligatory upon any person interested in a consolidated miners' right to be also the holder of a miner's right.

36 Consolidated miners' right may be granted to one of number of persons associated.

A consolidated miners' right may be granted to any one person out of a number of persons associated together for working a claim, to represent not fewer miners' rights in number than the total number of persons so associated.

In such case each of the aforesaid persons shall be, by virtue of such consolidated miners' right, deemed to be respectively holders of miners' rights within the meaning of this Act during the continuance of such consolidated right. And the person to whom the same is granted shall hold the same only on the behalf of himself and the other persons associated with him as aforesaid.

37 Penalty for forging documents.

If any person shall forge or alter any miner's right, license, lease, or other document issued under the authority of this Act with intent to defeat the provisions of this Act, or to defraud any person whomsoever, he shall be guilty of a misdemeanour and, on conviction thereof before any Court of competent jurisdiction, shall be subject to a fine not exceeding one hundred pounds, or imprisonment with or without hard labour not exceeding two years, or both, at the discretion of the Court.

38 Penalty for using forged documents.

If any person—

Shall use or exhibit any forged miner's right, license, or lease issued or purporting to be issued under the authority of this Act, knowing the same to be forged; or

Shall fraudulently personate the holder of any such miner's right, license, or lease; or

Shall falsely or fraudulently represent that any servant or other person is an authorised person within the meaning of this Act; or

Shall fraudulently use or exhibit as his own any miner's right, license, or lease belonging to or granted to any other person; or

Shall use or exhibit as valid a miner's right, license, or lease which shall have expired,

he shall be liable to a penalty for every such offence not exceeding fifty pounds, or to imprisonment with or without hard labour not exceeding one year, or both, at the discretion of the Court.

*Taking up Mining Claims***39 Register to be kept for each district.**

At every Warden's office there shall be a register kept by the Mining Registrar for the registration of all claims and other mining rights.

No license or other document to hold any claim or other mining right shall be issued to any person previous to the registration thereof, and the payment of the prescribed registration fee.

40 Certificated extract of register to be received in evidence.

A certificate in writing of the contents of, or of any extract from, any register kept by a Mining Registrar, and purporting to be signed by such Registrar, shall in all Courts and for all purposes be *prima facie* evidence of the matter set forth in such certificate without production of the register or proof of the Registrar's signature to such certificate.

41 Holder of miner's right authorised to search for gold.

Every holder of a miner's right shall, subject to the provisions of this Act and to any regulations made thereunder, be entitled to enter upon any Crown land for the purpose of prospecting and searching for gold, notwithstanding such land shall be held under a depasturing lease or license.

42 May take possession of parcel of Crown land.

Any person who shall be the holder, and any number of persons in conjunction who shall each be the holder, of any such miner's right, shall, during the continuance thereof, subject to the provisions of this Act and to any regulations thereunder, be entitled to take and maintain possession for mining purposes of a parcel, or of so many parcels as such regulations shall permit, of Crown land, in such manner, of such quantity and dimensions, and with such boundaries, as shall be directed by such regulations.

Such dimensions and boundaries shall be fixed at the time of the taking of such possession, and such boundaries shall be marked, and thereafter during the continuance of such possession kept marked, in such noticeable way as circumstances may permit or as may be prescribed by such regulations.

43 And be entitled to exclusive occupation.

Any such person or persons who shall have so taken possession of any such parcel or parcels of Crown lands shall, either by himself or themselves, or in conjunction with the holder or holders of any share or shares to be created in such parcel or parcels of Crown land as are hereby permitted, be, during the continuance of such miner's right or miners' rights, or of a consolidated miners' right granted on behalf of such persons, and while he or they shall with reasonable diligence *bonâ fide* continue to carry on mining operations therein or in connection therewith, entitled to the exclusive occupation for mining

purposes of such parcel or parcels, for so long as they shall require it for such purpose.

44 And be deemed in law to be possessed of same.

Any person by whom such parcel of land as aforesaid shall be occupied shall, subject as aforesaid and during such continuance as aforesaid, be deemed in law to be possessed of such parcel of land and the property therein.

45 Claim may be registered.

The person or persons, or any of them, who shall have lawfully taken possession or be in the lawful occupation of any such parcel of land, or the executors or administrators, or the assignee in bankruptcy, or the guardian in infancy, or the committee or guardian in lunacy, or the purchaser under an execution of the interests of such person or of any such persons, may, in such manner as the regulations shall direct, register such parcel of land or claim by some name; and the owner of any share as hereinafter mentioned in a registered claim may register such share in such manner as such regulations shall prescribe.

No claim shall be registered unless the miner's right or miners' rights under which such claim shall be held shall be produced to the officer required to register the same.

46 Holder of miner's right authorised to cut timber.

Every holder of a miner's right, and every person on whose behalf any consolidated miners' right is granted, shall, during the continuance thereof, subject as aforesaid, be entitled to put up and at any time to remove any building or other erection, to cut any live or dead timber, and to remove the same, for building for himself any place of residence or of business, or for mining purposes, or for fuel, or otherwise for his personal use, from any Crown lands not exempted from occupation for mining under this Act; and also, with the consent of the Warden, on such terms and conditions as he shall decide, to make tramways or other roads for the carrying-out and in aid of such purposes.

47 Form and area of claims.

Claims shall be of such form and area respectively as may be prescribed by regulations affecting the particular class of claim. Claims are classified as follows:—

Alluvial deposits, and river- or creek-beds;

Quartz-lodes, reefs, and leaders;

Sea-beach claims;

Prospecting claims and areas;

comprising respectively ordinary claims, double ground, extended claims, frontage claims, special claims, and dredging claims.

*Marking-out Claims***48 Claims may be marked out.**

Any person desiring the exclusive occupation of land for mining purposes within any district shall mark out the same by causing to be erected at every angle thereof a post not less than three inches square or three inches in diameter, standing not less than two feet above the surface of the ground, and having thereupon some distinguishing mark cut into the wood, or, where this is not possible, then in such manner as shall be prescribed by regulations; and any piece of land so marked out shall be called a claim.

When an angle cannot be so marked on account of the nature of the ground, the post may be placed at the nearest practicable point.

Where wood is not available for the making of posts, a cairn of stones and a trench, or a cairn of stones on rock without a trench, or such other permanent distinguishing mark may be used instead of a post as the Warden shall think sufficient for the purpose intended.

Every claim which is marked out in accordance with this section shall be sufficiently marked for the purposes of this Act notwithstanding that any road may traverse such claim either at the time the claim is marked or at any other time; and no such road shall be deemed to disserve the claim, nor shall it be necessary to demark the line of any such road.

49 In case of neglect to indicate marks.

If any person, on receiving a written notice from the holder of a miner's right requiring such person to indicate and show to such holder the post or other marks defining the claim of the said person, shall refuse or neglect so to do within twenty-four hours after receiving such notice, the holder of such right may assume the claim to be unmarked, and may mark out any ground therein and take possession thereof.

*Wages-men and Tributers***50 Rights of servant to vest in employer.**

If any person shall hire himself for wages to an employer, the right to hold and occupy any claim, licensed holding, or special claim and to any gold therein shall be vested in such employer.

But, notwithstanding anything in this section contained, any person working for wages or on tribute need not necessarily be the holder of a miner's right, unless such work be carried on upon Native land, in which case a miner's right shall be necessary for every person so working.

51 Wages-men to have lien on claim for unpaid wages.

In the event of non-payment of his wages, any person working on wages shall have a lien upon the claim, licensed holding, or special claim wherein he has been employed to the extent of the wages due to him, but not exceeding three months' wages, and shall be deemed to be in possession of the said claim, licensed holding, or special claim until the wages are paid and the said lien fully satisfied; and the person so working as aforesaid shall, within seven days after ceasing to work in the claim, if he becomes the holder of a miner's right, be entitled to register such lien in the Warden's Court in the district in which the claim is situated.

And in any case where there are several liens registered against the same claim, the Warden shall determine the order of priority in which such liens shall be satisfied, in accordance with the provisions of "The Workmen's Wages Act, 1884;" and for the purposes of that Act all liens registered within seven days of the registration of the first lien shall be deemed to be registered simultaneously.

52 Tributers and men working on contract deemed wages-men.

Every workman employed on contract in any claim, licensed holding, or special claim, in sinking shafts, or constructing adits, uprisings, levels, winzes, or stopping out-lodes shall be deemed to be a wages-man within the meaning of this Act, and be entitled to all the rights and privileges conferred by the preceding section, and shall have a lien on such claim, licensed holding, or special claim for any moneys due to him not exceeding the sum of one hundred pounds; and, if he becomes the holder of a miner's right, he shall be entitled to register such lien in the Warden's Court in the district in which the claim is situated.

53 Lien for wages to take precedence.

No sale or transfer or other disposal of any licensed holding, special claim, or mining right, and no other encumbrance or lien of any kind, shall take precedence of a lien or liens for wages for a period not exceeding three months, duly registered under the provisions of the two preceding clauses. But all such sales, transfers, or other disposals, and all encumbrances or liens of any other description, shall be deemed to be and to have been made and executed subject to all registered liens for wages as aforesaid.

So long as any unsatisfied registered lien for wages exists, the Warden may at any time, upon the application of the person or persons to whom such wages are due upon any such registered lien, make an order that the claim, licensed holding, special claim, or mining right or share or interest over which such lien is registered, shall be sold by public auction, and, after payment of expenses, the net proceeds of such sale shall be paid towards the satisfaction of the lien, and the balance, if any, shall be paid according to the legal priorities to any other person entitled thereto.

54 Working of claims on tribute.

Any person working as a tributer in any mine shall, in respect of each day's labour, have a lien or first claim, equal in value to half the current rate of wages in the district in which such mine is situate, not exceeding twenty shillings per week, upon all earnings of the said mine, or portion of a mine, the result of the labour of the said tributer; and no such tributer shall be deemed a workman representing the area stipulated within the meaning of this Act or any regulation made thereunder unless he receives from the owner or lessee the amounts herein stipulated. Such earnings shall, unless otherwise agreed upon between the parties, be ascertained and computed every three months, except in cases where the contract or agreement relates to working out a specified block of ground, in which case such computation shall, unless otherwise stipulated, be made when the said block of ground has been worked out.

Every such lien as aforesaid may be registered and enforced in like manner as a lien for non-payment of wages may be enforced under section fifty-one of this Act.

It shall be competent for any party of tributers after each washing-up or retorting of the gold or other mineral from time to time to deduct from the earnings of the said mine in their possession an amount equal to one-half the current rate of wages, as above limited, in respect of the time actually worked by such party of tributers.

If the earnings of the mine be in the possession of the owner, lessee, agent, or manager, and if, after demand in writing has been made, the mine-owner, lessee, agent, or manager fails, refuses, or neglects, within two days after receipt of such demand, to pay over to the tributer or tributers any moneys and earnings which it is herein enacted shall be the property of the tributer or tributers, the same may be recovered as a debt due by such owner or lessee to the tributer or tributers: Provided that, in case the earnings for the time worked do not amount to a sum equal in value to half the rate of wages current in the locality in which such mine is situate, as above limited, the tributer or tributers shall not, unless otherwise expressly agreed upon in writing, have any further claim upon the mine-owner or lessee other than the earnings or value thereof so produced.

55 Right of shareholder to enter mine and inspect workings.

Any person owning any share or interest in any mine, or in any mining company owning or working any mine, shall be entitled at any time between the hours of noon and one o'clock in the afternoon of any working day to enter such mine with or without an expert, and to inspect the same and all the workings and mining operations therein, and for such purpose the said person

and expert shall have at all times free ingress, egress, and regress from any mine as aforesaid.

Every manager of a mine or director or manager of any company as aforesaid who prevents, obstructs, or delays, or causes the prevention, obstruction, or delay, of any person or expert as aforesaid from entering any such mine shall be deemed guilty of an offence against this Act, and shall be liable to a penalty not exceeding one hundred pounds for every day during which such prevention, obstruction, or delay continues.

Unworked Claims may be forfeited

56 Claims to be *bonâ fide* worked.

Every claim, from and after the day on which the claim has been marked out or taken possession of, shall be *bonâ fide* and continuously worked from day to day by the number of men to be prescribed in respect of such description of claim by regulations.

- (1.) Preparations indispensable to the working of the ground in any claim, or any work in connection therewith, or in the erection of machinery for the same shall be deemed to be work in respect of such claim.
- (2.) No owner of any quartz claim shall be required to employ any men on his claim until the expiration of ten days after the claim has been marked out and taken possession of, provided that the claim shall in the interim be occupied either by the owner thereof or some one person on his behalf.

57 If not, liable to be forfeited.

If the owner of any claim shall fail to comply with the provisions of the last-preceding section, the Inspector or any other person may apply to the Warden in writing to declare such claim forfeited.

- (1.) The Warden or Mining Registrar shall thereupon issue a summons requiring the owner to appear at the Court on a day to be appointed by the summons.
- (2.) On the day appointed as aforesaid, the applicant appearing, the Court shall, whether the owner appear or not, proceed to investigate the case and decide the same.

58 Court may declare claim forfeited or substitute fine.

If it shall be proved to the satisfaction of the Court that the claim has remained unworked and that it was not protected, the Court may declare the same to be forfeited; and, in case it is proved that the required number of men have not been employed, the Court may—

- (1.) For a first breach in respect of not working the claim, or of the non-employment of the required number of men, declare the claim or any part thereof or any share or interest therein to be forfeited, and may award costs to the

applicant; or may substitute a monetary fine for such forfeiture not exceeding twenty pounds, or may impose neither forfeiture nor fine;

- (2.) For a second breach shall declare the claim or any part thereof or any share or interest therein to be forfeited, and award costs to the applicant, and without the option of substituting a fine.

59 Court may give possession of forfeited claim to applicant in priority.

If a suit be brought for the forfeiture of any claim by any person or persons other than the Inspector or Mining Registrar, and the claim or any part thereof be declared forfeited, and no fine substituted, the Court, in any case where registration is necessary, may adjudge such person to be first applicant for the ground, and, in case where registration is not necessary, the Court may grant an order to such person authorising him to take possession of the same as the owner thereof under this Act.

60 Unoccupied claim or holding may be taken up.

Any claim, licensed holding, special claim, lease, residence-site, business-site, or dam-site, which shall be unoccupied, and upon which there is no plant or machinery, and which has been unworked for a longer period than is allowed by the regulations for the district, or for the part thereof in which such claim is situated, or, in the case of residence sites, if the same, shall be unoccupied for a longer period than is allowed by this Act, and during such period shall have no building erected thereon, shall be deemed to be actually abandoned ground, and may without any adjudication of forfeiture or abandonment be taken up for any purpose under this Act, in accordance with the regulations, by any holder of a miner's right; and the rights of any previous occupant of such ground, notwithstanding the existence of any registration of title thereto, shall be deemed to have expired.

61 No forfeiture for neglect of workmen.

No forfeiture of any claim or any part thereof or any share or interest therein through the neglect, absence, or omission of any workmen employed thereon or of any tributer shall be incurred by reason of non-employment of the required number of men, provided that the owner shall without undue delay employ the required number of men after notice in writing by the Inspector, Registrar, or any holder of a miner's right has been delivered to him or sent by post to him at his last-known address.

62 After occupation claims may be divided into shares.

After a claim is occupied and registered, but not before, the owner or owners thereof for the time being may, subject to regulations, from time to time, divide the interest in such claim into such and so many shares as he or they shall think proper; and such shares or any of them may be appropriated to any person or persons, and such owner or owners may assign or encumber or create

any interest in such claim, and each and every such interest so created or appropriated shall be registered.

63 Owner of shares may assign, &c.

The owner for the time being of any share in such claim may, subject as aforesaid, assign or encumber or create any interest in such share.

64 Amalgamation of claims.

The Warden, on sufficient cause shown, on application to him in that behalf, and on proof to his satisfaction that the claims or licensed holdings in respect of which amalgamation is applied for have been fully worked during the whole time of their occupancy, may permit the owners of any two or more adjoining claims or licensed holdings respectively to amalgamate the same; but always so that the amalgamated claim or holding shall not exceed in area the maximum area prescribed for claims or licensed holdings, respectively, as the case may be.

Any claim may become amalgamated provided it is registered before such amalgamation.

65 Number of miners' rights necessary to take possession of registered claim.

If there be held from time to time by or on behalf of the owner or owners for the time being of a registered claim such number of miners' rights as would have authorised the taking possession thereof when the same was taken possession of, or a consolidated miners' right representing such number, the same shall be sufficient, and it shall not be necessary that any other miner's right should be held by any shareholder in such claim as such shareholder.

The word "owner" in this and the three next-preceding sections shall be taken to include any guardian or committee as mentioned in section forty-five.

Taking-up Special Claims or Licensed Holdings. Conditions

66 Special claims.

The Warden may, with the consent of the Minister, grant a license for special claims of greater area, but not exceeding one hundred acres, and of different form than may be determined by regulations made hereunder, for the purpose of carrying on mining operations under circumstances of extraordinary difficulty, or involving the expenditure of considerable sums of money, or for the encouragement of enterprise in prospecting new ground, or as a reward for the discovery of new workings, or for working old ground; and also may prescribe the terms and conditions upon which any such special claim may be held, occupied, and worked.

67 Forfeiture of special claims.

If it shall be proved to the satisfaction of the Court that any special claim heretofore or hereafter granted has remained unworked for the period prescribed in that respect, and that it was not protected during such period, the Warden may declare the same to be forfeited; or, in his discretion, on sufficient cause being shown, may substitute a monetary fine in lieu of forfeiture, and may allow thereout a sufficient sum to defray any reasonable expenses incurred by the plaintiff, if any, in the prosecution of his suit.

68 Special claims for mining under the sea or foreshore.

Any person desirous of carrying on mining operations at deep levels under the sea or any portion of the foreshore, by means of sinking shafts above high-water mark and driving adits under the sea, shall make application to the Warden for a special claim of the area intended to be worked; and on receipt of such application, and a deposit of twenty pounds being lodged with the Receiver of Gold Revenue to cover cost of survey, advertisement, and other charges, the Warden shall hear the application and objections, if any, in the same manner as prescribed in respect of applications for licensed holdings, and shall, after hearing the applications and objections, if any, forward such applications to the Minister, with his recommendations thereon.

Governor may grant leases and make regulations.

- (1.) The Governor may from time to time, subject to any regulations made under this Act, grant special claims under the sea, or of any portion of the foreshore, at any place, whether within the limits of a mining district or outside thereof, on such terms and conditions as he shall think fit, but not for a term exceeding twenty-one years, nor for a greater area than one hundred acres.

No special claim granted under this section shall entitle the owner thereof to any ground within fifty feet of the surface. If any claim applied for be for any part under the foreshore which is under the control of a Harbour Board, the proposed conditions thereof shall be submitted to such Harbour Board before such claim is granted.

- (2.) The Governor is hereby authorised from time to time to make, alter, amend, or revoke regulations for regulating the applications for and the granting of special claims under the sea or on the foreshore of the sea, and the terms and conditions on which such claims shall be granted, and the rent or royalty to be paid in respect thereof, and the mode of payment of the same, or may declare that any regulations made under this Act shall apply in respect to any such special claim notwithstanding the same may be outside the limits of a mining district.

69 Holder of miner's right may occupy licensed holding.

Any holder of a miner's right desiring to obtain a license for the occupation of land as a licensed holding under this Act—

- (1.) Shall mark out the land as provided in section forty-eight, and, in addition, shall have the same surveyed and plans deposited with the Warden, showing the land the applicant desires; and shall lodge an application for a license at the Warden's office, where every such application shall be recorded, in the order in which it is received, in a book to be kept for that purpose, together with the day and hour of the receipt thereof;

Survey deposit.

- (2.) Shall, on the same day, deposit with the Receiver of Revenue such sum for survey, if the land has not been surveyed, and necessary expenses in connection with the land comprised in his application as shall be prescribed by regulations to be made in that behalf, and a further sum of five pounds in respect of each application; the balance of which sums, after deducting therefrom the expense incurred in the said survey, advertising, and otherwise, will be returned to the applicant.

70 Warden to appoint day of hearing, and may grant or refuse license. Third Schedule.

The Warden shall give public notice of the application by advertisement in one or more newspapers published in the district, and shall therein name a day on which the application will be heard; and on such day, or on some subsequent day to which the hearing may be postponed, the Warden shall hear the application, and may, and whether or not any objection has been made to the application, grant or refuse to grant to the applicant or to a person appointed by him a license in the form set forth in the Third Schedule, specifying particularly the metals or minerals authorised to be mined for, the terms of such license, and the rent to be paid in each case.

71 Conditions of license.

The conditions upon which every license for a licensed holding or special claim shall be held are as follow:—

Rent.

- (1.) That the licensee pay to the Receiver of Revenue half-yearly in advance during every year during which he shall occupy the land comprised in the license, if such land be other than Native land, a rent after a rate of ten shillings in respect of every acre and fractional part of an acre during the whole term of such license; but, if such land be Native land, then such price in respect of the occupation thereof as shall be stated in any agreement made between the Governor and the Native owners of the land in respect of such occupation; and, if no sum be stated in such agreement, then the rent to be paid shall be the same as before mentioned in respect of the occupation of Grown lands.

When payable.

- (2.) That the first payment in respect of a special claim is due and payable on the day upon which the Minister consents to the granting of the said claim,

and in respect of every other claim and licensed holding is due on the day on which the license is granted by the Warden, and every subsequent half-yearly payment at equal intervals of six months in every subsequent year.

Men employed.

- (3.) That the licensee shall carry on mining operations in an efficient and workman-like manner, and shall employ in such operations at least so many men, being able and competent workmen or miners, as shall be prescribed by this Act or by regulations.

Reduction in number.

But if the number of men required to be employed by this Act or any regulations made thereunder cannot, in the opinion of the Inspector or Warden of the district, be reasonably and advantageously employed thereon, owing to want of water or other causes, the Inspector or Warden may, by order in writing, for a period not exceeding four months, grant permission for the employment of a fewer number of men, such fewer number being the greatest that can be reasonably and advantageously employed.

Any person applying to the Inspector or Warden for permission to work his holding or claim with a fewer number of men shall notify such application by posting notices on the ground and outside the Warden's Court not less than fourteen days prior to the Inspector or Warden dealing with such application.

Surrender.

- (4.) That the licensee may at any time, by writing under his hand addressed to the Warden, surrender the whole or any part of the land comprised in his license, and such surrender shall be indorsed by the Warden on such license, and therefrom the rental payable shall be proportionately reduced. But no licensee shall be entitled to make such surrender in part more than twice during the currency of his license.

Royalty.

- (5.) That the licensee shall be liable to pay royalty in respect of all metals or minerals which may be found in the land described in his license, not being metals or minerals for which he is authorised to mine under his license.

Interests of third parties.

- (6.) Such other conditions for the protection of the equitable rights or interests of third parties as shall be inserted by the Warden in such license.

72 Form of applications, &c.

Applications for licenses and objections thereto shall be made and notice given in such form and manner as shall be prescribed in that behalf by regulations; and if no such regulations be made and in operation, then in such form and manner as the Warden shall from time to time require.

73 License to be signed and sealed.

Every license issued under the authority of this Act shall be signed by the Warden, and he shall affix thereto the seal of the Warden's Court. Such signing and affixing shall be in the presence of one witness, who shall attest the same.

74 Claim to licensed holding forfeited if not taken up within thirty days.

If any person to whom a license has been granted for a licensed holding fails to take up the same within thirty days after the grant thereof by the Warden, and to pay the rent due in respect thereof, such license shall be cancelled by the Warden as null and void; and the licensed holding shall be open for application as if no such license had been granted.

75 Special claim forfeited if not taken up within thirty days.

If any person to whom a license for a special claim has been provisionally granted by the Warden, and approved by the Minister, fails to take up the same within thirty days after notice is sent to him by registered letter by the Registrar that such license is ready for issue to him, and to pay the rent due in respect thereof, such license shall be cancelled by the Warden as null and void; and the special claim shall be open for application as if no such license had been issued.

76 Copies of licenses, &c., to be sent to Minister monthly.

The Warden shall in each month cause to be transmitted to the Minister copies or abstracts of all licenses issued by him during the previous month, together with a memorandum of every transfer, forfeiture, or other transaction made during such previous month and affecting any licenses issued at any time previous thereto.

77 Effect of license.

Subject to the provisions in respect of forfeiture hereinafter contained, and to the provisions of section two hundred and nine, every license to work a gold-mine issued under this Act shall give to the licensee, for a term not exceeding twenty-one years, an indefeasible right to all gold within the boundaries of the land therein comprised, and an indefeasible and exclusive right to dig and mine for gold therein and thereon and dispose of the same, to erect machinery on such land and to construct works connected therewith, and to do all lawful acts incident or conducive to the carrying-out of those objects.

78 Two holdings may be surrendered, and one license granted.

If any holder of two or more adjacent licensed holdings shall desire to have the same included in one license, he shall surrender the same in a form to be prescribed by the Warden in that behalf.

On such surrender being made, the Warden shall grant one license for the several holdings so surrendered for the unexpired portion of the term for which the last dated of the surrendered licenses was originally granted.

No licensed holding held under one license shall exceed an area of thirty acres.

*Claims and Licensed Holdings. Protection***79 Protection may be given to hold claim or holding unworked.**

Subject to any regulations to be made in that behalf, the Warden may grant protection to the owner of a claim, area, right, or privilege, special claim, or licensed holding to hold the same without working for such time not exceeding six months as may be shown to be reasonable, having due regard to the grounds on which such permission is applied for and all the circumstances of the case.

After an interval of not less than three months after the expiry of the period of protection first granted by the Warden, but not before, and then only on the condition that mining operations have been regularly and continuously carried on during the whole term of such interval, he may grant further protection not exceeding four months at any one time, provided the ground upon which protection is asked for be substantiated upon oath to the satisfaction of the Warden.

If any such permission be obtained by false representation, it may be cancelled by the Warden.

In any case where protection may be desired for a further period, application for the purpose shall be made to the Minister, who may grant protection for a period not exceeding twelve months at a time, on the recommendation of the Warden.

80 Protection from working where land in claim 3,000ft. above sea-level.

Where the land comprised in any claim or licensed holding, or any part thereof respectively, is situated at an elevation of not less than three thousand feet above the sea-level, such claim or licensed holding shall be protected within the meaning of the last-preceding section of this Act from the first day of May to the first day of November in each year, and it shall not be necessary in any such case to make any application to the Warden for such protection.

Any map issued by or under the authority of the Surveyor-General, which shows or states the elevation of any such land as aforesaid, or the certificate in writing of a District Surveyor to the same effect, shall be sufficient evidence for all purposes of the fact thereof.

*Non-maintenance of Marks***81 Penalty for not maintaining posts, &c.**

If the owner of any claim, licensed holding, or special claim shall fail to maintain the posts, trenches, or other sufficient boundary-marks as hereinbefore required, he shall forfeit and pay for every such omission any sum not exceeding ten pounds.

If posts, &c., not maintained, no damages for trespass.

If posts, trenches, or other marks as aforesaid are not so maintained, and any person shall commence to work or mine on any land held as a claim, grant, or under license, he shall not be liable to damages, provided that he cease to work and mine as soon as the posts are replaced, or the trenches or other marks are renewed, and notice in writing given to him not to trespass.

82 Warden to determine disputes as to boundary marks.

The Warden shall have power to determine all questions and disputes arising with respect to the size, measurements, and position of marking-posts, the cuts or marks on such posts, trenches, or boundary-marks; and, where any post is not in size, or position, or character exactly as required, he shall decide whether any such post or mark is or is not sufficiently in accordance with the spirit and intention of this Act for the object intended, subject to the right of appeal as granted by this Act in other cases.

*Constructing Races on Claims***83 Construction of head-race, &c., over, under, or through claim or licensed holding.**

Any person or persons shall, with the consent of a Warden, be entitled to construct a head-race, tail-race, or flood-race, or drive any tunnel over, under, or through any claim, special claim, or licensed holding, provided it does not interfere with the proper working of the same, and that compensation shall be allowed for estimated damage (if any); and such compensation shall, if necessary, be decided by arbitration as provided by this Act or regulations made thereunder.

84 Conveyance of *debris* over adjacent holding or claim. Proviso.

The owner of any claim, licensed holding, or special claim who shall be unable to discharge the *debris* from his workings upon his own ground may make application to the Warden to obtain authority to convey the same over any adjacent licensed holding or claim, or unoccupied ground, with permission to occupy thereon sufficient space for the discharge of such *débris*: Provided that such discharge, conveyance, or occupation does not interfere with the working of such adjacent claim, licensed holding, or special claim; and it shall be the duty of the applicant to satisfy the Warden that all parties likely to be affected

thereby have received due notice of such application; and if there be no valid objections thereto the Warden may grant a certificate, with conditions prescribing the terms and mode in which such *debris* may be conveyed or deposited as aforesaid, and that compensation shall be allowed for estimated damage (if any); and such compensation shall, if necessary, be decided as provided by this Act.

85 Houses, &c., not to be interfered with without Warden's order, and compensation paid for improvements only.

The surface of any Crown land upon which any house or other building shall be lawfully standing and in actual use or occupation, or which shall be lawfully and *bonâ fide* used as a yard, garden, orchard, cultivated field, water-race, dam, or reservoir, shall not be taken possession of or interfered with by the owner of any claim, licensed holding, or special claim without first obtaining an order from the Warden authorising the same, and such order shall not be granted unless it be first proved to the satisfaction of the Warden that the land is *bonâ fide* required for mining purposes, and that the compensation to be fixed as hereinafter provided has been paid; but no person shall be entitled to take up or hold tent-ground upon any known auriferous or argentiferous ground, nor in the line of or adjacent to any known gold-working.

Such compensation shall be granted for improvements only, and not in respect of the value of the land; and the amount thereof shall be ascertained and fixed by agreement or by the Compensation Court as hereinbefore provided.

86 Compensation for damage by mining.

Every person lawfully occupying the surface of land, freehold or otherwise, whose property shall be damaged by mining operations carried on thereon or thereunder shall be entitled to recover compensation for such damage from the persons actually causing the said damage.

Mineral Licenses

87 Warden may grant licenses for mining other minerals than gold.

The Warden, subject to the provisions of this Act and to any regulations thereunder, may grant mineral licenses to occupy any Crown lands within a mining district for the purpose of mining for metals or minerals other than gold or coal, subject to the following conditions:—

- (1.) The area comprised in any mineral license shall not exceed six hundred and forty acres, and the term for which the same shall be granted shall not exceed twenty-one years from the time of granting the same.
- (2.) The rent shall be two shillings and sixpence per acre or fractional part of an acre, payable annually in advance; the first payment to be made at the time of making the application for the license, which shall cover the rent for one year from the granting thereof.

- (3.) The royalty on all minerals raised shall not be less than one-fiftieth nor more than one-twenty-fifth of their value at the pit's mouth, provided that when and so long as the amount of royalty on any mineral license exceeds the sum paid as rent the rent-charge shall cease.
- (4.) The licensee shall be liable to pay royalty in respect of coal which may be found on the land described in his license, not being metals or minerals for which he is authorised to mine under his license.
- (5.) No mineral license shall entitle the holder thereof to mine or dig for gold. If gold or ore containing it be found within the area comprised in such mineral license, the land on which such gold is found shall be taken up as a licensed holding under this Act.

Third Schedule.

The Warden shall give public notice of the application by advertisement in one or more newspapers circulated in the district, and shall therein name a day on which the application will be heard; and on such day, or on some subsequent day to which the hearing may be postponed, the Warden shall hear the application, and may, and whether or not any objection has been made to the application, grant or refuse to grant to the applicant, or to the person appointed by him, a license in the form set forth in the Third Schedule, specifying particularly the metals or minerals authorised to be mined for in the terms of such license.

88 No mineral leases or licenses or prospecting licenses to be granted within mining district under Land Act.

Notwithstanding anything contained to the contrary in any Land Act for the time being in force, no lease of mineral lands or prospecting license shall be granted within any mining district by any Land Board, nor otherwise than by the Warden of such district, and under the provisions of this Act.

Prospecting within Mining Districts

89 Licenses to search for minerals other than gold may be granted.

The Warden from time to time may grant to any person, subject to the provisions of this Act and to any regulations made thereunder, and to such fee, rent, or royalty as may be prescribed to be paid in respect thereof, a license to enter upon any Crown land in any mining district not occupied by the holder of a miner's right or business license, unless with the consent of such holder, for the purpose of searching for any metal or mineral other than gold:

And subject as aforesaid the Warden may, at the time of the granting of any such license, fix the special conditions upon which the same shall be granted.

Prospecting and Mining outside Mining Districts

90 Governor may issue prospecting license outside mining district.

The Governor may cause a license, to be called a “prospecting license,” to be issued, in such form and on such terms and conditions as he may think fit, to any person, authorising the person therein named to prospect and search for any metal or mineral within Crown lands outside any mining district.

91 May grant lease.

The Governor may grant to any holder of a prospecting license as aforesaid who shall be the *bonâ fide* discoverer of any metal or mineral on Crown land, not being within any mining district, a lease of the said land or some part thereof for mining purposes, subject to the following terms and conditions:—

- (1.) Every such lease shall comprise so much land as shall be necessary, in the opinion of the Governor, for the efficient mining thereon, having regard to the description of mining proposed to be carried on, but not exceeding double the quantity which might be held as a claim or licensed holding respectively in the nearest mining district constituted under this Act.
- (2.) The term to be granted in each lease shall be any number of years, at the option of the lessee, not exceeding twenty-one.
- (3.) The rent per acre to be reserved shall be such sum as may from time to time be prescribed in respect of licensed holdings and mineral licenses.
- (4.) Every lease shall contain clauses, in the usual form introduced into mining leases,—
 - (a.) For securing the payment of the rent;
 - (b.) For enabling some person on the part of the lessor from time to time to enter and examine the mine;
 - (c.) For securing the regular, proper, and efficient working of the mine;
 - (d.) For making void the lease on breach of the stipulations on the part of the lessee therein contained;
 - (e.) To enable the lessee to surrender the lease.

The Governor may make regulations, if he thinks fit, as to the form, time, and manner of making applications for leases, and any other regulation he may think fit, in order to give effect to the provisions of this section.

Rent to be deemed land revenue.

All rent received under any such leases shall be deemed to be land revenue.

92 If leased land included in a district, license to be issued and lease to be void.

If the land leased as aforesaid shall at any time thereafter be included in any mining district, the Warden thereof, either upon or without the application of

the person then entitled to such lease, shall grant and issue a license for the same under this Act in the name of the original lessee or assignee.

- (1.) On such license being granted, the said lease shall thereupon *ipso facto* be null and void, and the land shall thenceforth be held under the said license subject to the provisions of this Act, and all regulations made thereunder relating to the district in which such land is situate.
- (2.) All deeds and documents executed and signed by the lessee, his executors, administrators, and assigns, subsequent to the date of the lease but before the issue of the license, shall, for the purpose of completing titles of parties to such deeds and documents, have the same force and effect, so far as can be, in respect of the land therein included, as though such deeds and documents had been founded on the said license instead of the said lease.
- (3.) All rights, titles, and interests which may have been lawfully created after the date of the said lease and before the granting of the license, and then subsisting, shall be deemed, so far as can be, to have been created under the said license, and shall be held and enjoyed accordingly.

93 Governor may delegate powers of granting prospecting licenses or leases. Commissioner of Crown Lands to make monthly returns.

The Governor from time to time may, by warrant under his hand, delegate the powers vested in him under sections ninety and ninety-one of this Act to any Commissioner of Crown Lands, and may alter or revoke any such delegation in part or in whole.

Every Commissioner of Crown lands shall transmit every month to the Minister a return of every lease or license or prospecting license granted by him under the aforesaid delegated authority, and also of every lease, license, or prospecting license cancelled by him under such authority.

Prospecting on Native Lands

94 Governor may authorise prospecting on Native lands.

The Governor may cause to be issued, in such form and on such terms and conditions as he may think fit, a license to any person, to be called a "prospecting license," authorising the person therein named, with the consent of the owner of the land, to prospect and search for gold on any land specified in such license being the property of aboriginal natives, and not being within any mining district.

95 Penalty for unauthorised prospecting.

Any person not being the owner of land the property of Natives and not being the holder of a prospecting license in respect of such land, who shall mine or dig for gold or other mineral thereon, shall be liable for every such offence to a penalty of not less than five pounds and not exceeding fifty pounds, without

prejudice to any claims for damages on the part of the owners of the land mined on against the persons so mining.

96 May grant lease of land to persons discovering gold thereon.

Any person being the holder of a prospecting license as aforesaid who shall discover gold on any such Native land may apply to the Governor for a lease; and on the cession of such land to the Governor for mining purposes, or the sale of such land to the Crown by the Native owners thereof, the Governor may grant a lease to the applicant in like manner and subject to the like terms and conditions as prescribed by section ninety-one of this Act in respect of Crown lands outside mining districts.

And every such lease shall be valid and effectual against all persons whomsoever.

97 Governor may make contracts and sign instruments in respect of Native lands ceded for mining purposes.

In any case where lands have been ceded or are proposed to be ceded to Her Majesty by the Native owners thereof for mining purposes under the provisions of the last-preceding section, or of any Act hereby repealed, the Governor may from time to time, in the name and on behalf of Her Majesty the Queen, make, vary, or rescind any contract, agreement, or arrangement, and do, make, and perform any act, deed, matter, or thing which may be necessary or expedient to be done, made, performed, or suffered for the purpose of giving effect to or carrying out any of the provisions aforesaid.

Prospecting and Mining on Private Lands

98 Penalty for mining on private lands without authority.

Any person who shall knowingly mine or employ any person to mine for gold on any land belonging to a private individual without the authority of the Warden, or the consent of the owner thereof or his duly-authorized agent, shall be subject to the like penalties as are mentioned in section two hundred and fifty.

But nothing in this section contained shall prejudice any claim for damages on the part of any such private individual or owner against the person so mining or employing any person to mine.

99 Disputes on private property.

When any dispute shall arise between holders of miners' rights who shall be in occupation for mining purposes of any private land with the sanction and consent of the owner of such land, it shall be lawful for a Warden to hear and determine such dispute in the manner provided by this Act for the hearing and determining cases in the Wardens' Courts, and in accordance as near as may be with regulations.

100 Private lands to be open for prospecting.

- (1.) All lands which at any time after the commencement of this Act may be alienated or agreed to be alienated by the Crown in fee-simple shall be held, and

All lands which at any time heretofore have been occupied under license or lease from the Crown with the right of acquiring the fee-simple thereof, or may hereafter be so occupied, shall be occupied and be deemed to have been occupied from the date of the original license or lease,

Subject respectively to the power of the Warden to grant licenses to prospect for gold in or upon any such lands, upon such terms and conditions as he may think fit; subject, however, that compensation shall be paid to the owner, licensee, or lessee of any land entered upon for surface damage done to such land by reason of prospecting thereupon, such compensation to be determined as in the next following section provided, and the payment thereof shall be a condition precedent to the right under the prospecting license of entry upon the land.

- (2.) Nothing contained in a prospecting license granted under this section shall be construed—

Surface damage.

- (a.) To confer upon the holder thereof any right of entry upon any land for the purpose of prospecting it, unless and until such holder has either paid to the owner, licensee, or lessee of such land the amount of compensation for surface damage, or has entered into an agreement with such owner, licensee, or lessee as to such compensation and the payment thereof:

Lands excepted.

- (b.) To authorise the holder thereof to enter upon any land used as a garden, orchard, vineyard, nursery, plantation, or ornamental pleasure-ground, or on any land whilst under cereal or root crop, or on which is situated any spring, artificial reservoir, dam, or waterworks, or any dwelling-house, outhouse, manufactory, hospital, asylum, public building, church, or cemetery, unless with the written consent of the owner, licensee, or lessee thereof, or of the person in whom the legal estate therein is vested.

Resumption.

- (3.) In the event of any gold being found upon any of the aforesaid lands they shall be subject to resumption for mining purposes.

101 Warden to determine claim to surface damage.

Every Warden's Court shall have jurisdiction to hear, determine, and enforce any claim made for surface damage arising out of prospecting in or upon any of the lauds mentioned in the last-preceding section.

Application for Water Rights and Races

102 Public Works Act, Part IX., incorporated.

Part IX. of “The Public Works Act, 1882,” is hereby incorporated with this Act, and shall be read together therewith.

103 Holder of miner’s right authorised to divert water.

Every holder of a miner’s right, and every person on whose behalf any consolidated miners’ right is granted, shall, during the continuance thereof, subject to the provisions of this Act, and with the consent of the Warden, be entitled to take or divert water from any spring, lake, pool, or stream situate on or flowing through or adjoining Crown lands, and to use such water for mining for gold upon such parcel or parcels of Crown land as aforesaid, and for his own domestic purposes, and to use by way of an easement any Crown lands, and to deposit upon such lands any spoil or *debris* arising from such mining.

104 Licenses may be granted to cut water-races and to divert water.

The Warden, subject to the provisions of this Act and to any regulations thereunder, may grant to any person applying for the same a license authorising the licensee during any term not exceeding fifteen years from the granting of such license—

To cut and construct any water-race through and upon Crown lands and private lands, and

To take, divert, and use water from any spring, lake, pool, or stream situate upon or flowing through or adjoining Crown lands,

in order to supply water for the purpose of mining for gold, or any metal or mineral other than gold, to the holder of such license or to any other person who maybe engaged in such mining or other pursuits, or for the purpose of driving any machinery, or for purposes of irrigation, or other industrial pursuits, or for the purpose of supplying water to feed or drive any machinery for working any mill, or for the purpose of supplying water to any railway-engine, or to any tank, reservoir, or station-house connected with any railway or tramway, or with the making, construction, maintenance, or working of the same, or in relation thereto, or for the purpose of supplying with water any quartz-crushing machine or any engine or machinery employed in extracting by crushing or any other process gold from quartz, stone, earth, or other substance, or in the drainage of mines, and to occupy for the purpose of depositing matter removed from such water-race the land immediately adjoining such water-race, to a distance not exceeding fourteen feet in width excluding the width of such water-race, or partly on both sides, as may be specified in such license.

Nothing, however, in this Act contained shall be construed to prevent the construction of dams across the natural streams situate in any mining district.

105 Construction of races.

The holder of any such license shall be entitled by virtue thereof, and in connection with such water-race, to construct, excavate, and form reservoirs for the storage of water upon any Crown lands, and to deepen, widen, cleanse, repair, or otherwise improve such water-race and reservoirs, and to sell and dispose of the water so diverted or stored for any of the purposes aforesaid, subject to the conditions hereinafter prescribed, that is to say,—

Application in respect of Races upon Crown Lands. Notice.

- (1.) Any person intending to divert and use water for mining purposes by means of any water-race to be constructed upon Crown lands shall give notice thereof in writing to the Warden of the mining district in which such water-race is intended to be constructed, and to any person whose interests may be affected by the diversion of such water, as well as to the owner or occupier of any private land through which it is proposed to carry such water-race, and such notice shall state the number of heads of water proposed to be diverted, and shall be in the prescribed form or to the like effect; and copies of such notice shall be posted and maintained for fourteen clear days at the source and each of the sources whence it is proposed to obtain water, except in the case of the supply of water being intended to be obtained by collection from any “drainage area,” in which case it shall be sufficient that the notice shall be posted upon some conspicuous part of such drainage area and at the proposed termination of such water-race; and the intended course thereof shall be indicated by posts not less than two inches in diameter, or by large stones marked with a broad arrow and placed not more than two hundred yards apart; and such notices shall state the mean breadth and depth of the proposed water-race and the quantity of water it is proposed to divert, and shall also state the time required for the construction and completion of such race.

Fourth Schedule.

If no valid objection be entered against the construction of such water-race within fourteen clear days from the delivery of such notice, a license in the form in the Fourth Schedule hereto may be granted by the Warden to the applicant, subject to the prescribed provisions and conditions.

Marking drainage area.

- (2.) Any holder of or applicant for any water-race, dam, or reservoir, desiring to obtain the exclusive right to collect or store the water that may naturally exist within or fall upon or percolate from any certain area of land, herein called a “drainage area,” shall mark each corner of such area by a substantial post at least three inches in diameter and standing three feet above the surface of the ground, or in untimbered country by a cairn of stones or stack of sods standing not less than the same height, and by trenches set at right angles to each other not less than six inches in depth and five feet in length extending on either side of every such post, stack, or cairn in the direction of the boundaries of

the claim; and if in bush one end line shall be cleared, and the trees blazed on such line from post to post; and shall make application to the Warden in the prescribed form to the like effect; and copies of such application shall be posted at the several corners of such drainage area, and shall be served upon all persons whose interests may be affected by the granting of such application. If there be no valid objection, the Warden may grant to the applicant the exclusive right to collect water from such area, or from such lesser area being portion of the same as he may think fit, provided that no such area shall include any natural stream.

Authority to carry ou mining operations.

- (3.) Any person desiring to cut any water-race, or occupy any claim, or carry on any mining operation upon or within any drainage area, shall apply to the Warden, who shall have power to authorise the construction of such waterrace, or the occupation of such claim, or the carrying-on of such mining operation upon or within such drainage area, upon such terms and conditions as he may think necessary or desirable.

Limited license for supply of water for industry other than gold-mining.

- (4.) The Warden, in granting any water license for a supply of water from any source that may be used for any industry other than gold-mining, may limit the grant to certain months in the year only; and the months for which any such license is granted shall in such case be set forth on the face of the license; and the holder of any such license shall refrain from taking or using water in the race at all times other than those stated in such license.

But the Warden may in his discretion, by writing under his hand, authorise the holder of any such license to take and use the water at other times without incurring any penalty.

Applications in respect of Races upon Private Lands. Races to be marked out.

- (5.) Any person intending to construct any water-race under the authority of this Act, through or upon private lands, shall mark out the proposed points of commencement and termination, and the intended course, of such proposed race in such noticeable way as circumstances may permit or as may be prescribed by any regulations; and, until the construction of such race shall be completed, shall keep and maintain such marks along so much of such intended course as shall remain unconstructed, and shall also serve notice in writing on the owner, lessee, and occupier of any land through which it is proposed to carry such race; and shall post and maintain copies of such notice for fourteen clear days at the source or sources whence it is proposed to obtain water for and at the proposed termination of such race.

Fourth Schedule.

Such notice may be in the form in the Fourth Schedule hereto, and shall state the points of commencement and termination of such proposed race, the length, mean breadth, and depth of the same, and the quantity of water it is proposed

to divert and carry therein, and the situation and dimensions of any reservoir intended to be constructed in connection therewith, the position of any by-wash or storm-water channels for the same, and shall also state the time required for the construction and completion of such race; which notice shall be published twice in a newspaper circulating in the district and once in the *Gazette*.

A copy of such notice, signed by the person desiring to construct such race, or any one duly authorised to sign the same on his behalf, shall be lodged with the Mining Registrar of the district in which the same is to be constructed, who shall note thereon the day and hour on which such notice was received, and shall deposit and keep the same in his office.

Record of notice to be kept.

- (6.) The Mining Registrar with whom any such notice shall be lodged shall enter in a book to be kept by him the particulars of such notice, and the day and hour of receiving the same.

License to be issued. Fourth Schedule.

- (7.) Every such application shall be referred by the Mining Registrar to the Warden of the district, who, if no objection be lodged as herein after mentioned, and no reason be known to him why a license should not issue, may, at any time after the expiration of thirty days from the date of the receipt of the above-mentioned notice by the Mining Registrar, grant to the person signing such notice a license in the form in the Fourth Schedule hereto, to be in force for any term not exceeding fifteen years; and such license shall be issued by the Mining Registrar on payment of the prescribed fee.

Consent of owners of private land.

- (8.) The persons intending to cut any water-race or sludge-channel through, upon, or over any private lands shall not, except by consent of the owners or occupiers of such land, enter upon such land until they have paid or tendered to such owner or occupier the compensation agreed to be paid or awarded to them as provided by this Act:

But for the purpose merely of surveying and taking levels, such persons may, after giving not less than twenty-four hours' nor more than seven days' notice, and if the consent of the Warden shall have been first obtained before the issue of such notice, enter upon such lands without previous consent of such owner or occupier.

Objections. Fourth Schedule.

- (9.) Any owner, lessee, or occupier of any private land through or over which any race shall be proposed to be constructed, and any person whose interests may be affected by the construction or use of any water-race, or the diversion of any water under the authority of this Act, may, within thirty days after the receipt of

any such notice by the Mining Registrar, serve upon such Registrar a notice of objection in the form of the Fourth Schedule hereto.

Whenever any such notice has been given as lastly hereinbefore mentioned,

Costs to be paid by applicant.

- (a.) The Warden shall not grant a license for the construction of any water-race on, upon, or through or over private lands until he shall have received a report from a surveyor, engineer, or other competent person, to be appointed by him for that purpose, that the conditions herein contained have been complied with. The cost of obtaining such report shall be paid by the persons applying for such license before such license shall be issued.
- (b.) The Mining Registrar shall not issue such license, unless by consent of the person serving such notice, until the matter has been the subject of adjudication, and unless he shall have received from the Warden an order in writing authorising him to issue such license.

Compensation to be paid before entry on private land.

- (10.) Before a water-race shall be constructed through or over private lands, the owner, lessee, or occupier of such land shall be entitled to such compensation as shall be determined by agreement between the said owner, lessee, or occupier, or any other person appointed by him, and any person appointed for that purpose by or on behalf of the parties constructing such water-race.

Such compensation, when ascertained, shall be paid to such owner, lessee, or occupier by the parties constructing such water-race before they commence the construction of such water-race or sludge-channel.

In case the amount of such compensation shall not be fixed by agreement within one month after the granting of such license, then such amount in dispute shall be settled in manner in this Act before provided.

The Compensation Court to hear any such claim shall be formed as provided in section twelve of this Act.

General Provisions. License-fee.

- (11.) There shall be payable, in advance, in respect of every License mentioned in this section the sum of five shillings, and a fee of one shilling for registration of the license previous to its issue, and a Eke fee for the renewal of such registration in each year.

Such license shall be renewable at the end of the term for which the same shall have been issued, either for the like or any other term not exceeding fifteen years, and every such renewed license shall be subject to the same annual registration and to the like conditions, and shall confer the like privileges, including the right to renewal, as were conferred by the original license.

Priority.

- (12.) The priority of right to water from any source shall be determined by the date of the application for the water-race license notice; for which purpose the Mining Registrar shall note upon every application the hour and date of the receipt thereof. In case two or more such applications are made at the same time, the Warden shall determine by lot the priority of the parties making the same.

Tailings.

- (13.) No license shall be deemed to entitle the holder thereof to claim damages or compensation by reason of the flow of tailings into any creek or watercourse into which tailings are deposited at a distance exceeding two chains above the head of such race.

Work may be commenced.

- (14.) The construction of a water-race shall be commenced within two months from the issue of the license authorising the same, and the holder of the license shall continue cutting and forming the same with reasonable diligence until the work is completed; otherwise any superiority of right which he may be entitled to by virtue of such license will be deemed to be and may be declared forfeited.

The term of any license may be extended by the Warden for a period not exceeding two months, if he is satisfied that diligence has been exercised in the prosecution of the work.

Alterations and extensions.

- (15.) Any person who may desire to alter or extend the course of any water-race shall give the like notices and take the like proceedings as hereinbefore directed to be given and taken in respect of the original water-race.

It shall not be necessary to obtain a license in respect of such alteration or extension, but such alteration or extension, shall be registered in the like manner as the original race, and the particulars of such alteration or extension shall be indorsed on the original license, and shall have the same effect in all respects as if the same had been comprised in the original license; but the right to any increased supply of water shall not be deemed an alteration or extension, or be obtained as such.

Bridges.

- (16.) The holder of a water license shall keep the race in repair, and shall make an efficient bridge where any road in ordinary use at the time of the construction of the race crosses the water of the race, or where, in the opinion of the Warden of the district, bridges may be required for the convenience of crossing horses, cattle, sheep, or any other animals thereon.

Priority of right.

- (17.) If the water flowing in any creek or river is insufficient to supply all the races connected therewith, the owner of any right shall, on the receipt of a

written notice from the owner of a superior right stating that the supply of such superior right is less than he is entitled to, immediately cease to use the water or such portion thereof as may be necessary to make up the supply of the superior right, failing which the owner of the superior right shall be entitled to recover damages for loss of water.

Reservations.

- (18.) No license issued under the authority of this Act shall confer any right to the use of water as against any person requiring the same at any time for his own domestic use.

General use.

- (19.) One sluice-head of water shall, if required by the owner of any property through which such stream passes, or by the Warden of the district, by writing under his hand duly served on the person taking water from such stream, be at all times allowed to flow in the natural course of any stream for general use.

Tail-races.

- (20.) All right of control over water shall continue in the holder of the water-right until the water leaves any claim, channel, or tail-race to which he is legally entitled.

Claims not to be flooded.

- (21.) No person shall back the water of any creek, river, race, or watercourse upon any claim, or cause any claim to be flooded, either wilfully or by neglect.

Incapacity of race.

- (22.) If the holder of a license does not, within the time limited in that behalf, construct a race of sufficient capacity to carry the number of sluice-heads registered, the number of sluice-heads over and above what the race is capable of carrying shall be forfeited, and any claim thereto shall be deemed to be abandoned.

106 Water-race may be cut under streets and roads with consent of local authority.

The holder of a water-race license or water-race certificate may mine and cut, construct, and use a water-race for mining purposes upon or under any street, road, or highway, on obtaining from the Mayor or Chairman of the local authority which shall have the care and management of such street, road, or highway an order permitting him so to do.

For the purpose of obtaining such order such holder shall apply therefor by notice in writing to such local authority, who shall thereupon decide whether the same can be effected without injury to adjoining property, or injury or obstruction to such street, road, or highway, as the case may be; and thereupon the Mayor or Chairman of such local authority may issue an order permitting

such mining, and the cutting, construction, and use of such water-race, on such conditions and terms and subject to such restrictions as it shall think fit.

The aforesaid local authority may authorise any person to make or construct any roads, or temporary or permanent ways, or other works over, across, or through any works made or constructed by the holder of a miner's right under the authority of this Act. But before such local authority shall give such authority seven days' notice thereof shall be given to the person lawfully possessed of such last-mentioned works.

Construction of Head-races and Other Rights

107 Construction of head-races, &c., under, over, or through other constructed head-races or mining rights.

Any person or persons shall, with the consent of the Warden, be entitled to construct a head-race, tail-race, or flood-race, or drive any tunnel, under or over or through any constructed head-race, tail-race, flood-race, or tunnel, or through any machine-business- or residence-site, licensed holding, special claim, dredging claim, or through any ground held under mining or mineral license, provided it does not interfere with the proper working of the same, and that compensation shall be allowed for estimated damage (if any); and the amount of such compensation shall, if necessary, be decided in manner as hereinbefore provided.

108 Fixed quantity of water to be allowed to flow in natural bed.

Any owner or occupier of land adjoining any stream or natural watercourse, or any owner of property through which such stream or watercourse passes, or any holder of a miner's right working in the bed of a stream or watercourse, may apply to the Warden of the district wherein such stream or watercourse is situated for an order that a quantity not exceeding one Government sluice-head of water shall be allowed to flow in the natural bed of any such stream or watercourse for general use.

Every such order shall be by writing under the hand of such Warden, and, notwithstanding any provisions in this Act or any regulations made thereunder, the Warden shall have full power and authority to make such order accordingly; and every holder of a water-right, or other person who may be taking or diverting water from such stream or watercourse, shall obey such order on being served with a duly-certified copy of the same.

If any person shall feel aggrieved by the making of any such order he may appeal from the decision of the Warden in such manner as he might or could do under this Act, and all the provisions thereof relating to appeals shall extend and apply accordingly.

109 Casual damage.

The owner, lessee, or occupier of any private land shall not be liable for any casual damage caused or done by any sheep or cattle to any claim, water-race, dam, or reservoir situate upon lands of which he is the owner, lessee, or occupier.

110 Water may be sold.

The holder of a license under this Act or any former Act, empowering such holder to divert water, and to cut, construct, and use water-races, dams, and reservoirs, may sell and dispose of the right to and the use of the whole or any portion of such water.

111 Water-race deemed a chattel interest.

Every interest in a water-race or in a right to divert water shall be deemed and taken in law to be a chattel interest, and may be assigned, encumbered, or transmitted in the same way as chattel interests in land may by law be assigned, encumbered, or transmitted, or in such other manner as may be prescribed or provided by any regulations hereunder.

112 Licenses may be revoked.

Whenever any water which hereafter may be lawfully diverted under any license or other authority shall be required for the use of *bonâ fide* settlers or for any public use or purpose, the Governor may revoke such license or other authority, and may cause such water to be restored to its natural channel.

Compensation.

The holder of any such license or other authority shall be entitled to compensation on account of such revocation as aforesaid, and for all races, reservoirs, and other works cut or constructed for the diversion of such water; and the amount of such compensation shall in case of dispute be determined in the manner hereinbefore provided, and such compensation shall be paid by the Colonial Treasurer out of the goldfields revenue payable to the county or counties within which the water-race or reservoir is situate.

113 Licenses may be cancelled if race abandoned.

If water is not continuously allowed to flow in any water-race, not being a catch-water or dry race, unless prevented by natural causes; or

If any such water-race as first mentioned is not used for its proper purpose during any term of three consecutive months, or in case of a catch-water or dry race during any term of six consecutive months, it shall be deemed to be abandoned; or

If by accident any part of any water-race be broken or washed away, and so rendered useless in part or in whole, and no steps be taken within two months

from the time of the accident to repair the damage and to render the race available for use with the least possible delay;

Then, and in any such case, so much of the water-race wherein no water is flowing, or as is not used for its proper purpose, or as is rendered useless, shall also be deemed to be abandoned.

- (1.) If it shall be proved to the Court that the race or any part of it has remained neglected so as to be useless, or been abandoned wholly or in part, the Warden shall declare the same or a portion thereof to be abandoned, and shall cancel the license of the original licensee as to so much of the race as is declared abandoned.
- (2.) The Warden may thereupon decree the plaintiff to be the first applicant, or make such other order therein as may be just and equitable.
- (3.) In case there shall be more applicants than one for the same race, priority shall be granted to the applicants according to the date of the receipt of their applications by the Warden.

Proviso.

The provisions of this section shall not be deemed to apply to any water-race used exclusively for agricultural or pastoral purposes.

114 Commissioners of Crown Lands to exercise powers of Warden as to water-races outside of districts.

The Commissioner of Crown Lands of every land district constituted under "The Land Act, 1885," shall, in respect of Crown lands and private lands outside of mining districts, have all the powers of the Warden and Mining Registrar respectively for granting licenses for the construction of water-races, dams, or reservoirs, or for the diversion of water.

Part IX. of "The Public Works Act, 1882," and sections one hundred and three to one hundred and thirteen, both inclusive, of this Act, shall be read and construed, *mutatis mutandis*, for the purpose of giving effect to the provisions of this section.

Water-races belonging to Local Authorities

115 County Councils may hold water-race under Act.

Whenever in any case it is not expedient that the provisions of "The Public Works Act, 1882," relating to the proclamation and construction of water-races should be put in force, or whenever any rights to the use of water held under Acts relating to goldfields or mining districts, or for the construction of works connected there-with, have heretofore been or may hereafter be acquired by or on behalf of the Council of any county under "The Public Works Act, 1882," or this Act, or any Act repealed by this Act, and have by Order in Council been vested, or which may hereafter be vested, in the County Council of any county

situated within a mining district, or partly within and without any mining district, the following provisions shall have effect:—

- (1.) The County Council may in any mining district apply for, receive, and hold any license or other authority to cut, construct, and use any water-race, sludge-channel, tail-race, dam, reservoir, or for any other purpose and in any manner authorised under this Act.
- (2.) Every such license or other authority shall confer upon the County Council all rights, powers, remedies, and authorities, and it shall be subject to the same liabilities in respect thereof, as if such license or authority had been issued to it as a private person.
- (3.)
 - (a.) The County Council may from time to time appoint some person or persons in any mining district, on behalf of the County Council, to apply for and obtain the issue of any license or other authority as aforesaid, or for the issue of any renewal of any such license or authority.
 - (b.) And the County Council may in like manner appoint such person or persons or some other person or persons to exercise on behalf of the County Council all such rights, remedies, and authorities, execute all instruments or documents, and to perform all such conditions in respect of any such license or other authority in the name and on behalf of the County Council as it might have or exercise, or could be called upon to perform, if it were a private person holding such license or authority.
 - (c.) Every such appointment may be limited to some particular power or purpose hereinbefore mentioned, to be specified in the appointment, or may include all such powers or purposes.
- (4.) A notification in the *Gazette* signed or purporting to be signed by the Chairman and Clerk of any County Council shall be deemed to be sufficient evidence that such person has been duly appointed with all the powers and for all the purposes hereinbefore mentioned, unless in such notification there shall be expressed some limitation, of the authority conferred upon him.
- (5.) Every Warden, Registrar, Clerk, or other officer whose duty it may be to issue any license or other authority under this Act shall, upon application made to him for that purpose, either upon an Order in Council or by the County Council, transfer or renew any license, right, or easement to and for the County Council.
- (6.) It shall not be necessary for the County Council or any person on its behalf to take out and hold any miner's right or business license under this Act in order to enable it to hold any such license or authority as aforesaid; nor shall it be necessary that any such license or authority be renewed in any way, or that any annual or other fee in respect thereof be paid by or on behalf of the County Council; but such license or authority shall, during the term for which it was

granted, subsist until relinquished by the County Council, or the original term for which it was granted had expired.

116 Borough Councils may hold water-races.

Every Borough Council shall have and may exercise the same powers and privileges as are conferred on County Councils by the last-preceding section, all the subsections whereof shall be read, for the purposes of this section, as if the words "Borough Council" had been inserted therein in place of the words "County Council." Every Borough Council which shall obtain a license or other authority to cut, construct, or use any such water-race as in the last-preceding section mentioned shall have authority and control over the entire length of such water-race, notwithstanding such race may extend beyond the limits of the borough within which such Borough Council has jurisdiction.

117 Appropriation by local bodies of revenue from water-races.

Wherever any County Council or Borough Council holds a water-race, the said Council shall cause a separate account to be kept of the receipts from such race and the expenditure therefor; and no revenue from any such race shall form part of the county or borough funds, but it shall be appropriated exclusively for the maintenance or extension of the race from which such revenue is derived, or for acquiring, constructing, or maintaining other races within the same mining district, or for the development of the mining industry therein.

It shall not be competent for any County Council or Borough Council to reduce the fee payable for water in any race under the control of such Council except with the assent of the Governor in Council.

118 Local authority not to alienate water-race.

It shall not be lawful for any County or Borough Council to assign in any way, or to alienate or transfer, any water-race the property of the Corporation of the county or borough; and every assignment, alienation, or transfer of any such water-race shall be absolutely void and of no effect.

Applications, how made

119 Applicant for license, &c., to mark out land.

Any applicant for any license, or for any claim, right, or privilege which may be granted under the provisions of this Act, shall mark out in manner prescribed the land in respect whereof he applies.

120 Claims, &c., may be registered.

All claims, rights, and privileges, mining partnerships, and agreements between holders of miners' rights or business licenses may be registered.

121 License or certificate of registration to be taken out.

Every claim, right, or privilege that may be granted by a Warden upon application shall be held to be granted under the condition that a license or certificate of registration shall be taken out by the grantee within thirty days from the day of the granting of the license, and in case the grantee shall fail to take out such license or certificate the grant shall lapse.

122 Claim, &c., may be assigned.

Any claim, right, or privilege held under this Act, and any share or interest therein, may be transferred or assigned, but, in all cases where it is provided that any such claim, right, or privilege must originally be registered, the transfer or assignment thereof must also be registered and noted on the back of the original certificate or license.

123 Registration fee.

The fee payable upon every registration or renewal of registration under this Act shall be one shilling.

Any person requiring any information from the registration-books in the Warden's office may obtain the same on payment of a fee of one shilling,

124 Person desirous of obtaining registered rights to give notice.

Any person desirous of obtaining a license for, or a registered right to, or certificate of registration for, any of the undermentioned claims, rights, or privileges shall, after marking the same, give notice to the Warden, and to all persons whose interests will be obviously affected, in the prescribed form or to the like effect, and shall post and maintain for fourteen clear days copies of such notices in such conspicuous places as shall be prescribed:—

Water-race.	Alteration or extension of a race.
Drainage area.	
Tail-race.	Tramway or shoot for mining purposes.
Branch race.	
Flood-race.	Dam or reservoir.
Sludge-channel.	Special site for machinery, or for any other mining purpose.
Main tail-race.	
Puddling-machine.	
Amalgamation of claims.	Prospecting-area.
Residence-site.	Any licensed holding or any claim, whether special, dredging, quartz, extended or double area.
Tunnel.	
Protection for more than fourteen days, and renewal.	Reduction in the number of men employed.

Diversion of the course of river or creek.

Every notice must contain the name of each member of the party applying, together with the number and date of his miner's right, and there shall also be set forth in the notice a statement of the time and place at which the application and objections (if any) will be heard and decided.

The Mining Registrar shall note upon every application the hour and day upon which the same was delivered at his office, and the priority of the application shall be decided according to such date.

125 Survey to be completed within six months.

The survey of every claim, licensed holding, or special claim shall be completed and plans thereof lodged in the Warden's Office within six months after the date of the application for the same to the Warden; and such application, unless the Warden in his discretion shall grant an extension of time for completing such survey, shall be deemed abandoned, and the ground applied for may be marked out and taken possession of as abandoned ground.

126 Where notice of application for race, tunnel, &c., to be posted.

Notices of application for any race, tramway, or diversion of a creek must be posted at each end of the proposed race, tramway, or diversion, and at each separate source of a water-race. Notice of application for a tunnel must be posted at the proposed mouth of the tunnel. Any other notice must be posted in some conspicuous place on the claim, or the site of the right or privilege to which the application refers, and in all cases one copy of each notice must be left at the Warden's office.

127 How objection to grant of claim, &c., notified.

Any person objecting to the grant of any claim, right, or privilege for which application has been made shall give notice in writing to the Warden and to the applicant prior to the hearing, and shall appear, either personally or by solicitor, registered agent, or attorney, to substantiate his objection at the time and place appointed for the hearing, and at the hearing the Warden may grant such costs to either party as he shall think fit.

All costs granted under this section may be recovered as a judgment in a Resident Magistrate's Court.

128 In case of more than one application for claim, &c.

If more than one application has been made for the same claim, right, or privilege, the preference shall be given to the prior application, which shall be decided by the Warden on the certificate of the Registrar as to the date and time on which the several applications were received. In case of there being simultaneous applications, the priority shall be decided by lot.

129 Hearing.

At the time and place appointed for the hearing of any application for any of the claims, rights, or privileges specified in section one hundred and twenty-four, the name of the applicant shall be called, and the application and objections (if any) heard, and, if no valid objection has been lodged, and if the Warden sees no valid objection, he may grant the application upon such terms as he may think necessary or desirable for the public good; and the same shall be registered, and a certificate of registration, or, in the case of a water-race, a license, shall be issued to the applicant.

130 Hearing may be had in absence of applicant.

When any application has been posted for the time herein limited, and the applicant does not desire to attend at the Warden's Court on the day fixed for the hearing of such application, the applicant shall forward to the Clerk of the Warden's Court wherefrom such notice was issued one of the application notices with a statement indorsed thereon, signed by not less than two persons, being the holders of miners' rights residing in the locality where the right or privilege is applied for, setting forth that such notices had been posted in some conspicuous place, as herein required, for the time limited, and that the same does not cross any road; or, if there be no persons residing in the locality, then the applicant shall set forth in writing that such notices were posted as by law required and that the right does not cross any road, and such statement shall be witnessed by a Justice of the Peace or Postmaster.

The Warden, on receiving such indorsed application notice, shall, if he be satisfied that there is no objection to the same being granted, deal with it in the absence of the applicant; and if the right be granted the indorsed notice shall be filed with the original application;

But if the Warden be not so satisfied he shall postpone the hearing of such application, and fix a subsequent day for the hearing of such application, and notify the applicant to be present.

131 Preliminary hearing, application for, prior to survey.

At the option of the applicant, prior to the survey of any licensed holding, or special claim applied for, the Warden shall hold a preliminary inquiry as to the reasonableness or otherwise of granting such licensed holding or special claim; and if, on the day fixed for such preliminary hearing, there be no objections, or if there be objections and the said objections be overruled, the survey shall proceed, and the application be thereafter dealt with as provided by the regulations made in that behalf. And no objection after the preliminary hearing, unless in case of encroachment, shall be entertained unless accompanied by a deposit of five pounds, and unless the same be lodged at least two days prior to the day fixed for the final hearing of the said application, and a copy thereof served upon the applicant by the objector.

132 Survey charges taxable.

On any survey of a licensed holding or special claim applied for having been made, the surveyor shall, with the plans of such licensed holding or special claim, in addition to the report thereon, furnish to the Warden a detailed statement, showing the amount of the costs and charges made for such survey; and the Warden shall have power to tax the said costs and charges.

133 When re-survey unnecessary.

In any case of taking up, whether on forfeiture or otherwise, any claim, licensed holding, special claim, or other mining right, already surveyed, and a plan of which is in the Warden's office, a re-survey shall not be necessary unless ordered by the Warden: Provided that the same shall be marked off as herein required, and as originally surveyed.

*Exchanges, Surrenders, &c***134 Leases granted before 1887 to be exchanged for licenses under this Act.**

The Warden of every district, either upon or without the application of the person then entitled to any gold-mining lease or mineral lease granted under any Act in force in such district before the date of the passing of "The Mining Act, 1886," shall grant and issue a license for the same under this Act, in the name of the original lessee or his assignee, for the unexpired term only of such lease, and such license shall entitle the holder thereof to the same rights and privileges as he had under the aforesaid lease; but the Warden may, upon the application of the lessee, grant such license for such other period as the Warden shall think fit, not exceeding twenty-one years inclusive of the said unexpired term, and in every such case the license shall be granted subject to the provisions of this Act.

- (1.) On any such license being granted, the lease shall thereupon *ipso facto* be null and void, and the land shall thenceforth be held under the said license, subject, except as hereinabove mentioned, to the provisions of this Act and all regulations made thereunder relating to the district in which such land is situate.
- (2.) All deeds and documents executed and signed by the lessee, his executors, administrators, and assigns, subsequent to the date of the lease but before the issue of the license, shall, for the purpose of completing titles of parties to such deeds and documents, have the same force and effect, so far as can be, in respect of the land therein included, as though such deeds and documents had been founded on the said license instead of the said lease.
- (3.) All rights, titles, and interests which may have been lawfully created after the date of the said lease and before the granting of the license, and then subsisting, shall be deemed, so far as can be, to have been created under the said license, and shall be held and enjoyed accordingly.

135 Licenses may be surrendered.

Any person holding a license under the provisions hereinbefore contained, or under the provisions of any Act heretofore in force, and the executors, administrators, or assigns of any such person, shall be entitled at any time to surrender the same, on condition that all arrears of rent due up to the date of surrender are paid.

136 New licenses may be granted, or former licenses renewed.

The Warden, with the consent of the Governor, on being satisfied that the conditions of the previous license have been satisfactorily complied with by the licensees, may grant a new license under this Act to any person surrendering his license, or may grant to any licensee a renewal of his license on the expiration thereof, in either case for a term not exceeding twenty-one years, of the whole or any part of the land held under such surrendered or expired license, and any such new license or renewed license may, with the like consent, be renewed from time to time for any period not exceeding twenty-one years (as the case may be) at each renewal.

Every such new or renewed license shall be at the rent which shall then be chargeable by law in respect of licenses, according to the nature of such now or renewed license, and shall be subject to the covenants and conditions prescribed by the regulations which shall at the time of granting thereof be in force and applicable to the particular license required, or such other covenants and conditions as to the Governor may seem fit.

137 Compensation for improvements on expiry of license.

The Warden, on the expiration of any license to mine for any metal or mineral, or on any surrender thereof, may cause all buildings and machinery necessary for the proper working of the mine then on the land held under such license to be assessed by such person or persons as he may appoint for that purpose, and the amount of valuation shall be paid by the incoming tenant to the Receiver of Gold Revenue before such tenant shall be let into possession of the land to be comprised in the license.

The aforesaid Receiver shall pay over to the person who at the expiration of the old license was the licensee or transferee and holder of such license the amount received for such valuation.

No lessee or licensee shall have any claim for valuation or compensation for or on account of any improvements against the Crown; but when and as soon as any sum of money shall be received by the Receiver from any new licensee in payment of improvements, such sum shall be paid over by the Receiver to the person who at the expiration of the old license was holder thereof.

138 Titles may be surrendered and brought under Act without loss of priority.

The owner of any claim, race, machine-business- or residence-site, or other mining tenement or easement under any Act repealed by "The Mining Act, 1886," or under any regulations made under such Act so repealed, may surrender the same and obtain a similar title to such claim, water-race, machine-business- or residence-site, or other mining tenement or easement under this Act, and such similar title so obtained shall not prejudice the rights enjoyed by the owner immediately prior to such surrender, but shall be of the same force and effect as if no such surrender had been made.

- (1.) Every such owner shall make application for that purpose to the Warden of the district in which his claim, race, machine-business- or residence-site, or other tenement or easement is situated.
- (2.) If it shall appear to the Warden that any person other than the applicant is or may be interested in any such claim, machine-business- or residence-site, or other tenement or easement, the Warden shall require such applicant to obtain the consent of such interested person, and the Warden may, whether there shall appear to be any person interested or not, direct the applicant to advertise his application in such manner in some newspaper circulating in the district, or otherwise notify the same, as the Warden shall think fit, or as shall be prescribed by any regulations in that behalf.
- (3.) The Warden may grant any such application as aforesaid although it may appear that the applicant is entitled to such claim, race, machine-business- or residence-site, or other tenement or easement at law only or in equity only, if the person having the legal estate or the equitable interest shall in writing consent to such application, or he may grant such application if the applicant having an equitable interest only shall be in actual possession, and it shall be made to appear to the satisfaction of the Warden that the consent of the person having the legal estate, or that of any other person interested and capable of consenting, cannot, owing to absence from the district or otherwise, be obtained.

Nothing in this section contained shall be construed to supersede any of the provisions of section one hundred and thirty-four.

139 Unlawful occupier of land to be deemed a trespasser.

If any person who shall not previously have been in lawful occupation of any land for which a license has been applied for shall at any time thereafter, until or unless the application for the license shall be refused, or unless authorised thereto by the Governor, enter upon, occupy, or in any way interfere with such land, such entry, occupation, or interference shall be deemed a case of trespass or encroachment within the jurisdiction of the Warden, and the applicant for the license may proceed therefor, and for any damages in respect of such trespass

or encroachment, and for the recovery of any gold taken by such person out of such land or of the value thereof.

The applicant shall not be entitled to have delivered to him any such gold, nor to receive payment of the amount of the value thereof, nor of any damages awarded to him, until it shall have been decided to grant his application, but such gold or such award of damages shall, until the matter of the application shall be determined, be lodged with the Receiver of Gold Revenue, and, if determined in favour of the applicant, shall be delivered or paid to him, and, if otherwise, to the person from whom the same shall have been recovered, unless the Warden shall order the same to be forfeited to Her Majesty, as he is hereby authorised to do if he shall so think fit.

140 Action for trespass.

No action shall be brought for any trespass upon or in respect to any land, tenement, or casement held or derived under this Act unless such land, tenement, or casement was at the time of such alleged trespass visibly occupied or used or in the corporal possession of or appropriated by visible boundary-marks by, or on behalf of, or to the person bringing such action.

Forfeiture of Rights

141 License liable to forfeiture.

If the holder of any licensed holding, claim, special claim, mining right, or license for any water-race, dam, or reservoir shall fail to pay any license-fee or rent when it becomes due, or within sixty days thereafter, or if he shall fail to comply with any other of the conditions on which he holds, the same shall be liable to be forfeited.

New license may be granted for part.

If a portion only of the land comprised in any license, grant, mining right, or certificate is declared to be forfeited, a new license, grant, mining right, or certificate for the remaining portion shall be granted by the Warden to the former owner; and such new license, grant, mining right, or certificate, so far as regards such remaining portion, shall have the same effect and be subject to the provisions of this Act in like manner as the original license, grant, mining right, or certificate.

142 Decision declaring forfeiture to render license void.

So soon as a decision declaring a forfeiture of a license, grant, mining right, or certificate shall be given and take effect, either by the Warden's Court without appeal, or by the Supreme Court or District Court, the license, grant, mining right, or certificate shall be void, and the former owner and all persons holding under him shall cease to have any interest in the land comprised in the license, grant, mining right, or certificate, and the same shall be open to applicants in manner hereinafter provided.

Former owner may remove plant, &c

The former owner may, at any time within thirty days after the declaration of forfeiture takes effect, or within such further time as the Warden, in his discretion, may appoint, on application made to him in that behalf, remove any plant, machinery, engines, tools, or materials, but no timber used in supporting the shafts, drives, galleries, or adits of any mine, nor materials used in the construction of any race, water-race, tunnel, dam, or reservoir; and if any person shall offend against this provision he shall forfeit and pay any sum not exceeding one hundred pounds in addition to the value of the injury done by such removal: Provided that, on application, the Warden may extend the period for the removal of such plant, engines, tools, or materials.

143 Fine may be substituted in lieu of forfeiture.

Notwithstanding anything contained in this Act, the Warden may in any case, on sufficient cause being shown, substitute a monetary fine in lieu of forfeiture, and may allow thereout a sufficient sum to defray any reasonable expenses incurred by the plaintiff, if any, in the prosecution of his suit.

144 Warden may remove persons from forfeited land.

The Warden shall have power, by warrant under his hand addressed to the bailiff of his Court, or the officer in charge of the police, to remove therefrom any person in possession of land adjudged or declared to be forfeited.

145 Registrar may apply for forfeiture for breach of Act or regulations.

The Registrar, or any Inspector, or any other person may institute proceedings in the Warden's Court to have any licensed holding, mineral license, claim, or other mining right acquired or deemed to be held under this Act adjudged to be forfeited by reason of the rent, fees, or dues payable in respect thereof being in arrears for more than sixty days, or for non-compliance with any provisions of this Act, or of any regulation made thereunder.

No forfeiture declared under this section shall exonerate any persons from the payment of any rent, fees, or dues in arrears at the time of such forfeiture.

146 Forfeited land to be publicly open to applicants. Priority.

In case the Warden shall adjudge such forfeiture, the land shall be deemed unoccupied and be open to all applicants; but if the proceedings for forfeiture have been instituted by any person other than an officer appointed under this Act, then such person may be declared first applicant and may apply for possession of the right so forfeited as aforesaid, and in such case he shall, in the discretion of the Warden, have priority and be deemed the first applicant for the same or any portion thereof.

147 Forfeited land taken up to be doomed a claim.

When any forfeited land is taken up it shall thenceforth be subject to all the provisions of this Act: Provided that the land shall be subject to any existing rights of persons other than those whose rights are forfeited theretofore lawfully granted in respect of the same.

148 Holdings liable to forfeiture.

Every licensed holding, claim, special claim, water-race, water-right, dam, reservoir, land, machine-business- or residence-site, and every easement held under miner's right or business license shall be so held upon the express condition that the same shall be *bonâ fide* used for the purpose for which the same was granted, taken possession of, or for other purposes contemplated by this Act, and that operations be carried on in the same or in connection therewith with reasonable diligence; and every such licensed holding, claim, special claim, water-race, dam, reservoir, land, machine-business- or residence-site, or easement not so used, or in respect to which operations as aforesaid shall not be so carried on, shall be liable to forfeiture, and the holder thereof may be dispossessed or otherwise dealt with in accordance with any provision or regulation providing for the forfeiture of the same respectively.

149 Rights acquired forfeited by desertion, and open to application.

Any right derived under this Act by virtue of a miner's right or business license in or to any claim, water-race, water right, dam, reservoir, machine-business- or residence-site, land, tenement, or easement, may, notwithstanding the continuance of such miner's right or business license, be lost by abandonment or desertion; but the interruption of use arising from natural causes only shall not amount to such an abandonment or desertion.

Any person may make application to the Warden to be put in possession of any abandoned or deserted ground or water-race, water right, dam, or reservoir, as if it had never been occupied or held; and such application shall be heard by the Warden subject to sufficient public notice being given thereof as to allow of objections to be made to the granting thereof.

*Deposit of Tailings***150 Governor may set apart Crown lands for deposit of tailings.**

The Governor, at any time and from time to time, and either by particular or general description, may set apart, by Proclamation, any portion of Crown lands for the construction of tail-races or sludge-channels, or for the deposit of tailings and *debris* from any workings or mining operations, or for the discharge of water, tailings, and refuse therefrom.

151 Governor may take land for deposit of tailings or for sludge-channels.

The taking of land for the deposit of tailings or for the construction of sludge-channels or tailings-channels in connection with mining operations shall be deemed to be taking of land for a public work within the meaning of "The Public Works Act, 1882;" and the Governor may accordingly take land under such Act for the aforesaid purposes.

152 Governor may appoint watercourses for receiving tailings, &c.

The Governor in Council, from time to time, by Proclamation published in the *Gazette*, may proclaim and declare that any watercourse or part of any watercourse shall be a watercourse into which tailings, mining *debris*, and waste waters of every kind used in, upon, or discharged from any claim or licensed holding shall be suffered to flow or be discharged, and in like manner may withdraw any such watercourse from the operation of this Act.

Before any such Proclamation shall be made as herein provided, the Governor shall cause not less than ninety days' notice of the fact that application has been made to him to proclaim a watercourse or part of a watercourse for the purposes aforesaid, to be published in the *Gazette*, and in at least one newspaper circulating in the mining district where such watercourse or part thereof may be situated, stating the name and locality of the watercourse or part thereof in respect of which such application has been made; and any person whose rights may be or appear to be injuriously affected shall be at liberty to transmit to the Governor any objections such person may have to the making of such Proclamation.

If, notwithstanding any such objections, the Governor shall decide to exercise the powers hereby conferred upon him, such Proclamation shall prescribe a day on which the same shall take effect, being not less than ninety days from the date of the publication thereof in the *Gazette*.

"Watercourse" means and includes any river, stream, creek, pool, or any portion thereof, or any tributary thereof, mentioned or included in any such Proclamation, and whether within the limits of a proclaimed mining district or not; but in any such Proclamation it shall be sufficient to describe the watercourses affected by it in general terms.

153 Compensation to former landowners on banks of watercourses.

Prom and after any such Proclamation taking effect, all persons being owners of, or having any lesser estate or interest in, any lands through, in, or past which any such watercourse may flow, whose rights may be injuriously affected by any such Proclamation, shall be entitled to receive compensation for such injury, to be settled either by agreement between the Minister and the claimants within the time hereinafter mentioned, or determined under Part III. of "The Public Works Act, 1882," in manner as hereinbefore mentioned.

Claims, how to be made.

- (1.) Every claim for compensation under this section shall include the claimant's full demand in respect of injury or damage to any land through, in, or past which any watercourse may flow occurring after the date of the gazetting of such Proclamation, and which may be likely to occur prospectively after it takes effect, and the Compensation Court shall require the amendment of any claim not made in conformity herewith; but every such demand shall be included in one claim, and heard and determined in the manner provided by this Act.

Nothing herein contained shall bar the right to compensation under the provisions of this Act of any person being on or previously to the date aforesaid owner of, or having any lesser estate or interest in, any such land other than the person whose claim has been agreed upon or ascertained as aforesaid, and all persons claiming from, through, or under him.
- (2.) Payment of compensation when agreed upon or ascertained under this Act, or the tender thereof, shall effectually bar the person making such claim, and all persons claiming from, through, or under him, from all further claims of any kind whatsoever in respect of any such injury or damage, past, present, or future, or arising in any manner from the operation of such Proclamation, or any subsequent Proclamation of the same watercourse; and such compensation, when agreed upon or determined under this Act, shall be deemed to be settled once for all against all claimants.
- (3.) The compensation agreed to be paid, or that may be determined under this Act, for or in respect of any such claim, shall not exceed the value of the land to which such injury or damage has occurred, according to the valuation thereof in force under "The Property Assessment Act, 1885," or any Act amending the same, at the date when the Proclamation first declaring the watercourse has been gazetted; and if for any reason there has been no such valuation, then the Compensation Court may, in such manner as it thinks fit, determine what is the value of such land for the purposes of the said Act and this Act as nearly as may be as if the same had been made under "The Property Assessment Act, 1885,"
- (4.) A notification in the *Gazette*, signed by the Minister, that any such claim has been settled by agreement or determined by a Compensation Court, as provided by this Act, shall be sufficient notice of the fact to all persons concerned or interested, or that may thereafter be concerned or interested, in such land that no further claim or demand can be made in respect of the injury or damage thereto occasioned by the operation of any such Proclamation.
- (5.) Regulations may be made in the manner provided by this Act prescribing the mode in which any Compensation Court shall record on any instrument of title or other document that may be in evidence before it, or be required to be produced for the purposes of such Court, such particulars of the claim heard

and determined as the Court thinks fit, and also for requiring and compelling the production of such instruments or documents accordingly.

- (6.) All charges and expenses incurred by the Colonial Secretary in carrying out the provisions of this and the last-preceding section shall be paid out of the same fund as the compensation is paid.

154 Compensation excluded.

The provisions of the last-preceding section shall not have effect in respect of any persons purchasing, leasing, occupying, or otherwise acquiring Crown lands within a mining district after the twenty-third day of December, in the year one thousand eight hundred and eighty-seven.

155 Lands sold not to be subject to water rights.

No person who, since the twenty-first day of October, one thousand eight hundred and seventy-five, has purchased or acquired, or shall hereafter purchase or acquire, any Crown lands under any law for the time being in force regulating the sale or acquisition of such lands shall be deemed to have any right or title to the flow of any watercourse which shall have been, at any time proclaimed under section two of “The Goldfields Act Amendment Act, 1875 (No. 1),” or under section one hundred and fifty-two of this Act, running through, in, or upon such lands, which would interfere with or prejudice the right of any holder of a miner’s right or mining lease to discharge into such watercourse any tailings, mining *débris*, or waste water produced or used in or upon any claim as aforesaid.

156 Purchasers after 1887 of land on watercourses in mining districts to acquire no riparian rights.

No person who, after the twenty-third day of December, in the year one thousand eight hundred and eighty-seven, shall purchase, lease, occupy, or otherwise acquire any Crown lands within a mining district under any law for the time being in force regulating the sale or acquisition of such lands shall be deemed—

- (1.) To have any right or title to any watercourse, or the water flowing therefrom, running through, in, or upon such lands which would interfere with or prejudice the right of any holder of a miner’s right or mining lease, licensed holding, claim, or special claim to discharge into such watercourse any tailings, mining *debris*, or waste water produced or used in or upon any claim within a mining district; or
- (2.) Be entitled to claim or recover any compensation or other payment for damage caused by reason of the deposit or flow of tailings or mining *debris* into any such watercourse.

*Drainage of Mines***157 Owners of mines to contribute towards expense of raising water by machinery.**

The owner of any efficient machine or appliance which is employed in raising, lifting, or draining water from any mine shall be entitled to receive contribution for the expense of raising or draining water from such mine from the holders of or persons working adjacent mines benefited by such machine, or which adjacent mines, from the mode of working the same, shall have added to the volume or quantity of water to be raised.

158 Governor may make regulations for Drainage Boards and their functions within drainage areas.

The Governor may from time to time, by Order in Council, make, alter, and repeal regulations for all or any of the purposes following, that is to say:—

- (1.) For fixing drainage areas, and altering or abolishing the same;
- (2.) For the formation and constitution of Drainage Boards, the election or appointment of members thereof, and for prescribing their tenure of office, and their duties, powers, and functions;
- (3.) For prescribing the manner in which drainage rates, as contributions for drainage works, shall be assessed on lands within drainage areas, and the making, levying, collecting, and recovery of such rates;
- (4.) For regulating appeals against such assessments.

159 Only lands benefited by drainage works to be liable to contribute.

All lands within any drainage area which are directly or indirectly benefited by the drainage works therein, and no other lands, shall be liable to be assessed for contribution to the Drainage Board thereof for drainage works.

The contribution to be paid in respect of any lands may be assessed in a proportionate manner according to the amount of gold or other minerals derived from such lands, the area of the lands, and the depth of the workings thereon.

160 Contributions may be recovered in Warden's Court.

All sums of money due or payable as contributions for drainage works to any Drainage Board under this Act and any regulations made hereunder may be sued for and recovered by action in the Warden's Court, by and in the name of the Chairman of the said Board for the time being, as a debt due to the Board.

At the hearing of any such action the Warden's Court shall give judgment as it shall think just under all the circumstances of the case, and may make an order for payment by the defendant of such an amount for contribution as it shall think reasonable, together with costs if it thinks fit, and may prescribe the time, mode, and conditions of payment.

161 Owner of machine to give notice of discontinuance.

If at any time the owner of any machine or appliance to whom contribution is paid as aforesaid shall intend to discontinue drainage operations, he shall give at least three months' notice of such his intention to all contributors; and, if any such owner shall discontinue such operations without giving such notice, he shall be liable to damages for any injury that any contributor may sustain in consequence of the stoppage of the machine or appliance, to be recovered in the Warden's Court.

Such machine-owner shall not be liable for any injury or damage on account of the sudden stoppage of drainage operations if such stoppage was caused by accident to machinery or other cause over which he had no control: Provided that all due diligence be exercised in repairing such damage or injury.

162 Local authorities may pay contributions out of Local Fund.

Any County Council or Borough Council may from time to time contribute out of the County or Borough Fund such sums as they may think fit towards the expenses incurred by any company or person in draining any mines situate either within the county, borough, or town district, or adjacent thereto.

*Transfer and Registration***163 Governor may make regulations for transfer of title, &c., to mining property.**

It shall not be necessary under this Act, nor deemed to have been necessary under any other Act previously in force, that any right, title, and interest in mining property shall be transferred by deed.

The Governor, subject to the provisions of this Act, from time to time may make, alter, amend, and revoke regulations for regulating the mode in which any right, title, or interest in any mining property acquired or created under this Act or any Act heretofore in force may be transferred or disposed of.

164 Several rights may be transferred by same instrument.

It shall be lawful to set forth in the same instrument more than one right intended to be assigned or transferred by such instrument, and not more than one registration-fee shall be charged for the registration of any such instrument.

165 Memorials of encumbrances.

The Mining Registrar shall, prior to its issue, indorse on every license, whether original or renewed, and on every certificate of registration, or other mining title affected by any assignment, mortgage, or other instrument duly registered in the office of the Warden's Court, a memorial of such instrument, setting forth the nature of such instrument, the date thereof, and the names of the parties thereto.

166 Transfers of interests to be registered.

No share or other interest in any claim or other mining-right shall be deemed to be transferred unless and until the name of the transferee be entered as such transferee in the register of the Warden's Court.

- (1.) Every transferor of a share or other interest in any claim or other mining-right shall, at the time of executing the transfer, attach to his signature the true date of signing such transfer, and such date shall be deemed the date of the transfer of the said share or other interest to the transferee.
- (2.) Any transferee of a share or other interest in any claim or other mining-right who shall, after the expiry of thirty days if the transfer is executed within the colony, of sixty days if executed in any of the Australasian colonies other than New Zealand, and of one hundred and twenty days if executed in any other place, from the execution of the transfer to him of such share or other interest, neglect to deposit the same with the Mining Registrar for the purpose of having such transfer registered in the register of the Warden's Court; and

Any transferor of a share or other interest in any claim or other mining-interest who shall fail to insert on the transfer the true date of executing the same by him; or

Any Mining Registrar registering a transfer contrary to the provisions of this Act, or neglecting to indorse on any transfer the true date upon which he received such transfer for the purpose of registration,

—shall be liable to a penalty of ten pounds.

- (3.) No transfer of a share or other interest in any claim or other mining right shall be registered by the Mining Registrar after the expiration of the time hereinbefore prescribed from the execution thereof by the transferor without the authority of the Warden, who, upon reasonable cause being shown why the transfer was not previously registered, may order the Mining Registrar to register such transfer upon such terms or conditions, and subject to such penalty, as such Warden thinks fit.

167 Unregistered deeds void as against registered deeds.

Every deed, contract, or other instrument relating to the title to or transfer of any claim, water-right, water-right, dam, reservoir, residence-site, land, tenement, or easement, by any such regulations required to be registered, shall, as far as regards any such property affected or to be affected thereby, be void as against any person claiming *bonâ fide* and for valuable consideration under any subsequent deed, contract, or instrument duly registered, unless the prior deed, contract, or instrument shall have been registered before the registration of the subsequent deed, contract, or instrument.

168 Limit of time for taking proceedings for cancellation of deeds.

If any person shall have *bonâ fide* purchased and registered the transfer of any licensed holding, claim, special claim, water-race, or other mining right, and no action, suit, or proceeding shall have been commenced for the forfeiture or cancellation thereof within six months after such transfer has been registered, the title to such claim, special claim, water-race, or other mining-right shall be held to be valid, notwithstanding the same had become liable to be forfeited.

*Validation. Past Transactions***169 Renewal of rights, &c., validated in certain cases.**

Every miner's right, business license, water license, or lease issued or granted under any Act repealed by "The Mines Act, 1877" (hereinafter called "the said Act"), or under any regulations made thereunder, and which miner's right, business license, water license or lease has been renewed under the said Act, or under any regulations made thereunder, shall be in full force and effect, and shall confer the same rights and privileges and entail the same penalties and obligations as if the renewal had been granted under any Act so repealed as aforesaid, or under any regulations made thereunder: Provided that nothing herein contained shall prejudice or affect the validity of any miner's right, business license, or lease issued under any Act or regulations repealed by the said Act, which miner's right, business license, or lease has been renewed subsequent to the first day of January, one thousand eight hundred and seventy-eight, in terms of the Act or regulations so repealed.

170 Validation of licenses signed in error by Registrar.

Every license or other document issued by a Mining Registrar and signed by him in error, in lieu of the Warden, is hereby validated, and shall have full effect and operation as if the same had respectively been signed by the Warden.

171 License to be evidence of preliminaries being done.

Every license which has been or shall be granted under any Act for the time being in force relating to mining shall be deemed conclusive evidence that all proceedings as to, and things required to be taken and done respectively under any such Act prior to, the granting or issuing of such license have respectively been taken and done.

172 Validation of transfers of water-races heretofore made

The indorsement of a memorial of any transfer of, or mortgage of, or other dealing with any water-race, or of any extension or alteration of a water-race, or any license purporting or expressed to be a renewal of a prior license for such water-race, shall be and be deemed to have been sufficient, without the same being also indorsed on the original license, notwithstanding anything contained in "The Mining Act, 1886," or any Act repealed by that Act:

Provided that nothing herein contained shall be deemed to repeal any of the provisions of this Act as to water-races and any dealings therewith.

173 Rights surrendered under former Acts not to be affected as to priority.

Any claim, race, machine-business- or residence-site, or other mining tenement or easement granted under any Act repealed by “The Mines Act, 1877,” or any regulations made under such repealed Act, and which has been surrendered under “The Mines Act, 1877,” shall have the same right as to priority in regard to other grants of a similar nature granted subsequently to the date of such first grant as if there had been no such surrender as aforesaid.

174 Validation of renewals of mining rights.

Any renewal of any water license, lease, or other mining right heretofore granted under any Act for the time being in force for the administration of goldfields, which water license, lease, or other mining right was originally granted under any other Act, since repealed, shall be of full force and effect: Provided that nothing herein contained shall be deemed to validate any defect other than a defect which may exist in such renewal of any such water license, lease, or other mining right.

175 Validation of mining rights notwithstanding miner’s right not renewed.

Any claim, water-license, lease, or other mining right granted under “The Mining Act, 1886,” or any Act for the time being in force for the administration of goldfields, shall be of full force and effect, notwithstanding the owners thereof may not have been the continuous holders of miners’ rights, water-licenses, certificates, leases, or other mining rights from the first day of December, one thousand eight hundred and eighty-six, to the day of the commencement of this Act: Provided that nothing herein contained shall validate the title to any claim, water license, lease, or other mining right which is the subject of litigation at the time of the passing of this Act.

176 Thames Drainage Board deemed duly constituted.

The Thames Drainage Board, as constituted by regulations under an Order in Council dated the nineteenth day of January, in the year one thousand eight hundred and eighty-six, and gazetted on the twenty-first day of the same month and year, and the Thames drainage area fixed by the same regulations, and all powers and authorities granted to the said Board under the said regulations, and all other matters and things provided for in the said regulations, and all rules therein prescribing the manner in which drainage rates as contributions for drainage works shall be assessed on lands within the said area, the making, collecting, and recovery of such rates, and for regulating appeals against such assessments, shall be in force and be deemed to have been in force continuously since the original date of their coming into force, notwithstanding the passing of this Act or any Act hereby repealed; and any or either of the said

Acts shall not be deemed to have repealed the aforesaid Order in Council of the nineteenth day of January, one thousand eight hundred and eighty-six, nor any regulations made thereunder.

Part II

MINING PARTNERSHIPS

177 This Part of Act not to apply to mining companies.

This Part of this Act shall not apply to any company or association incorporated or registered under “The Companies Act 1882,” or “The Mining Companies Act, 1886,” or under any charter, granted by the Crown or any Act of the Imperial Parliament or of the General Assembly.

178 What constitutes a mining partnership.

A mining partnership exists when two or more persons own or acquire a claim or licensed holding for the purpose of working it, and actually engage in working the same, or jointly employ others to work the same for them; and whether there be a written contract of partnership or not.

179 Express agreement not necessary for formation of partnership.

An express agreement to become partners, or to share the profits or losses of mining, is not necessary to the formation or existence of a mining partnership. The relation arises out of the ownership of shares in a claim, and working the same for the purposes for which the same were taken possession of or granted.

180 Proportionate share of interest held.

A member of a mining partnership shares in the profits and losses thereof in the proportion which the interest or shares he owns in the mine bears to the whole number of shares.

181 Partners to have lien on shares for amount of debts due to creditors.

Each member of a mining partnership has a lien on the partnership property for the debts due to the creditors thereof and for money advanced by him for its use; and on any one or more of the partners delivering to the Warden or Mining Registrar a statement in detail showing the names of the partners and creditors, and the amounts due to each partner or creditor, as the case may be, the Warden or Mining Registrar, if the claim be entered in the mining register, shall register the said lien.

Every such lien shall be registered in manner prescribed by regulations for that purpose under this Act, and a book shall be kept by the Mining Registrar in which particulars of such lien shall be entered, and every such statement may be inspected and the said book searched by any person on payment of the prescribed fee; and any lien so registered shall be discharged in manner provided by regulations made as aforesaid.

Before any such lien shall be registered, a statutory declaration shall be made under “The Justices of the Peace Act, 1882,” by the partner or partners applying to register such lien, certifying that the amounts set forth in the detailed statement are due and owing.

182 Ground worked to be partnership property.

The claim owned and worked by partners in mining, whether purchased with partnership funds or not, is partnership property.

183 Purchaser from date of purchase becomes partner.

One or more of the partners in a mining partnership may convey or assign his interest in the claim without dissolving the partnership, and without the consent of the other members. The purchaser from the date of his purchase becomes a member of the partnership.

184 Purchaser takes interest subject to partner’s lion for debts.

A purchaser of an interest in a claim of a mining partnership takes it subject to the liens existing in favour of the partners for debts due to all creditors thereof, or advances made for the benefit of the partnership, and which are included in a lien registered as before provided, but not further.

185 When mine working, purchaser takes notice of lien to partners and creditors.

A purchaser of the interest of a partner in a claim, when the partnership is engaged in working it, takes by and with such purchase notice of all liens resulting from the relation of the partners to each other and to the creditors of the partnership, and which are included in a lien registered as before provided, but not further.

186 Contracts by agent or manager not binding unless in writing.

No member of a mining partnership, or other agent or manager thereof, can by a contract in writing bind the partnership except by express authority in writing derived from the members thereof.

187 Decision of majority binds members in conduct of business.

The decision of the members owning a majority of the shares or interests in a mining partnership binds it in the conduct of its business.

188 Non-representation ground for dissolution of partnership.

It shall be a ground for dissolution of a mining partnership if any member of a partnership shall neglect or refuse, within thirty days after personally receiving notice in writing thereof from the other partner or partners, to pay or satisfy any assessment of the partnership liabilities, or who shall neglect, when notified in writing by the other partner or partners so to do, to perform any labour

or discharge any liability incurred, or to represent or have represented the share held in such claim, and by which such non-representation the co-partnership property as a whole is or may become liable to forfeiture.

189 On abandonment or desertion of interest, partners may sue to be put in possession.

If any member of a partnership shall abandon or desert for a period of thirty days the interest held by him in any claim, and by such abandonment or desertion cause the whole of the partnership property to become liable to forfeiture, the other partners may institute proceedings to be put in possession of such abandoned share or interest, as though the partnership had never existed.

190 Partners may put on a wages-man.

If at any time any share in any claim be unrepresented for forty-eight hours, and such non-representation shall prevent the proper and profitable working of such claim, the co-partners or managing partner or person in charge of such claim may employ any person or persons at current rate of wages to represent and work the said share, and the person or persons so employed shall have a lien for his wages upon the share so represented by him; and the co-partners, managing partner, or person in charge of the said claim may pay to such person or persons the amount due for wages out of any profits accruing to such share.

In case there be no profits, or the profits are insufficient to pay the wages due, the managing partner or other partners, or persons in charge, may pay the said wages, and to the extent of the moneys paid shall have alien on the partner's share so represented and worked: Provided, where practicable, the co-partners, managing partner, or person in charge shall, within seven days from the time any such person was first employed, give the absent partner or his agent notice in writing that a wages-man had been employed by them to represent such share.

Any lien for wages under this section may be registered under the provisions and in the manner hereinbefore provided in the case of members of a mining partnership.

Part III MINING DISTRICTS

Crown Lands subject to Act

191 Districts, how constituted.

The Governor may from time to time, by Proclamation, constitute and appoint any portion of the colony to be a mining district under this Act, assign boundaries to such district, enlarge, contract, or otherwise alter such boundaries, and declare by what local name every such district shall be designated.

192 Reserves exempt from Act. Saving.

All Crown lands which shall have been or hereafter shall be reserved for any public use or purpose shall be and the same are hereby exempted from the operation of this Act: But the Governor may, in manner as hereinafter mentioned, authorise the occupation of any such exempted lands, either for mining purposes or for machine-business- or residence-sites, or for the construction of races, dams, or reservoirs thereon, or of races, drives, or tunnels thereunder, subject to such conditions, restrictions, and regulations as he may think fit to impose.

All reserves, however, which, under the authority of any Act, have been brought within the operation of any Mining Act heretofore in force, and were within such operation at the time of the commencement of this Act, shall be subject to the operation of this Act.

193 Governor may reserve land in districts.

Nothing in this Act contained shall be construed to limit or abridge the power of the Governor to reserve any Crown lands within a mining district.

Crown lands within hundreds or elsewhere which are or may be declared commonage lands shall not be deemed to be reserved for any public use or purpose within the meaning of this Act.

194 Governor may exempt land in districts from Act.

The Governor, in any Proclamation constituting a mining district, and also from time to time by Proclamation subsequently issued, either by general or particular description may set apart for mining purposes exclusively any portion of Crown lands within a mining district, and in like manner may exempt from occupation for mining purposes, or for water-races, dams, or reservoirs, or for machine-business- or residence-sites, any land within the boundaries of such mining district, and from time to time may revoke any such exemption, or may alter the limits and extent of such exempted land as he may think fit.

195 Minister may set apart land exclusively for mining purposes.

The Minister may from time to time, with the sanction of the Governor, set apart for mining purposes exclusively any of the Crown lands within a mining district, or outside thereof but in the neighbourhood of any place where mining operations are carried on; and upon such reserve being so made the lands comprised therein shall cease to be Crown lands, and shall not be capable of alienation in any way, save for mining purposes, without the consent of the Minister, and then only by the Governor in Council.

196 Warden may temporarily reserve or exempt land from Act.

The Warden may, until the assent or dissent of the Governor is ascertained,—

- (1.) Reserve any Crown lands within his district for any public use or purpose:

- (2.) Exempt from occupation for mining purposes any Crown lands within his district.

197 State forests to be subject to Act. Saving of timber therein.

Notwithstanding anything contained in “The New Zealand State Forests Act, 1885,” all Crown lands heretofore set apart for forest lands, or which may hereafter be so set apart under the provisions of the Act last named, shall nevertheless continue to be subject to all laws relating to mining on Crown lands, and to any regulations made under such laws or any of them; but nothing contained in this section shall be construed to authorise the felling or removing of any timber upon forest lands within a mining district except under the provisions of “The New Zealand State Forests Act, 1885.”

198 Governor may abolish districts.

The Governor may, by Proclamation, from time to time abolish any mining district, and thereupon the same shall cease to be a mining district under this Act.

All rights, titles, and interests existing at the time of any such abolition shall be unaffected thereby, and shall remain, exist, and continue as though such abolition had not been proclaimed.

199 Governor may declare Act not to apply to certain districts.

The Governor from time to time, by Proclamation, and as from a day to be fixed therein, may declare that any of the sections of this Act, to be named in such Proclamation, shall not extend and apply to any mining district constituted or to be constituted under this Act, or to any portion of any such district as may be specified in such Proclamation.

On the making of any such Proclamation the sections therein named shall not apply to the district or part of a district therein named; and on the revocation of such Proclamation the aforesaid sections shall from thenceforth apply to such district or part thereof until otherwise ordered.

Public Reserves and Endowments

200 Governor may declare Act to apply to public reserves and endowments.

The Governor in Council may from time to time, by Proclamation, declare that such portion of this Act relating to mining districts and to Wardens’ Courts as he shall think fit shall have operation within any public reserve or endowment or any portion thereof respectively.

201 Thereupon Act to apply to such lands as if never reserved.

From and after the date of any such Proclamation as aforesaid such provisions of this Act as shall be mentioned in such Proclamation shall have operation

within any reserve or endowment so proclaimed, and which may be situated in any mining district, as if the same had never been reserved or granted.

- (1.) Every holder of a miner's right or business license may exercise the same respectively over any such public reserve or endowment, subject to the provisions of this Act and of any regulations made thereunder.
- (2.) All the regulations for the time being in force in any mining district shall apply and extend to any public reserve or endowment brought under the operation of this Act, or shall so apply with any modification or limitation thereof respectively as the Governor in Council may think necessary.
- (3.) The scale of fees to be charged in respect of the occupation, for mining or other purposes, of public reserves or endowments, or any portion of the said lands, shall be the same as those fixed by this Act and regulations made thereunder in respect of other lands.

All moneys arising therefrom shall be paid into the Public Account, and shall be paid out therefrom in the manner and the proportion which the Warden of the district wherein such moneys respectively arise shall determine in each case; and his decision shall be final.

- (4.) The Warden shall estimate the amount of all moneys derived from any public reserve or endowment under authority of this Act which would be payable as goldfields revenue to local authorities if there were no such public reserve or endowment, and such amount shall be paid to the persons or trustees respectively to whom or in whom the reserve or endowment in respect of which such moneys accrued is granted or vested.

202 Protection of constructed works.

Nothing in the last-preceding section contained—

- (1.) Shall empower any person to interfere in any way whatsoever with any works already constructed or that may be hereafter constructed by the Governor or trustees, or by any person or authority with the previous consent of the Governor or trustees, as the case may be, within and upon any public reserve or endowment:
- (2.) Shall detrimentally affect any rights in respect to mining or in connection therewith heretofore granted by the Warden upon any such reserve or endowment; and all such rights existing at the time of the coming into operation of this Act, and not being in any way injurious to the works upon the reserve or endowment, and the owners of which comply with any regulation hereafter to be made by the Governor in Council under the authority of this Act, shall be considered to be and be treated as rights granted under the provisions of this Act.

203 Saving of title of trustees of reserves, &c.

Nothing in the last three preceding sections shall affect—

- (1.) The title of the trustees to whom or in whom respectively any public reserve or endowment has been granted or vested, or any power or authority in respect thereof, so far as the same shall not conflict with the operation of this Act or any regulations made thereunder; or
- (2.) Any of the provisions of “The Kumara Education Reserve Act, 1879,” which shall continue in force as if this Act had not been passed.

204 Restriction of special power of alienation.

Notwithstanding any express or implied power in any Act, no trustees shall hereafter have any power to sell, mortgage, charge, lease, or otherwise dispose of any public reserve or endowment brought under the operation of this Act without the previous express consent of the Governor in Council: Provided, however, that all sales at any time, and all mortgages, leases, licenses, contracts, or agreements made, executed, granted, or entered into before the passing of this Act, or relating to any estate or interest in any such public reserve or endowment, and in force at the date of the passing of this Act, shall be valid and effectual to all intents and purposes; but any such licenses, leases, or contracts as aforesaid may nevertheless be brought under any special regulations made under this Act to such extent or in such manner as may be specified therein.

Native Reserves and Native Lands

205 Governor in Council may sanction application of Act to Native reserves in same manner as to public reserves.

The foregoing provisions of this Act relating to mining on public reserves shall not apply to any reserves made for the use, support, or education of aboriginal natives, except with the sanction of the Governor in Council, who may grant such sanction, from time to time, in respect to certain Native reserves only, or to certain classes of Native reserves in particular, or to all Native reserves generally, as he shall think fit, and subject in any case to such conditions and restrictions as may appear to him just and proper.

Whenever a Native reserve is proclaimed to be under the operation of this Act, the provisions of sections two hundred, two hundred and one, and two hundred and two of this Act shall apply, *mutatis mutandis*, in respect of such Native reserve in the same manner as if it were a public reserve: subject nevertheless as aforesaid.

206 Native lands within a mining district deemed Crown lands for mining purposes only.

All Native land within a mining district which has been at any time heretofore, or hereafter may be ceded by the Native owners thereof to the Governor for mining purposes shall for the said purposes, but no further or otherwise, be deemed to be Crown lands open for mining under the provisions of this Act,

subject in every case, however, to the terms and conditions of the particular agreement under which such land was ceded as aforesaid; and the Warden may deal with any such land accordingly, as if the same had ceased to be private land, during the subsistence of the agreement last aforesaid; subject, however, that all provisions of this Act which conflict with the terms of any such agreement shall be superseded by the said agreement.

207 Fees for machine-business- and residence-sites within Native lands.

Whenever Native lands have been or may be opened for mining purposes, there shall be payable for machine-business- and residence-sites on such lands respectively until the freehold thereof is acquired by Her Majesty such sums as may from time to time be prescribed, which sums shall be payable annually in advance; and the amount of the first payment shall be deposited with the Receiver of Land Revenue at the time of application for the site, to be estimated as the first annual payment if the application is granted.

208 Penalty for mining on Native land without authority.

Any person, not being the owner of land the property of aboriginal natives, and not being the holder of a prospecting license in respect of such land, who shall mine or dig for gold or any other metal or mineral thereon, shall be liable to forfeit and pay for every such offence a penalty not being less than five pounds and not more than fifty pounds.

209 Saving of Acts relating to Native land in mining districts.

Nothing in this Act contained shall be construed or deemed to alter or affect “The Auckland Goldfields Proclamations Validation Act, 1869,” or any of the provisions of the several agreements therein recited; and the Act last mentioned and “The Ohinemuri Goldfield Agricultural Leases Validation Act, 1876,” shall severally continue in full force, and shall have operation as if this Act had not been passed, subject, however, to the following provisions, that is to say:—

- (1.) All rents arising in respect of land described in the first four Schedules of “The Auckland Goldfields Proclamations Validation Act, 1869,” occupied under licenses or leases issued under any Act for the time being in force authorising the same, and the freehold of which has not been acquired by the Crown, shall for the purposes of the agreements recited in the first aforesaid Act be deemed to be money arising from miners’ rights.
- (2.) Sections six, seven, and eight of “The Ohinemuri Goldfield Agricultural Leases Validation Act, 1876,” are hereby repealed.

But any person who before the commencement of this Act may have become the holder of an agricultural lease, under the Act last aforesaid, of any lands within any part of the Ohinemuri Block of land, the Native title whereunto has or at any time may become extinguished, may, at any time after the extinguishment of such Native title, but only if the Warden shall consider the land not to be auriferous or argentiferous, acquire the freehold of the land held by him,

without competition, paying for such land the same price as would be the upset price of land of the same class in the same land district if put up to public auction:

Provided that all lands within sixty-six feet from the bank and along the entire course of all streams within the aforesaid block of land shall be excluded from any sale authorised hereby.

210 Agricultural leases in the Ohinemuri Block.

The holder of any agricultural lease within any part of the Ohinemuri Block of land, who has paid all rents due on the same to the thirty-first day of December, one thousand eight hundred and eighty-four, shall be entitled to have a Crown grant issued to him for the land comprised in such agricultural lease without further payment: Provided that the Native title has been extinguished, and that the Warden, after investigation, does not consider such land to be auriferous, argentiferous, or to be required for mining purposes.

211 Agricultural leases of Native lands within mining districts.

The provisions of this Act in relation to agricultural leases shall apply in respect of all Native lands which, on or since the first day of January, in the year one thousand eight hundred and eighty-seven, have been or may be proclaimed open for mining purposes: subject, however, as follows:—

No person who shall become lessee of any such lands under this Act shall have any right or title to purchase the lands so held, nor shall he have any claim to compensation at the expiry of his lease for any improvements effected by him or his heirs, executors, administrators, or assigns on the said lands during the time of the lease thereof, nor shall he have the right, previous to the acquisition by Her Majesty of the freehold of the land comprised in such lease, to exchange the said lease for any other lease or holding authorised under this Act.

Resumption of Land for Mining Purposes

212 Lands alienated by the Crown may be resumed; also Native lands when alienated.

All lands which, since the twenty-ninth day of September, one thousand eight hundred and seventy-three, have been alienated or agreed to be alienated from the Crown, whether by way of absolute sale or lease or for any lesser interest, and all lands which have been so alienated at any time previous to the above-mentioned date, shall with the consent of the owners or occupiers thereof respectively; and

All lands which, after the commencement of this Act, may be so alienated or agreed to be so alienated from the Crown as aforesaid, shall without the consent of the owners or occupiers thereof respectively; and

All Native lands which, since the thirtieth day of August, one thousand eight hundred and eighty-eight, have been or may hereafter be alienated by the Native owners thereof to any person other than Her Majesty,

Shall be liable to be resumed by Her Majesty for mining purposes (except lands alienated expressly for mining purposes), on paying full compensation to the owner or occupier of the fee-simple thereof for the value, other than auriferous or argentiferous, of the lands and improvements so resumed, upon the terms and conditions hereinafter provided.

“Occupier” means and includes the lessee, licensee, or other person in actual occupation of the land.

“Mining purposes,” in addition to the meaning hereinbefore attached to such expression, means and includes the right to resume land which may be upon the margin of any stream or water, and any land which may be required for or intended to be used as a site for a tail-race, water-race, dam, reservoir, sludge-channel, machine-site, or for any other purpose connected with mining for gold.

213 Petition may be made to Governor for resumption of land.

On a petition to the Minister for the resumption for mining purposes, under the provisions of this Act, of any land alienated from the Crown and not hereinafter excepted from such resumption, or by the Native owners thereof respectively, accompanied with the sum of twenty-five pounds, to be dealt with as hereinafter provided, such petition being signed by not less than ten persons and indorsed by the Warden as signifying his approval thereof, and with the recommendation of the Minister, the Governor, in the name and on behalf of Her Majesty, may resume such land under “The Public Works Act, 1882;” and the resumption of land for the above purposes shall be deemed to be taking of land for a public work within the meaning of the last-named Act.

Exceptions.

No application shall be entertained for any land used as a garden, orchard, vineyard, nursery, plantation, or ornamental pleasure grounds, or for any land of less extent in area than a quarter of an acre within any city, town, or borough, or for any land which is the site or is within one hundred feet of the site of any house, manufactory, hospital, asylum, church, public building, or any cemetery, or waterworks, unless the consent in writing of the person in whom the legal estate in such land is vested accompanies such application.

214 Warden or Magistrate to report to Minister, who shall decide as to resumption.

The Minister may refer any such petition for report to any Warden having jurisdiction within the district in which such land is situated, and shall inform the applicant thereof.

If there be no such Warden, or such land is not within a mining district, the application may be referred to the Resident Magistrate having jurisdiction in the locality where the said land is situate.

Upon the report of the Warden or Magistrate, the Minister shall determine whether the land shall or shall not be resumed in whole or in part.

215 Limitation as to subsequent application if land not resumed.

If it be determined that the land in whole or in part be not resumed, no further petition in respect to the same land shall, unless by the special direction of the Minister, be entertained within twelve months from the date of the refusal of the petition.

216 If land to be resumed, notice to be given to occupier.

If it be determined that the land in whole or in part be resumed, the Minister shall cause notices to be sent to the occupier or owner in fee, and shall agree with him as to the value, other than auriferous or argentiferous, of such land and improvements at the date of the issue of the summons as aforesaid.

In case no such agreement as aforesaid shall be made, such value shall be assessed and determined in the manner provided in Part III. of "The Public Works Act, 1882."

217 Compensation to be paid out of goldfields revenue.

Compensation, including costs, if any, payable for land resumed under this Act shall be paid by the Colonial Treasurer out of the goldfields revenue of the district, or other revenue derived from such district in respect of mining, within which the land is situate; and, if such district shall embrace two or more counties or boroughs entitled to such revenue, then the compensation shall be deducted from the said revenue in such proportion as the Minister thinks just. But nevertheless the Colonial Treasurer, on the recommendation of the Minister, may pay one moiety only of such compensation and costs (if any) out of the aforesaid goldfields revenue or other revenue.

218 Arrears of fees, &c., to be deducted from amount paid.

Where any land shall be resumed before the same has been actually granted in fee, the amount of all unpaid license fees, rents, or purchase-money which, if the land had not been resumed before such grant, would have been payable to the Crown before the issue thereof shall be deducted from the sum agreed upon or awarded as such compensation as aforesaid.

219 Notice of resumption to be gazetted.

Upon payment of the compensation assessed the Governor in Council may, by a notice in the *Gazette*, declare that the land in such application described has been resumed for mining purposes by Her Majesty; and thereupon the whole estate and interest of the licensee, lessee, or owner, and of every person claiming through or under him, shall cease and determine, and the land shall be deemed to be Crown land as if the same had never been alienated.

Effect of notice.

Upon production to the District Land Registrar, or Registrar or Deputy Registrar of Deeds, as the case may be, of the district where such land is situated of a copy of the *Gazette* containing such notice, accompanied by a statutory declaration by some competent person to the effect that the particulars stated in such notice are correct, the Registrar shall cause such land to be registered in the name of Her Majesty, and such Registrar shall make in his register the proper entries accordingly.

*Sale and Occupation of Crown Lands***220 Land Act not to apply, except in certain cases.**

No Crown lands within any portion of the colony constituted or proclaimed a mining district under this Act shall, except as herein provided, be sold, leased, or otherwise disposed of under any provisions of any Land Act or of any other law for the time being in force in such district regulating the sale, disposal, and occupation of Crown lands, except so far as such provisions may relate to the making of reserves, or to the exchange of agricultural leases under this Act for other leases or licenses under any Land Act for the time being in force, or to the issue of leases or licenses for any of the following purposes:—

Depasturing;

Removal of clay for bricks or pottery;

Removal of sand, gravel, or stone;

Working of quarries;

Sites for ferries, saw-mills, flour-mills, tanneries, fellmongers' yards, slaughter-yards, potteries, brick- or lime-kilns; and cutting, growing, or dressing flax:

or to the occupation of land, held under any lease or license granted before the commencement of this Act or before the issue of the Proclamation establishing such mining district; or to land heretofore or which hereafter may be reserved for public use or purpose, or except so far as such provisions may specially authorise the sale or leasing of land within a mining district.

The Governor, at any time subsequent to the constitution or proclamation of a mining district under this Act, may withdraw, by Proclamation, therefrom any Crown lands which he may deem it necessary to withdraw, and such lands shall

thenceforth be dealt with in every respect as though such lands had never been comprised in any mining district.

221 Special regulations for such cases.

The Governor may from time to time make, alter, or amend regulations under any Land Act for the time being in force for all or any of the purposes mentioned in the last-preceding section; subject, however, that no Commissioner of Crown Lands' or Land Board shall have authority to grant any mining or mineral lease or prospecting license, other than for coal, in any mining district.

222 Lands may be declared open for sale.

The Governor, by Proclamation, may from time to time declare any Crown lands within any mining district not held under license or lease at the date of such Proclamation, or over which the license or lease has been cancelled, to be open for sale or selection in sections of such size and form and on such date as he may determine; subject, however, to the express condition that all lands within sixty-six feet from the bank and along the entire course of all streams within any lands to be so proclaimed shall be excluded from any such sale, if the Governor so think fit.

Any lands so proclaimed may thereafter be sold at a like price and subject to the like terms and conditions, or as near thereto as may be, as Crown lands of the same class not within a mining district; and it shall not be necessary to withdraw lands from the operation of this Act for the purposes aforesaid.

223 Valuation for improvements to be made.

When any land, *bonâ fide* and lawfully held for residence or business, on which any building may have been erected shall be about to be sold, such building and all other *bonâ fide* improvements that have been made on such land shall be valued, unless such land shall have been reserved for survey or sale prior to the erection of such building or the making of such improvements.

- (1.) In case the holder of the miner's right or business license by virtue of which is occupied the land upon which such building or improvements have been erected or made, and the Governor shall not agree upon the value, the same shall be settled in the manner provided in Part III. of "The Public Works Act, 1882."
- (2.) The value so agreed on or ascertained shall be added to the upset price of the land without such building or improvements, and shall together therewith be and constitute the actual upset price of such land.
- (3.) If the holder of such business license or miner's right shall bid such actual upset price or more, and shall be the highest bidder for such land, the value aforesaid shall be deducted from the sum so bidden, and the balance shall be the purchase-money for such land; but if any other person than such holder shall become the purchaser of such land, and shall pay for the same, such

holder shall be entitled to receive out of such purchase-money the value of such building or improvements so agreed on or ascertained as aforesaid.

224 Reservations in Crown grants.

No Crown grant or conveyance shall have the effect of revoking or injuriously affecting any right to any claim, water-race, dam, or reservoir, mining tenement, or easement lawfully acquired and held under or by virtue of the provisions of this Act or of any Act heretofore in force, whether any reservation or exception thereof be contained in such Crown grant or conveyance or not.

Every such Crown grant or conveyance shall be construed with reference to every such claim, water-race, dam, reservoir, tenement, or easement as if such grant contained an express reservation of the right to hold, occupy, and use the same respectively, with all necessary and reasonable means of access to work, cleanse, repair, and efficiently use the same.

The provisions of this section shall be deemed to be and to have been in force within every goldfield proclaimed under "The Goldfields Act, 1866," and gold-mining district constituted under "The Gold Mining Districts Act, 1873," from the date of the original Proclamation of such goldfield or constitution of such district; and every Crown grant issued or to be issued for any Crown lands alienated within any such districts under the provisions of any Act at any time in force in such district relating to the sale or other disposition of the lands of the Crown shall be issued and be deemed to be issued subject to the provisions hereof.

Agricultural Leases and Occupation Licenses, &c

225 Land may be set apart for agricultural purposes.

The Governor may cause Crown lands situate within a mining district to be selected and set apart for the purpose of granting agricultural leases, or for alienation by occupation licenses on deferred payments, under any law for the time being in force in the land district in which such mining district is situate.

Before such lands are opened for application the Governor may determine the size of the allotments, not exceeding the maximum which may be held by any person under any such lease or license.

226 Agricultural leases may be granted.

The Governor may, in the name and on behalf of Her Majesty, from time to time demise for agricultural purposes to any person, for any term not exceeding seven years, any land so selected and set apart as aforesaid.

No agricultural lease shall comprise more than three hundred and twenty acres, and no person shall hold more than three hundred and twenty acres under agricultural lease, or more under any such lease than would, together with any

land he may be holding under an occupation license on deferred payment or perpetual lease, amount to three hundred and twenty acres at any one time.

227 Conditions of leases.

Every such lease—

Shall be subject to such rent, covenants, and conditions on the part of the lessee, his executors, administrators, and assigns to be paid, observed, and performed as to the Governor shall seem fit;

May, at the expiration thereof, and if the conditions thereof have been duly fulfilled, be renewed by the Governor for a similar term, on such other conditions and such other rent as to him shall seem fit; and so on from time to time may be renewed at the expiration of every term thereof:

May, with the consent of the Governor, be surrendered.

228 Land proving auriferous, lease may be determined.

If at any time after the granting of any such lease the land thereby demised, or any part thereof, shall, in the judgment of the Governor, be proved to be auriferous or argentiferous, or to contain any metal or mineral, or shall in his opinion be required for mining purposes or any public use, the Governor may give notice in writing, as hereinafter mentioned, of his intention to determine such lease over the whole or part of the land:

- (1.) At the expiration of one month from the delivery of such notice to the lessee or occupier, or to some servant of one of them on the demised land, or from, the affixing of such notice to some conspicuous object on the demised land, in case there is no occupier or servant as aforesaid thereon, such lease, as to the whole or such part as aforesaid, shall become null and void, and all interest of the lessee, his executors, administrators, and assigns therein shall cease and determine.

Compensation for improvements.

- (2.) The lessee, his executors, administrators, or assigns shall be entitled to compensation for any improvements he may have made on the land or the part thereof in respect to which the lease shall be determined during the subsistence of such lease, and the amount of compensation shall in case of dispute be settled in the manner provided by this Act.

But compensation shall not be awarded and paid for any land unless the same shall be occupied *bonâ fide*, and shall have been planted, cultivated, or otherwise improved.

229 Rights of lessees under former Act preserved.

Any person being the holder of a lease for land for agricultural purposes granted, at any time before the coming into operation of "The Mining Act, 1886," under the provisions of section forty-nine of "The Mines Act, 1877,"

shall hold the said lease together with all rights and privileges attaching thereto under the said provisions, notwithstanding the repeal of the said section.

For the purpose of claiming, prosecuting, and enforcing any such right or privilege, the said section shall be deemed to be in full force and operation. In all other respects every such lease shall be deemed to have been made under this Act.

230 Occupation licenses of small areas for agricultural purposes.

The Governor may from time to time prescribe regulations for the issue of licenses by the Warden for the occupation for agricultural, horticultural, or dairy purposes of any reserve, not being a Native reserve or land reserved for Native purposes, set apart for mining purposes, or part of any such reserve not required for immediate use for the purpose for which it may have been reserved, or of any other Crown lands within a mining district, not exceeding in any case one hundred acres, the rental of which shall not exceed one shilling per acre per annum; and the Warden shall forward to the Minister at the end of every month a list of licenses issued by him under this section during such month.

Every such license shall be issued on the express condition that the licensee shall reside upon such area, and that it shall be surrendered upon demand, at any time after not less than three months' notice, without any right to compensation on any account whatever accruing to the licensee; and that the licensee shall not have the right to acquire the freehold of any part of the land comprised in his license.

231 Additional covenants in occupation licenses.

In addition to every other covenant, every occupation license shall be subject to the condition that the licensee shall in no case be entitled to claim compensation for damages done to the land in his tenancy or occupation by reason of mining on any land adjoining thereto, nor for surface damage done to such land by reason of any holder of a miner's right prospecting thereon for gold.

Machine-, Business-, and Residence-sites

232 Land may be held for residence-sites, &c.

Every holder of a miner's right, and every person on whose behalf a consolidated miners' right is granted, and every holder of a business license shall, during the continuance thereof, and subject to the provisions of this Act and to regulations made hereunder, be entitled to take up and occupy a portion of the Crown lands in any mining district for the purpose of residence or residence and cultivation, or for carrying on his business, or both, and, for either of the

purposes aforesaid, to put up any building or other erection, and at any time to remove the same, as well as any building previously erected thereon.

No person shall be entitled by virtue of one business license to occupy more than one such portion of land.

233 Devolution of business license on death or bankruptcy.

Every business license, together with the right and interest thereunder, shall, on the death or bankruptcy of the holder thereof, devolve on his personal representative or assignee in bankruptcy.

234 Not required by freeholder or landholder on deferred payment.

Any person being the owner of a freehold, or the holder of a deferred-payment license or perpetual lease, or lease under the provisions of any Land Act for the time being in force, and who shall occupy and carry on business thereon, shall be entitled to do so without taking out a business license.

235 Application for machine-site, &c.

Whenever any person shall require a site for machinery or for residence, he shall apply in writing to the Warden to grant the same, and must describe the situation, area, and boundaries of the land applied for.

Warden to make inquiry.

As soon as conveniently may be after an application the Warden shall make such inquiries as he may think fit, in order to satisfy himself whether there is any objection to granting the same.

Fifth Schedule.

If there be no objection, the Warden shall grant a license in the form set forth in the Fifth Schedule.

236 License to be for twenty-one years, with right of renewal.

Subject to the provisions of sections eighty-five and eighty-six, such license shall give the licensee, for so long as he may require the same, not exceeding twenty-one years, the exclusive right to the possession of the surface of the land therein described for the purpose therein mentioned and for no other; with the right, at the expiration of the aforesaid term, to a renewal of his license for a similar term, and so on at the expiration of every succeeding term, subject, however, in each case to such rent and other conditions as may from time to time be prescribed by regulations.

237 Machine- or residence-site may be granted on land held for mining purposes.

A machine- or residence-site may be granted provided that such site shall not be required for mining purposes, or the granting thereof calculated in any way to interfere prejudicially with mining operations.

238 Area of sites.

No machine-site shall exceed live acres, no residence-site one acre, and no business-site one quarter of an acre.

239 May be transferred.

Machine-business- and residence-sites may be transferred.

240 Sums payable in advance. Fifth Schedule.

Such sums shall be payable for the above-mentioned sites as are prescribed in the Fifth Schedule of this Act, and shall be payable annually in advance, and the first payment shall be made to the Receiver of Revenue when the license to occupy is issued.

No rent for residence-site shall be payable by any person under this section so long as he continues to be the holder of a miner's right; but the holder of a residence-site shall not be entitled to carry on any business on such site unless he is the holder of a business license.

241 When annual payments due.

Subsequent annual payments shall be due and payable to the Receiver of Revenue on the same day in every year as that on which the license is granted.

242 If not paid, shall be sued for.

If the sum from time to time due in respect of any site is not paid when due the Receiver of Revenue shall sue for the same.

243 Licenses to be forfeited in certain cases.

If any site be used for a purpose not specified in the license, or for three months be unused for the purpose specified in the license or unoccupied, or if any sum due in respect of the same be not paid within two months, all rights under the license shall be forfeited, subject as hereinafter provided, and the Inspector, Mining Registrar, Receiver of Revenue, or any holder of a miner's right or business license may sue in the Warden's Court for possession.

Warden may substitute penalty.

At the hearing of such suit, if the Warden's decision be against the licensee, the Warden may either award a pecuniary penalty instead of enforcing forfeiture, or he may issue a warrant under his hand to remove the licensee from possession.

The cost of proceedings shall be in the discretion of the Warden.

244 Certain sections not to apply to Shortland, Grahamstown, and Tararu.

The several sections in reference to machine-business- and residence-sites numbered from two hundred and thirty-five to two hundred and forty-three, both inclusive, shall not apply to the land comprised within the Towns of

Shortland and Grahamstown and Tararu, as the limits thereof respectively are prescribed in a Proclamation published in the *Gazette* on the sixth day of January, one thousand eight hundred and seventy-two.

245 Holder of residence-site to be liable for rates.

From and after the date of the commencement of this Act every holder of a residence-site shall be deemed to be an “occupier” within the meaning and for the purposes of “The Rating Act, 1876,” and “The Rating Act, 1882,” respectively, no matter when he may have originally entered into occupation of such site, and shall be liable, from and after the aforesaid commencement of this Act, to pay rates in respect of the residence area he occupies.

Illegal Occupation of Crown Lands

246 Persons in illegal occupation may be rated as occupiers.

For the purposes of “The Rating Act, 1876,” and “The Rating Act, 1882,” respectively, but for no other purpose, every person who is in the unlawful occupation of any Crown lands within a mining district shall be deemed to be an “occupier” within the meaning of the aforesaid Acts respectively, and shall be liable to pay rates in respect of the land occupied by him illegally in the same manner as if he were in lawful occupation thereof.

But nothing in this section contained shall be construed to give validity in any manner to such illegal occupation.

247 Persons in illegal occupation may become registered under Act,

Any person who has been in unlawful but undisturbed occupation of any residence-site for twelve months prior to the coming into operation of this Act may apply to have a license for the same granted to him subject to the provisions hereof.

248 Penalty for depasturing cattle on runs without consent of lessee.

Any person depasturing any horses, cattle, sheep, goats, or other animals upon any Crown lands held and occupied by virtue of a depasturing lease or license within a mining district without the sanction and consent of the lessee or licensee shall, upon proof thereof, be adjudged to pay to such lessee or licensee, by way of damages for each offence, any sum not exceeding five shillings per head for every animal so depastured.

249 Penalty for depasturing cattle on Crown lands without license.

Any person depasturing any horses, cattle, sheep, goats, or other animals upon any Crown land within a mining district without a license authorising the holder thereof in that behalf, and any person depasturing a greater number of animals than under any regulations he may be entitled to depasture by virtue of a miner’s right, business license, or agricultural lease, or of any other lease

or license authorising the occupation of land for mining purposes, shall, upon conviction, be liable for each offence to a penalty not exceeding five shillings per head for every animal so depastured.

250 Penalty for mining or carrying on business without miner's right or license.

In any district constituted under this Act, but subject to the provisions of section fifty,

- (1.) Every person, not being the holder of a "miner's right," who shall be engaged or employed in mining operations;
- (2.) And every person, not being the holder of a "business license," who shall carry on any business whatever upon Crown lands, shall be liable to a penalty not exceeding five pounds.

Part IV
ADMINISTRATION OF JUSTICE

Wardens' Courts

251 Wardens' Courts constituted.

The Governor, by Order in Council, from time to time may constitute for any mining district, or for any two or more districts or portions of districts, constituted under this Act, or for any part or parts of any such district, a Warden's Court for the administration of justice therein, and may abolish any such Court.

252 Sittings of Courts.

Any such Court may be held—

- (1.) At such times and in such convenient places, whether within or without the boundaries of such district, as the Warden shall appoint, and he may from time to time adjourn the Court:
- (2.) Before one Warden, although more than one Warden may have been appointed for the same Court.

253 Appointment of Wardens.

The Governor shall appoint fit and proper persons to be Wardens of such Courts, who shall hold office during the Governor's pleasure.

No Warden shall be interested, directly or indirectly, in any mining enterprise carried on in the mining district in which the Court with which he is connected holds its sittings.

254 Penalty on Warden for acting if interested.

If any Warden shall knowingly adjudicate in any matter in which he shall have, either directly or indirectly, any pecuniary interest, he shall be guilty of a misdemeanour, and shall, on conviction before any competent Court, be liable to fine or imprisonment, or both, in the discretion of such Court.

255 Appointments of Clerks, bailiffs, &c.

For every Warden's Court there may be —

- (1.) A Clerk and bailiff for such Court at every place within a district where such Court shall sit, who shall be appointed and hold office during the Governor's pleasure;
- (2.) Such assistant Clerks, assistant bailiffs, and other officers as the Governor may think necessary.

No person appointed under this section shall be interested, directly or indirectly, in any mining enterprise carried on in the mining district wherein he exercises the duties of his office, nor shall any such person do or perform any act, matter, or thing in any way connected with the administration of this Act otherwise than in the exercise of his duties as aforesaid. Every such person who shall be guilty of an offence against this section shall be liable to a penalty not exceeding one hundred pounds in respect of each such offence.

256 Warden may appoint deputies to Clerk or bailiff.

The Warden may appoint a deputy to act for the Clerk or the bailiff as often as such Clerk or bailiff shall be prevented by illness or other cause from acting in his office, and may remove any such deputy; and an entry of such appointment shall be made in the minute-book of the Court.

A deputy while acting shall have the same powers, duties, and responsibilities as the officer for whom he is acting.

257 Existing Courts and officers deemed constituted and appointed under Act.

The several Wardens' Courts in existence at the time of the commencement of this Act shall be deemed to have been constituted under this Act, and the several persons who at the time of the commencement of this Act shall hold the office of Warden shall be Wardens under this Act, and shall so act without any fresh appointment or commission.

All Clerks, bailiffs, and other officers of any such Warden's Court shall continue to act as the Clerks, bailiffs, or other officers of the Courts so constituted as aforesaid, without any fresh appointment; and all appointments of Clerks heretofore made are hereby validated notwithstanding that more than one Clerk may have been appointed for any Warden's Court,

258 List of Assessors.

The Clerk of every Warden's Court shall, in the first seven days of the months of January and July in every year, make or cause to be made a list of persons of good repute, and being the holders of miners' rights, not less than fifty in number, or of such a number under and as near fifty as may be, who shall be residing within the district wherein such Warden's Court shall be situate, and the said list shall be the roll of Warden's Assessors of such district.

259 Governor may appoint fees, &c.

The Governor, from time to time, and in respect of any proceedings under this Act, may direct what fees and sums of money shall be taken in the Courts, and may lessen or increase the same, and, in any case in which the demand shall be in the whole or in part pecuniary, such fees and sums may be regulated in the whole or in part by way of percentage on the amount of the demand; and may appoint, instead of all or any of the fees or sums which may from time to time be payable as aforesaid, other fees and sums by way of percentage or otherwise.

- (1.) The fees and sums of money payable on every proceeding shall be paid to the Clerks of the several Courts, and in the first instance by the party on whose behalf such proceeding is to be had, on or before such proceeding, and the fees and sums payable upon execution or commitment shall be paid into Court before or at the issue of the warrant of execution or commitment.
- (2.) All mileage fees received for service of any process under this Act shall be paid into the Public Account, and form part of the Consolidated Fund, anything contained in any Act, or in regulations made under any Act, to the contrary notwithstanding.

260 Seal of Court. Sealing of documents.

For every Court there shall be a seal, and a facsimile of such seal shall be kept by the Clerk of the Court at each place at which such Court shall be holden, and all summonses, certificates, warrants, and other process issued out of the said Court shall be signed by the Warden, or by the Clerk of the Warden's Court, and shall be sealed or stamped with one of such seals by the Clerk and issued by him; and may be so sealed or stamped at any time after issue of the same.

All certificates heretofore issued by the Clerk of any Warden's Court shall be valid, although the same may not have been sealed or stamped with a seal before issue.

*Jurisdiction of Courts***261 Jurisdiction of Courts.**

Every Warden's Court shall have jurisdiction to hear and determine all suits and complaints cognisable by Courts of civil or criminal jurisdiction which may arise within the district for which such Court is constituted, concerning the following matters, that is to say,—

- (1.) Forfeitures for non-compliance with this Act or any previous Act, and any regulation made under the same from time to time in force.
- (2.) The area of claims.
- (3.) Encroachments upon and injuries to any claim or land held or occupied under this Act or any previous Act, or upon or to the boundaries of the same respectively.
- (4.) Dams, water-races, streams, watercourses, wells, ponds, and reservoirs held or occupied as aforesaid, and encroachments upon and injuries to the same.
- (5.) Roads, tramways, railroads, and fences held or occupied as aforesaid, and encroachments upon and injuries to the same.
- (6.) Partnerships relating to mining, and dissolutions thereof.
- (7.) Breaches of laws, rules, and regulations for the time being in force relating to mining, punishable by summary conviction.
- (8.) And, generally, concerning debts, contracts, torts, questions, disputes of any kind relating to mining, and any matters which are within the administration of this Act.

262 Partnership suits.

In any suit for the dissolution of a partnership, instead of ordering the sale of the partnership property, the Court may order the accounts of such partnership to be taken, and may engage expert evidence to ascertain the value of the share or interest of each member of the partnership, and may order the ascertained value of the share or interest of any one or more partners to be paid by the other partners, and dissolve the partnership upon the terms that the aforesaid value being tendered by any one or more partners to the other or others, be or they shall be compelled to receive it.

263 Infants may sue and be sued.

It shall be lawful for any person under the age of twenty-one years who is the holder of a miner's right to prosecute or defend any suit in a Warden's Court in the same manner as if such person were of full age; and any person under the age of twenty-one years and over the age of fourteen years may be sued in the Warden's Court in the same manner as if such person were of full age.

264 Powers of Court.

Every Court, in cases within its jurisdiction, shall have power to enforce contracts, to award damages, to appoint receivers, to take partnership accounts, to dissolve partnerships, to grant injunctions, to impose penalties, to cause gold, metals, or minerals improperly or unlawfully removed to be summarily seized and restored or to be deposited for custody with any person or in any place, to summon witnesses, to award costs, and generally to give such judgments and make such orders in connection with any of the aforesaid matters as may be necessary or proper, as well as in all matters within its jurisdiction.

Every Court and the Warden thereof, in cases within its jurisdiction and where no sufficient provision in that behalf is provided by this Act, shall be deemed to have and may exercise all the powers of the Supreme Court or District Court or of a Judge of such Courts respectively, for making any necessary order or decree and for enforcing obedience thereto, or for punishing any disobedience thereof.

265 Proceedings within jurisdiction of Wardens' Courts or District Courts to be taken in such Courts, and not in Supreme Court.

Every action, suit, or other proceeding whatsoever relating to any matter arising in any district, and which is within the jurisdiction of a Warden's Court or a District Court under this Act, shall be brought, commenced, and proceeded with in such Warden's Court or District Court, as the case may be, and not in the Supreme Court: Provided that nothing herein shall restrict the right of appeal to the Supreme Court in any case in which such right is conferred by or under this Act.

266 Warden to determine law and fact.

Subject to the provisions hereinafter contained relating to appeals, Wardens' Courts shall determine all questions as well of fact as of law.

267 Warden may administer oath to witness.

Every witness at any hearing in a Warden's Court shall be examined upon oath; and the Warden before whom such witness shall appear for the purpose of being so examined shall have full power and authority to administer the usual oath to such witness.

268 Penalty for neglecting to attend on summons.

Every person duly summoned who shall fail to attend the hearing of any suit or matter to be heard or determined under the provisions of this Act, whether as Assessor, witness, or party to the suit, at such time and place as shall be named in the summons, or who shall refuse to be sworn as witness or to answer any lawful question, or to be sworn or serve as Assessor, shall, unless some reasonable cause for such non-attendance or refusal be made to appear to the

Court, be liable to a penalty not exceeding five pounds, as to the Court shall seem fit.

269 Cases to be heard in open Court.

Every case shall be heard in open Court upon the day appointed, but the Warden may adjourn the hearing of any case in such manner, and on such terms as to payment of costs or otherwise, as to him may seem fit.

Adjournment of Court.

If for any cause a Court cannot be held upon a day appointed, the Clerk may adjourn it to such day as the Warden shall direct, or, in the absence of such direction, to such day as the Clerk shall deem expedient.

270 Agreement to bar appeal.

Previously to the hearing of any case, the parties thereto may agree in writing to accept the decision of the Warden's Court as final.

A memorandum of every such agreement shall be made by the Warden, and no appeal shall in such case be made from the decision of the Court.

271 Parties may require case to be heard by Assessors. Assessors to be balloted.

Either of the parties previous to the day appointed for the hearing of any case may require from the Clerk of the Court that such case shall be heard before the Court and four Assessors.

- (1.) Thereupon such Clerk shall write the names of all the Assessors as they appear in the roll of Assessors for the time being in force, with their respective places of abode and additions, on separate pieces of parchment, being as nearly as may be of equal size and shape, and, putting the said pieces of paper or parchment together in a ballot-box, shall then and there, in the presence of any Justice of the Peace, or of either of the aforesaid parties, or their solicitor or agent, draw out of the said box not fewer than eight of the said parchments, one after the other, and shall summon the persons whose names appear on the parchments so drawn out of the box.

If, at the hearing of the case, the number of Assessors is reduced to less than four, either by reason of the non-attendance of any of the persons summoned or by discharges, then the Clerk of the Court shall make up the required number of Assessors by orally summoning a sufficient number of indifferent persons then present in Court, or its adjuncts, to act as Assessors in the case.

Fees to Assessors.

- (2.) Before any Assessors shall be summoned by any Clerk of a Warden's Court, such Clerk shall demand and receive the sum of six pounds from the person demanding Assessors, and each of the Assessors before whom the complaint is heard shall be entitled to receive thereout the sum of ten shillings, and the sum

of one shilling for every mile one way beyond two miles of distance from his residence to the Courthouse.

- (3.) In case the hearing of any case shall be adjourned to any future day, the Clerk shall demand and receive the further sum of two pounds for every such adjournment, and each of the Assessors shall be entitled to receive thereout the further sum of ten shillings.
- (4.) Any part of any such sums which shall not be required for the payment of Assessors shall be returned to the party who shall have paid the same, and the residue thereof shall eventually be paid as part of the costs of the proceedings by such of the parties as the Court shall in that behalf direct.
- (5.) Either party shall be admitted to challenge any number of persons called as Assessors not exceeding two without assigning cause, and any additional number provided be assigns of his challenge a cause certain; and the truth of such challenges shall be inquired of by the Warden.
- (6.) Every Assessor, before taking part in the hearing of any case, shall make oath or affirmation before the Warden, who is hereby empowered to take the same, that he will give a true verdict according to the evidence.
- (7.) Every Assessor who is summoned shall be entitled to a fee of five shillings for his attendance upon such summons, or, if he is chosen to sit upon a case, to a sum of ten shillings for each day on which he shall so sit.

The Warden, with four Assessors, shall proceed to hear the case, the matter of which shall be decided by a majority of such Assessors.

Decision.

The decision of such Assessors or of the majority of them shall have the same force and effect as the decision of such Warden, if acting alone, would have had; but if, after the expiration of two hours from the time at which the case shall have been left to the Assessors, they shall intimate to the Warden that a majority of them cannot agree upon a verdict, then such Warden shall himself decide such case, and every such decision shall be carried into effect by the same or any other Warden.

The Warden alone shall decide upon any point of law which may arise at the hearing of any case.

272 Court may stay proceedings or adjourn hearing.

The Court may make orders for staying proceedings in any case until security be given for costs, or for granting time to the plaintiff or defendant to proceed in the prosecution or defence of the case, and may also from time to time adjourn any Court or the hearing of any case in such manner, and on such terms as to payment, of costs or otherwise, as to the Court may seem fit.

273 Warden may order survey.

If before or during the hearing of any complaint it shall appear to the Warden that it will be necessary for a survey to be made of any land, race, or water in dispute, such Warden may order either party to cause such survey and the plan thereof to be made, and the costs thereof shall be deemed to be part of the costs of the hearing.

274 May inspect holding previous to or during hearing.

Either of the parties shall be at liberty previous to or during the hearing of any complaint to apply to a Warden for inspection to be made by such Warden, or Warden and Assessors, of any land, claim, water-race, drain, dam, or easement in dispute.

- (1.) If the party so applying shall satisfy such Warden as to the propriety and reasonableness of his application, such Warden, if the case be heard before him alone, shall make such inspection, but, if heard before him and Assessors, shall make an order for such inspection by the Assessors, upon payment to the Clerk of the Warden's Court by the party so applying of such sum, if any, and upon such terms as to the said Warden shall seem reasonable; and thereupon the Warden and Assessors shall make such inspection, and any sum so paid shall be appropriated towards defraying the expenses of the Assessors by reason of such inspection, as such Warden may direct; or
- (2.) If such Warden shall himself think that any such inspection would be proper, he shall, if the case be heard before him alone, make such inspection, or if heard before him and Assessors may, and if required by the majority of the Assessors shall, make an order therefor, and, in case of inspection by Assessors, for payment of the expenses thereof by such of the parties as he shall think right, and the money paid for such expenses shall eventually be paid as part of the costs of the proceeding by such of the parties as the Warden shall in that behalf direct.

275 Order for delivery of gold, &c.

In any proceeding—

In relation to any debt or contract, or to money due in respect of any land or water, or any share or interest therein, or in respect of any gold or other metals or minerals; or

In relation to any gold, metals, or minerals, or to the amount of any contribution or other sum of money—

(suits for the recovery of which the Wardens' Courts are hereby authorised to hear and determine), the Warden, or Warden and Assessors, shall order any money or damages, or gold or other metals or minerals, which he or any such Assessors shall find due or payable or deliverable by either of the parties to the other of them, to be delivered.

And in case such proceeding shall be in respect of money due, or gold or other metals or minerals deliverable, upon a mining partnership account, or accruing to the complainant from any mining partnership, adventure, or interest, the Warden or the Assessors shall take the accounts of such partnership, adventure, or interest, so far as shall be necessary to ascertain what sum or amount of gold or other metals or minerals, if any, shall be so due or accruing, and the Warden shall order any such sum or gold to be paid or delivered.

276 Court or Warden may suspend working of claim, &c., affected by matter in dispute.

The Court, or any Warden thereof, on application in writing of either party to the suit, whenever it shall be made to appear to be proper to do so,—

- (1.) May order the working of any claim or licensed holding affected by any matter in dispute to be suspended until such matter shall have been investigated or adjudicated on; and if any person having been ordered to suspend the working of any claim or licensed holding shall work such claim or licensed holding, he shall be liable to a fine or penalty not exceeding fifty pounds, to be imposed by an order of the Court:

Provided always that it shall be lawful for the Court, on the matter being investigated or adjudicated on, to award to the defendants such compensation as the Court thinks fit for the time during which the defendants have been prevented from working their claim or licensed holding, in obedience to such injunction:

- (2.) May order that any gold or auriferous or argentiferous earth, or any metal or mineral in the possession of and belonging to the party by whom payment of any sum in respect of any debt, damages, and costs shall be ordered, to the extent in value of such sum (such value to be fixed by such Court), shall be delivered up to the party entitled to such sum by way of satisfaction or in part satisfaction thereof; and the Warden shall forthwith cause the same respectively, to the extent aforesaid, to be seized and delivered accordingly, and thereupon a minute of such order shall be entered and signed in the register-book of the Court, and a warrant for the balance only of such sum, after deducting the value of the gold, metal, or mineral seized and delivered as aforesaid, shall be granted by such Warden's Court:
- (3.) May order any person, party to or interested in. any proceeding before him, to deposit within the time or times mentioned in such order, with any person or at any place named in such order, in the name of the Warden or any other person mentioned in such order, to abide the decision of such Warden or of any Assessors who may be summoned in any such proceeding, any earth, gold, or any metal or mineral other than gold, or any money or other chattel described in such order which may then be in or which at any time before the final termination of such proceeding may come into the possession, power, or control of such person, party to or interested in such proceeding.

277 May authorise entering upon land to ascertain if encroachment.

Any Warden, in his discretion, upon the application of any person claiming to be legally or equitably interested in any claim, or in any land comprised in any licensed holding or special claim granted under the provisions of this Act, or in any lease granted under any other Act authorising the granting of leases for mining for gold, or in any other land adjoining any claim or land comprised as aforesaid, may, by order under his hand, authorise the applicant, together with a mining surveyor or some experienced miner, to enter upon any claim or land (whether at the time of such application alienated from the Crown or not, if any mining operations shall be then carried on on such land) adjoining such first-mentioned claim or land, or other land, for the purpose of ascertaining whether the owner or occupier of the claim or land so to be entered upon is encroaching on the said first-mentioned claim or land or other land.

- (1.) The persons so authorised may enter upon the claim or land described in such order, and descend any shaft or mine, and for such purpose may use the engines and other machinery ordinarily employed for that purpose by the persons whose shaft or mine shall be descended, and may make such plans and sections of the claim or land entered upon, and of any drives or other works therein, as shall be necessary for the purposes aforesaid;
- (2.) Before entering upon such claim or land, every such applicant and mining surveyor or miner shall make a declaration before such Warden (who is hereby authorised to take the same) that he the said applicant, surveyor, or miner will not, except as a witness in a Court of justice, without the consent in writing of the owner or occupier of the claim or land to be entered upon, divulge or cause to be divulged to any person whomsoever any information obtained upon or by such entry save only as to whether such owner or occupier is encroaching on the said first-mentioned claim or land; and every person who shall act contrary to such declaration shall forfeit and pay any sum not exceeding fifty pounds.

278 Service of orders.

Every injunction order, prohibition order, or order directing the delivery of possession of any land, water-race, drain, dam, reservoir, or of any water, or directing gold, metals, or minerals, or other property to be delivered or deposited, shall, except the Warden shall otherwise order, be served by delivering to the person to be bound thereby a copy thereof under the hand of the Warden and the seal of the Court; and a minute of every such order shall be entered by the Warden who shall have made the same in the register-book of the Court.

If the Warden shall see fit to order, it shall be sufficient service of any such order to publish a copy thereof in some newspaper, and to affix a copy thereof in such conspicuous place at or near the property in dispute, if any, as the Warden shall direct.

279 How judgments to be enforced.

Subject to the special provisions in this Act in that behalf, any judgment, decision, and order given or made by any Warden's Court in civil cases shall be carried out and enforced in accordance with the law for the time being in force regulating the proceedings in civil cases in Resident Magistrates' Courts; and every conviction in criminal cases shall be carried out and enforced in accordance with the law for the time being in force for regulating summary proceedings before Justices of the Peace.

280 Warrants, &c., may be partly in writing and print, and executed in any part of colony.

Every summons, warrant, order, or other process issued by any Court under the authority of this Act may be in writing or in print, or partly in one and partly in the other, and may be served or executed and put in force in any part of the colony by the bailiff of the Court, or by the bailiff of any Resident Magistrate's Court, or by any other person to whom the same may be specially directed.

281 No suit to be dismissed on account of informality.

No suit or complaint shall be dismissed because of any informality either in the summons or any other proceeding, nor shall any objection be taken or allowed to any summons, complaint, or proceeding for any alleged defect or misnomer or inaccurate description, or on the ground that the plaintiff or complainant shall appear at the hearing to be entitled to different relief than that sought by the summons, or for any variance between such summons and the evidence adduced; but the summons shall be amended by the Court so that the subject-matter in dispute between the parties shall plainly appear, and the Court shall proceed to adjudicate according to the rights of the parties.

If it shall appear upon the hearing of the case that the defendant has been deceived or misled by the summons, or that injustice would be done by proceeding at once with the case, the Court may, on such terms as to costs or otherwise as it shall think fit, adjourn the further hearing of the case to some future day.

282 Judgment to be entered on register.

Every judgment, and the time (if any) limited for satisfying the same, shall, within two days after the same is given, be entered in a register to be kept for that purpose, and signed by the Warden, and no other record thereof shall be necessary.

283 No order, &c., void for want of form.

No order, judgment, conviction, or other proceeding shall be void, or quashed, or vacated for want of form.

*Rehearings***284 Rehearing.**

Any Warden may grant a rehearing of any complaint decided by him, or by Assessors before him, upon such terms, if any, as to payment of costs or otherwise as such Warden shall think fit, and for that purpose, if necessary, may set aside any decision or order made on such complaint or upon any rehearing thereof.

The party applying for a rehearing shall, within ten days from the date upon which the decision to which he objects has been pronounced by the Warden, serve upon the opposite party a notice that the application therefor will be made at the expiration of two days from the day of the service of such notice, or on the first day thereafter on which the same can be heard.

Upon the hearing of such application the Warden shall fix the time and place for such rehearing if the same shall be granted, and direct such notice thereof to be given and in such manner as he shall think right to any of the parties; and the Warden may direct, or either of the parties may require, that such rehearing shall be heard before the Warden and four Assessors.

In case either of the parties so requiring, such party shall require the same at the time the rehearing shall be granted, or at such other time as the Warden shall permit, and shall also then lodge with the Warden the sum of six pounds for the Assessors.

The provisions hereinbefore contained as to hearings before Wardens and Assessors shall be applicable to rehearings before them.

285 Warden may reserve special case for Supreme Court.

In any proceeding before a Warden's Court, the Warden, if he shall think fit, may reserve any question in the form of a special case for the opinion of the Supreme Court in the Supreme Court district where the case shall have arisen, and in such case no judgment shall have effect in respect of any matter on which such question shall have been reserved until such opinion shall have been given.

Every such special case shall, when prepared by such Warden, be transmitted by him to the Registrar of the aforesaid Supreme Court, who shall cause the same to be set down for argument on such day as shall be appointed by the Judge of such Court, and the opinion of the Court, when given, shall be drawn up and transmitted by the Registrar to the said Warden, who shall make his order in accordance with such opinion.

Interim injunction.

Whenever any such special case shall have been reserved, the Warden who shall have reserved the same, on the application of any of the parties interested in such case, may make such order for an injunction, or receiver, or payment of

money into Court, or giving security for damages and costs, or otherwise, and upon such terms, as such Warden shall think proper.

Appeals

286 Appeal to District Court.

If either party shall be desirous of appealing from the decision of any Warden's Court, whether the decision be a dismissal of the case or otherwise, and whether the ground of appeal be matter of law or matter of fact, or both, such party may appeal to the District Court having jurisdiction over the district within which the decision shall have been pronounced.

Any person who shall be dissatisfied with the determination or decision of any Warden in any matter arising out of the administration of this Act by such Warden, under Parts I., II., V., or VI. thereof, may appeal from any such decision in manner as hereinbefore mentioned; and every such appeal shall be deemed to be an appeal on matter of fact.

287 Notice and grounds of appeal.

The appellants in every such case shall, within ten days from the date upon which the decision to which he objects has been entered in the Register and signed by the Warden, give notice of appeal to the Warden and to the other party, or his solicitor, stating the intention to appeal, and the grounds of appeal, and the time and place at which the same will be heard, and shall within such ten days deposit with the Clerk of the District Court aforesaid in cases of appeal on matter of law only the sum of ten pounds, and in cases of appeal on matter of fact the sum of twenty pounds, to abide the costs of such appeal.

- (1.) When the appeal shall be on matter of fact, the party appealing shall, at the time he makes the deposit aforesaid, file in the office of the District Court a copy, certified under the hand of the Clerk of the Warden's Court in which the case was tried, of the complainant's summons in the original case, or of the applicant's application, as the case may be, and of any objections made thereto, if any, and thereupon a rehearing of the case shall be heard in the said District Court, and the same proceedings shall be had thereon as if the case had been commenced in the original jurisdiction of such last-mentioned Court as hereinafter provided for.
- (2.) When the appeal shall be on matter of law only, it shall be in the form of a case agreed on by both parties or their solicitors; and if they cannot agree within seven days, the Warden on being appealed to by either party shall settle the case. The case when agreed to or settled shall be transmitted by the party appealing to the Clerk of the District Court, and the party so appealing shall set down the same for hearing, and give notice thereof to the other party to the case.

288 Hearing of appeal.

The appeal shall be heard by the District Court which shall sit at the place nearest to the place at which the decision appealed against shall have been pronounced, at the next sitting of the said Court at such place, not earlier than twenty days from the time such decision was given:

But the District Court may fix such other time or place for the hearing of such appeal as it may think fit.

289 When appeal deemed to be abandoned.

If no case is set down for hearing within thirty days from the time notice of appeal was given, the appeal shall be considered to be abandoned, and the same proceedings may be had and taken upon the order, judgment, decree, or decision appealed against, as though no notice of appeal had been given.

If the party appealing shall be unable to get a case settled within such thirty days as aforesaid, after using reasonable effort to do so, the Court to which such appeal is made may, if it sees fit, at any time within fourteen days after the expiration of the aforesaid thirty days, enlarge the time for setting down such case for hearing.

290 Order of Appeal Court.

The Court to which any appeal is made shall, after the hearing of such appeal, make an order reversing or varying such decision or dismissing such appeal, and all such orders shall be final and conclusive on the parties, and the Judge shall, if necessary, order payment of money, or the delivery of the possession of any claim, land, race, drain, dam, reservoir, or water, gold or other metals or minerals, or other property, to the person who was the complainant or applicant before the Warden's Court, or restitution of any claim, land, or water, gold or other metals or minerals, or other property, as the case may require.

And in and by such order the said Court may make such order with respect to costs of the appeal and of the proceeding appealed from as such Court shall think fit.

291 Costs of appeal.

If, upon the hearing of any appeal, the subject-matter of the dispute shall appear to the Court before which the appeal shall be heard not to exceed in value twenty pounds, the appellant shall not, although he succeeds, be entitled to receive any costs of such appeal from the opposite party unless the Court shall be of opinion that the special circumstances of the case entitle the appellant to costs.

292 Proceedings after decision of Appeal Court.

After any appeal on matter of law only against the decision of any Warden's Court shall have been determined,—

- (1.) If such appeal shall be dismissed, any Warden, on receiving a certificate to that effect from the District Court Clerk, or from the Registrar of the Supreme Court, may proceed to enforce such decision in the same manner as such Warden might have done if no such appeal had been brought.
- (2.) In case any such decision shall have been varied upon appeal, the decision so varied shall be deemed to be the decision of the Warden the decision of whose Court shall have been appealed against, and any Warden may proceed to enforce the decision as so varied in the same manner as if it had been the original decision, and no such appeal had been brought.

293 When appeal may be made to Supreme Court.

If there be no District Court for which a Judge shall have been appointed, with a full jurisdiction within the meaning of "The District Courts Act, 1858," in the district within which the matter in dispute shall have arisen, the appeal from the decision of any Warden's Court shall be to the Supreme Court sitting in the Supreme Court district within which the matter in dispute shall have arisen, and shall be heard at such sitting of the Supreme Court as shall have been specially appointed for the hearing of appeals from Wardens' Courts as shall be held next thereafter.

Such appeal shall in all other respects be commenced, concluded, and determined, and such notices and deposit shall be given and made, as is hereinbefore provided for the hearing of such appeals in District Courts. And special days for the hearing of appeals from Wardens' Courts shall be appointed by the Judge of the Supreme Court in each Supreme Court district, and the Registrar of each district shall give such public notification of the day so appointed as the Court shall direct.

In cases of appeal on matter of fact the Supreme Court alone, without jury or Assessors, shall decide such question of fact; but the Supreme Court may, on the application of either party, or in its own discretion, and upon such terms as to costs and otherwise as it shall think fit, order a special jury to be empanelled to try any issue or issues of fact which such Court may order to be so tried.

294 Certificate of result of appeal.

The Clerk of the Court in which any appeal is heard shall forthwith certify the result of such appeal under his hand and the seal of his Court to the Clerk of the Court whence the appeal was made.

295 Receiver may be appointed.

Whenever any appeal is brought or about to be brought, the Warden or, in cases in the District Court, the Judge of such Court from whose decision the appeal shall be or be about to be brought, on the application of any of the parties interested in such appeal, may make such order for an injunction or receiver or payment of money into the hands of the Warden or the Clerk of the District Court, as the case may be, to abide the event of the appeal, or for

stay of proceedings or otherwise, and upon such terms, as he shall think proper; but without such order or an order to the same effect by the Judge of the Court in which the appeal shall be brought, which order such Judge is hereby empowered to make, no appeal shall operate as a stay of proceedings, and the said Warden or Judge may at any time thereafter, if he thinks fit, discharge or vary such order.

Original Jurisdiction of District Court

296 When District Court to have original jurisdiction.

Besides the appellate jurisdiction given by this Act to the District Court, such Court shall have an original jurisdiction concurrent with the Warden's Court over all cases in which the amount or value claimed by the plaintiff shall exceed one hundred pounds.

297 Appeal therefrom to Supreme Court.

From any decision of such District Court sitting as a Court having original jurisdiction, an appeal shall lie on matter either of law or of fact, or of law and fact, to the Supreme Court, in the same manner, and subject to the like rules, conditions, and modes of proceeding, as in the case of an appeal from the decision of a Warden's Court to the District Court or Supreme Court, and not otherwise.

298 Forms of proceedings.

In all original suits brought in any District Court the forms of proceedings in such Court shall be applied as far as possible, and the Judge of such Court (unless an issue shall be directed as herein provided) shall alone determine all matters of fact as well as of law; but nevertheless such Court, if and whenever such Court shall think fit so to do, may try such case with Assessors, to be summoned, and subject to all the provisions hereinbefore contained for the trial of any such case in the Warden's Court, as hereinbefore mentioned, the verdict of a majority of whom shall be received, and no summons or pleading shall be necessary.

- (1.) Upon the day appointed for the trial the parties shall appear, and the Clerk of the Court shall read the issue, and the party asserting the affirmative shall, unless the Court at the time of directing such issue shall have otherwise ordered, be entitled to begin.
- (2.) Either of the parties previous to the day appointed for the trial may require from the Clerk of the Court that any particular facts shall be tried by Assessors, and the Court shall direct issues for the trial of such facts before the said Court and four Assessors in the manner hereinbefore mentioned, and the trial of every such issue shall otherwise proceed in the same manner as if it had been directed by the Supreme Court in a matter pending in that Court.

- (3.) The Clerk of the said Court shall thereupon, or when ordered by the Court before or during any sitting of such Court, cause a sufficient number of persons, being holders of miners' rights and business licenses, being not less than twelve, to be summoned from the neighbourhood to attend the Court as Assessors, at a time and place to be mentioned in the summons; and subsections two to seven, both inclusive, of section two hundred and seventy-one shall apply in respect to the Assessors summoned as aforesaid, as if they had been summoned for the purpose of a hearing in a Warden's Court, *mutatis mutandis*.

299 District Court may reserve question for opinion of Supreme Court.

The Judge of any District Court holden under this Act, on any such terms as to the payment of costs or otherwise as he shall think fit, may reserve, if he shall so think fit, any question arising in any proceeding before him, whether on appeal or otherwise, in the form of a special case for the opinion of the Supreme Court.

In such case no decree or order shall be made in respect of the matter in which such question shall have been reserved until such opinion shall have been given, and after such opinion given the said District Court shall make a decree or order in accordance therewith.

300 "Resident Magistrates' Evidence Act 1870," deemed to be incorporated.

The provisions of "The Resident Magistrates Evidence Act, 1870," shall, *mutatis mutandis*, be deemed to be incorporated in this Act, and be applicable to all proceedings in the Warden's Court or District Court in its original jurisdiction under this Act.

Procedure and Practice in Wardens' Courts

301 Rules of procedure. Sixth Schedule.

The rules set forth in this section shall regulate the practice and procedure in Wardens' Courts, and the fees to be taken in such Courts shall be such as set forth in the Table of Fees, No. XVII., in the Sixth Schedule, subject, however, to alteration, amendment, and revocation from time to time by the Governor in Council, in like manner as if such fees had been fixed by him under this Act:—

- (1.) The Schedule of Forms and Scale of Fees set forth in the Sixth Schedule hereto shall form part of these rules.

In construing these rules and the forms in the Sixth Schedule, "Clerk," "bailiff," means respectively the Clerk, bailiff, or person duly appointed and authorised to act as such respectively.

- (2.) The Clerk of the Court shall issue all summonses, warrants, and writs of execution, keep an account of all proceedings, take charge of and keep an account, in a book to belong to the Court, of all fees and fines payable or paid into Court, and of all moneys paid into and out of Court, adjourn the Court

to any day he may deem convenient when from any cause a Court cannot be held on the day appointed, and shall do and perform all other acts and duties properly incident to the office of clerk.

- (3.) The bailiff shall attend the sittings of the Court, unless when his absence shall be allowed by the Warden, and shall, when required, serve all summonses and orders, and execute all the warrants and writs issued out of the Court, and in other respects shall be subject to the directions of the Warden.
- (4.) The Warden of any Warden's Court may, on being satisfied that any person is a fit and proper person to be registered as an agent to act in such Court on behalf of parties in any such complaint, action, or proceeding, register such person as an agent to appear and act at that Court for any such parties; and any person so registered may, so long as his name shall be on the register kept at such Court, have the right to appear and act for any party without express or further permission from the Warden of the Court.

But such registration may be cancelled at any time by the Warden acting at such Court on it being made to appear to him that such person has been guilty of misconduct, or is otherwise unfit to act for parties in such Court.

- (5.) The parties in every complaint, action, and proceeding shall appear and act personally, or by a barrister or solicitor of the Supreme Court, or by a registered agent.
- (6.) No officer of the Court shall, either by himself or by any partner or person in his employment, be directly or indirectly engaged as counsel, attorney, registered agent, or agent for any party in any proceeding in the Court.
- (7.) Upon the application of any person desirous of prosecuting a suit in the Warden's Court, the Clerk of the Court, or the Warden if there is no Clerk, shall enter in a plaint-book to be kept for the purpose in his office a plaint, in writing, in the form or to the effect in Form No. 1 in the Sixth Schedule, which shall state the names and the last known places of abode of the parties and the substance of the action intended to be brought, or the relief intended to be sought, and, where the claim is a money demand, the amount sought to be recovered.

Every one of such plaints shall be numbered in every year according to the order in which it shall be entered, and, where the party does not sue in his own right, there shall be stated the character in which he sues.

In any case where the Christian name or surname of either party is not known he may be designated by any name or names which he may have acquired by usage or reputation.

- (8.) The intending plaintiff shall at the same time deliver to the Warden or Clerk of the Court, to be filed for the use of the Court, a full and explicit statement of the ground or cause of complaint; and, if there be more than one ground or cause of complaint, each shall be stated substantively and numbered in paragraphs consecutively, and there shall be set forth the relief claimed.

- (9.) The plaintiff shall, together with the aforesaid particulars of his claim, deliver so many copies thereof as there are defendants to the suit, and one of such copies shall be annexed to and served with each summons, and be deemed a part thereof.
- (10.) The summons with the particulars of claim annexed shall be in the form or to the effect of Form No. II. of the Sixth Schedule.
- (11.) The service of any summons shall be by delivering a copy of the same, at least forty-eight hours before the time appointed for the hearing, to the defendant (or, if more than one, to each of them), personally, or, if he cannot be found, by leaving such copy at his place of abode, or in case of co-partners at the claim, station, or other place of business of the firm, or in the case of any incorporated company in the manner prescribed by any Act under which such company may have been incorporated.
- (12.) In case any defendant cannot be found, and that he has no known place of abode, or that his dwelling has been removed or destroyed, and that service cannot be effected in any of the ways hereinbefore provided, then and in such case the summons shall be posted conspicuously upon the site of the dwelling so destroyed or removed, or upon the claim last known to have been held by the defendant.
- (13.) In the case of any defendant person or persons, whether incorporated or not, non-resident in the colony and not having a registered office in New Zealand, then and in such case the summons shall be posted upon the claim or any mining right last known to have been held by the defendant.

Sixth Schedule.

In cases under the two preceding subsections a notice of the posting of such summons in the form or to the effect of the Form No. III. in the Sixth Schedule, with a statement of the manner in which it has been posted, shall be advertised in a newspaper published in the town nearest to or circulating in the district in which is situate the Warden's Court at which the suit is to be heard, and such posting and publication shall be taken and held to be a good service of such summons.

- (14.) Every summons shall be served at least forty-eight hours before the time appointed for the hearing: Provided that any summons may issue and be served at any time before the holding of the Court if the Warden shall so direct.
- (15.) The summons may be served by the bailiff or by any other person whom the Court may authorise, or at the option of the complainant by himself or his agent.

Sixth Schedule.

- (16.) Either party may obtain from the Clerk of the Court summonses to witnesses in the Form No. VI. in the Sixth Schedule, to be served at the option of such party either by himself or his agent, or by the bailiff of the Court, with or without

a clause requiring the production of books and writings in their possession or under their control.

- (17.) The bailiff or other person who shall have served any summons shall, by a certificate under his hand, certify the time and mode of such service, to be indorsed on the summons, without prejudice to the Warden taking proof thereof by oath if he think fit.
- (18.) All Assessors summoned for the trial of any one cause shall be deemed to have been summoned for the trial of all causes to be tried at the same sittings of the Court with the assistance of Assessors.
- (19.) If the complainant do not appear at the time appointed, and good cause for his absence be not shown, the Warden may dismiss the complaint, or adjourn the case and award costs to the defendant.
- (20.) If the defendant do not appear, and it shall be proved that the summons was duly served upon him, the Court may proceed to hear the case *ex parte*, and to adjudicate thereon as fully and effectually as if the defendant had appeared.
- (21.) The defendant in any proceeding for, or which shall include, a money demand may, at any time before the summons shall be heard, pay into Court such sum of money as he shall think a full satisfaction for such demand, together with the costs incurred by the complainant up to the time of such payment, and of delivering the notice next hereinafter mentioned, and notice of such payment shall be communicated by the Clerk of the Court to the complainant by causing the same to be delivered at his usual or last-known place of abode or business, and the said sum of money shall be paid to the complainant or his solicitor.
- (22.) If the complainant shall elect to proceed, and shall recover no further sum in respect of such money demand than shall have been so paid into Court, he shall pay to such defendant the costs incurred by him in the said proceeding after such payment, and the Warden may decree the same accordingly.
- (23.) It being competent to the Court, whenever it shall see fit, to order the working of any miner's claim affected by any matter in dispute brought before the Court to be suspended until such matter shall have been investigated and adjudicated upon, if in any complaint there shall be set forth sufficient grounds, in the opinion of the Court, for the interim order or injunction on the person complained against to desist from working his claim, or from any act or proceeding in the working thereof likely to cause irreparable or serious injury, and if such relief or remedy be then claimed, the Warden may issue such order or injunction in the meantime; and afterwards, on hearing the parties, may recall the same, or otherwise decide as he may see fit.
- (24.) All the costs of any complaint or proceeding may be taxed by the Warden, or under his instruction by the Clerk, and may be apportioned between and shall be paid by the parties or such of them and in such manner as to the Warden shall seem fit; but in default of any special direction such costs shall abide the event of the action.

- (25.) The Warden may in each case direct what number of witnesses shall be allowed between party and party, and their allowance for attendance shall in no case exceed the highest rate of the allowance mentioned in the Form No. XVIII. in the Sixth Schedule.
- (26.) The cost of witnesses, whether they have been examined or not, may in the discretion of the Warden be allowed although they may not have been summoned.
- (27.) The Warden may make such order as he may think fit concerning the times and by what instalments any sums of money for which judgment shall be obtained shall be paid, and all such money shall be paid into Court unless the Warden shall otherwise direct.
- (28.) The Warden may at all times amend all defects and errors in any proceedings of the Court.
- (29.) In default of the payment of any fees, payment thereof by order of the Warden may be enforced by such means as may be employed to recover any sum of money adjudged by the Court to be paid.
- (30.) The Warden, the Clerk, and any other officer may refuse to do any act for which a fee shall be demandable unless such fee shall first be paid.
- (31.) The Warden may, in pursuance of section three hundred and four, prescribe such additional regulations as may from time to time be necessary for the orderly transaction of the business of his Court.
- (32.) A table of all fees and moneys payable in respect of proceedings in Wardens' Courts shall be kept affixed in some conspicuous place in the Courthouse and in the Clerk's office at every place at which such Court is holden, and also at every place where an Assistant Clerk's office is opened.
Sixth Schedule.
- (33.) The several forms in the Sixth Schedule shall be followed as nearly as conveniently may be, but no document shall be invalid if the form used be to the like effect; and any such form may be altered or modified to suit the circumstances of any case for the purposes of this Act.

302 Order may be enforced by commitment.

When a lawful order is made by a Warden's Court or by a Warden thereof, not for the payment of money but for the doing of some other act or for omitting to do some act, any person acting in disobedience to such order shall be liable, at the discretion of the Warden, to a penalty not exceeding ten pounds for each offence, and to be imprisoned in default of payment, or to be imprisoned in the first instance, and the Court or Warden, as the case may be, may issue a warrant of commitment accordingly.

The person so offending shall be taken to some convenient prison to be named in such warrant, and delivered to the keeper thereof, and he shall be there detained until he give security to the satisfaction of the Warden that he will

cease to do the act prohibited or will do the act required, or until the Warden shall make an order for his release.

No person shall be imprisoned under this section for any term exceeding three months.

303 Person guilty of contempt may be taken into custody and imprisoned.

If any person shall wilfully insult any Warden or Assessors or any officer of the Court, during the sitting or attendance in such Court, or shall wilfully interrupt the proceedings, or be guilty in any other manner of contempt in the face of the Court, the bailiff or any constable, with or without the assistance of any other person, by order of the Warden, may take such offender into custody, and detain him until the rising of the Court.

Instead of discharging any offender at the rising of the Court the Warden, if he shall think fit, by a warrant under his hand, may commit any such offender to prison for any term not exceeding one hundred and twenty hours, or may impose on any such offender a fine not exceeding five pounds for any offence, and in default of payment thereof may commit the offender to prison for any term not exceeding one hundred and twenty hours, unless the fine be sooner paid.

304 Warden may make regulations for transacting business.

The Warden, or, if more than one, the senior Warden, may from time to time make such regulations as he may think fit for the orderly transaction of the business of his Court.

305 Constables, &c., to assist Warden.

All constables and peace officers shall within their several localities aid and assist the Warden in the execution of any duties imposed by any of the sections of this Act.

306 Swearing of affidavits.

Affidavits, to be used before any Warden, or the Clerk of any Warden's Court or Resident Magistrate's Court, or in any Warden's Court, may be sworn before a Warden, or before any solicitor of the Supreme Court, or before a Justice of the Peace.

Part V

REGISTRATION. QUARTZ-CRUSHING MACHINES

307 Interpretation.

In this Part of this Act,—

“Machine” means and includes all mechanical, chemical, or other means, processes, or appliances whatsoever, whether worked by hand, steam, water, or

horse-power, or otherwise, and which shall be used in extracting metals from any ore or mineral substance, or in relining, retorting, or otherwise treating metals for the purpose of refining the same after its extraction from any such ore or mineral substance:

“Machine-owner” means and includes the owner, lessee, or other person having the care, custody, or control of any such machine:

“Machine-premises” mean and include the ground and buildings upon which any such machine shall be situate, and all offices and outbuildings used and occupied in connection with any such machine:

“Metals” include gold, silver, and all other metals:

“Ore or mineral substance” mean and include any earth, clay, quartz-stone, mineral, or other substance containing or having mixed therein any metal not being what is commonly known as “alluvial gold.”

308 Rules as to machines and machine-owners.

The following general rules shall apply in respect of all machines and the owners thereof respectively:—

Seventh Schedule.

- (1.) Every machine-owner shall register every machine of which he is owner with the Mining Registrar for the district, and shall thereupon, and upon payment of a fee of one shilling, receive a license in the form set forth in the Seventh Schedule hereto annexed, which license shall be in force until the thirty-first December then next ensuing, and shall be renewable annually.
- (2.) Any person who shall have in his possession any unlicensed or unregistered machine shall be liable to a penalty of not exceeding fifty pounds.
- (3.) Any person who shall use any unregistered or unlicensed machine for the purpose of extracting any metal from any ore or mineral substance, or of refining, retorting, or otherwise treating metals for the purpose of refining the same after its extraction, shall be liable to a penalty of not exceeding one hundred pounds for each offence.
- (4.) Any person who shall deliver any ore or mineral substance to any unlicensed or unregistered machine-owner, for the purpose of such ore or mineral substance being treated at or by such machine, shall be liable to a penalty of not exceeding one hundred pounds for each offence.

Seventh Schedule.

- (5.) Upon registration and payment of the aforesaid fee, every machine-owner shall receive a register-book in the form in the Seventh Schedule hereto annexed, and shall in such register-book enter from time to time true and correct accounts of all ore or mineral substances received by him for treatment at or by his machine or machines, together with all such other information as is required by the forms of such register, and all such entries shall be made

forthwith upon receipt of such ore or mineral substance, or, as the case may be, upon the results of the treatment thereof becoming known to such owner.

- (6.) Any machine-owner who shall neglect or delay to make such entries as aforesaid shall be liable to a penalty of not exceeding five pounds for each offence.
- (7.) Any machine-owner who shall wilfully omit to make such entries as aforesaid, or who shall knowingly make any false entry in such register, shall be liable to a penalty of not exceeding two hundred pounds for each offence, and upon a second conviction shall be liable, in addition to such penalty, to have his license cancelled.
- (8.) Every person who shall deliver any ore or mineral substance to any machine-owner for treatment at his machine shall furnish to such machine-owner a true account of his own name and address, of the name and address of the owner of such ore or mineral substance, and of the mine, claim, or locality from which such ore or mineral substance was obtained.
- (9.) Any person who shall refuse to furnish such account, or who shall wilfully furnish a false account under the last-preceding subsection, shall be liable to a penalty of not exceeding one hundred pounds, and the machine-owner to whom such ore or mineral substance shall have been delivered without such account, or with a false account, shall impound and detain such ore or mineral substance until he shall have obtained a true account in relation to the same, and shall forthwith inform the police of such impounding and detention, under a penalty of not exceeding fifty pounds.

Seventh Schedule.

- (10.) Every machine-owner shall, between the first and fifth days of each month, furnish to the Inspector of Mines a true and correct return in the form in the Seventh Schedule hereunto annexed, under a penalty of not exceeding five pounds for every neglect to furnish the same, and a penalty of not exceeding twenty pounds for every wilful neglect or refusal to furnish the same.
- (11.) The said Inspector of Mines may, at his discretion, require any such return to be verified by the statutory declaration of the machine-owner furnishing such return, and any neglect or refusal to make such declaration shall render such machine-owner liable to a penalty of not exceeding five pounds.
- (12.) The Inspector of Mines may at all reasonable times enter upon any machine-premises and inspect such machine, the license therefor, and the register-book hereby required to be kept, and may make extracts from such register, and may, upon the Warden's authority in writing, seize, impound, and remove such register; and any machine-owner delaying or refusing to produce such machine-license or register for such inspection shall be liable to a penalty of not exceeding twenty pounds for the first and of not exceeding fifty pounds for every subsequent offence.
- (13.) Machines used only for analysis or other scientific purposes must be registered annually, and a fee of one shilling paid therefor, but their owners and persons

using them only for such purposes shall be exempt from the preceding subsections of this section.

- (14.) If any machine registered to be used only for analysis or other scientific purposes shall be used for treating any ore or mineral substance for other than analytic or scientific purposes the owner thereof shall be liable to a penalty of not exceeding one hundred pounds.

309 Penalty for breach of rules.

Every person who commits any breach, whether by way of omission or commission, of any of the rules made under this Part of this Act shall be liable for every such breach to a penalty not exceeding one hundred pounds.

When any person shall be convicted of any breach of the said rules the conviction may order that, upon non-payment of the amount of penalty imposed by such conviction, such person shall be imprisoned for any period not exceeding two months when the amount of penalty does not exceed fifty pounds, or for any period not exceeding four months when the amount of penalty does not exceed seventy-five pounds, or for any period not exceeding six months when the amount of penalty exceeds seventy-five pounds.

Recovery of penalties.

All proceedings for any breach of the aforesaid rules may be had and taken before any Warden or Resident Magistrate or two Justices of the Peace, according to the law for the time being in force for regulating summary proceedings before Justices of the Peace, and may be prosecuted in the name of the Inspector of Mines, Mining Registrar, or any other person authorised in that behalf by any Warden.

Part VI

REGULATION FOR WORKING OF MINES

310 Concurrent powers of Inspectors of Machinery and Inspectors of Mines.

Nothing in this Act contained shall be deemed to abridge or annul any of the provisions of "The Inspection of Machinery Act, 1882," or any Act amending the same, nor to affect the duties of any Inspectors appointed under the said Acts in relation to the inspection in mines of machinery and boilers coming within the operation of the Acts last aforesaid; but every Inspector of Mines shall have the same powers as the aforesaid Inspectors, and it shall be his duty regularly to inspect all machinery in mines excepting steam engines and boilers, and to see that such machinery is safe in all its parts, and in good working-order.

311 Company to have a registered manager.

Every mining company, whether registered or co-operative, which employs more than twelve men, shall appoint and continue to have a manager who shall

be deemed the mining manager of the company under this Part of this Act, and the name and address of such manager for the time being shall be notified in writing to the Inspector of Mines and also to the Minister, and no person shall be so appointed who has not the management of the mining operations carried on by such company.

Name of manager to be posted at mine.

The name of the mining manager of any mine, for the time being, shall be posted and kept posted in some conspicuous place at the entrance of such mine.

312 Manager may not act as sharebroker.

No mining manager or legal manager of any mine shall act as a sharebroker; and if he shall so act, either directly or indirectly, he shall be liable to a penalty of not exceeding fifty pounds, to be recovered in a summary way.

313 Board of Examiners.

The Director of the Geological Survey of New Zealand, the Surveyor-General, the Inspecting Engineer of Mines, an Inspector of Machinery, and three other persons being holders of first-class mine-managers' certificates, to be from time to time appointed by the Governor, shall form a Board of Examiners to conduct examinations of applicants for certificates as mine-managers or engine-drivers respectively for the purposes of this Act; one of whom, to be named by the Governor, shall be Chairman. The Board shall conduct all examinations according to regulations to be prescribed by the Governor, who may also appoint a Secretary to the Board. Nothing herein contained, however, shall prevent the Governor from appointing any other persons or any school of mines for the purpose of conducting the aforesaid examinations where he shall think fit to do so.

Applications for certificates.

Every applicant for any certificate of competency shall make his application in manner as may be prescribed by regulations, and shall forward with such application the sum of one pound sterling as a fee for such certificate; and such fee shall entitle the applicant to come up for another examination after a period of three months without further charge, in the event of his failing to pass his first examination.

Examiners may refuse certificates.

Notwithstanding anything in this Act contained, the Board of Examiners may grant or refuse a certificate of competency or of service upon any grounds they may deem advisable.

314 Mine manager to have certificate of competency.

Every person employed or acting in the capacity of a mine-manager shall be the holder of a mine-manager's certificate of competency.

Every person who seeks to obtain such a mine-manager's certificate shall pass an examination previous to obtaining it, to show that he possesses the necessary knowledge and requirements in working a mine, and shall also be the holder of a certificate from his previous employers showing that he has been actually engaged in underground workings in a mine for a period of not less than three years; and shall forward the last-mentioned certificate, together with his application for examination, as hereinbefore mentioned.

There shall be two grades of mine-managers' certificates; and every manager of a mine worked from a shaft or inclined plane where winding machinery is combined, or where pumping machinery is used, shall be the holder of a first-class certificate; and every manager of a mine worked from an adit-level where no winding or pumping machinery is employed or used need only be the holder of a second-class certificate.

315 Engine-driver to have certificate of competency.

Every person employed or acting in the capacity of engine-driver who is in charge of any engine or any winding machinery by means of which respectively persons are brought up or passed down or along any shaft, pit, or inclined plane, or level, shall be the bearer of an engine-driver's certificate of competency.

Every person who seeks to obtain such an engine-driver's certificate shall pass an examination as to his possessing the necessary knowledge and requirements in working such gear or winding machinery.

Every such person who, after the day of the commencement of this Act, is in charge as aforesaid, shall pass an examination as aforesaid within twelve months after the day last aforesaid; failing which he shall be deemed to be disqualified as an engine-driver under this Act.

316 Certificates from beyond colony recognised.

The Board of Examiners shall cause a certificate of competency as mine-manager or engine-driver respectively to be granted without previously undergoing an examination as aforesaid, to any person of good repute producing a certificate of competency from any duly-constituted and recognised authority outside the colony, and satisfying the examiners of his *bonâ fides*, and paying the fee of ten shillings for such certificate.

317 Service certificates.

The Board of Examiners may cause certificates of service as mine-manager or engine-driver respectively to be granted without undergoing any examination as aforesaid to any person of good repute who shall before the thirtieth day

of June, one thousand eight hundred and ninety-two, make application for the same to them in the prescribed manner, and shall pay the sum of ten shillings as a fee for the said certificate, and shall produce a certificate from his former employer or employers—

- (1.) If a mine-manager, of his having had seven years' practical experience, and been actually employed in underground workings of a mine as captain or boss of a shift for a period of two years, and shall produce from the Inspector a certificate that he is competent to take charge of the underground management of a mine; or
- (2.) If an engine-driver, of his having been actually engaged and acted continuously in working winding-engines and winding machinery in a mine for a period of twelve months immediately previous to the date of his application.

318 Disqualification of mine managers and engine-drivers.

Any person holding a certificate of competency or of service as a mine-manager or as an engine-driver, and who is charged with any offence or misconduct likely to be detrimental to the proper or efficient discharge of his duties, may be called upon by the Board of Examiners to show cause why he should not be disqualified as a certificated mine-manager or engine-driver, and if he fails to satisfy the said Board he may, by an Order of the Governor in Council, published in the *Gazette*, be disqualified for any period from acting as a mine-manager or as an engine-driver.

No person shall, after such order, deliver into the charge of the said mine-manager or engine-driver, during the period of his disqualification, and no such mine manager or engine-driver shall, during the period of such disqualification, take charge of any mine or machinery in which steam, water, or air, or any two or more of them, are used as motive-power.

319 Penalty for acting without certificate.

Any person acting in the capacity of mine-manager, or acting as engine-driver in charge of any winding-machine or winding machinery for the descent or ascent of any persons to or from a mine, at any time without a certificate of competency or of service obtained under, or while he is disqualified under, the foregoing provisions of this Act shall be deemed guilty of an offence against this Act, and shall be liable to a penalty not exceeding five pounds for every day during which he shall act in such capacity; and any person who shall knowingly employ any mine-manager or engine-driver during the period of disqualification or without a certificate shall be deemed guilty of an offence against this Act, and shall be liable to a penalty not exceeding five pounds for every day that such mine-manager or engine-driver is so employed.

Every person acting as mine-manager or as engine-driver in charge of any winding gear or machinery shall, on demand of any Inspector of Mines, Inspector of Machinery, or other person authorised by the Minister, produce

his certificate of competency or of service: Provided that this section shall not apply to persons acting as managers to sluicing or dredging claims.

320 Limit of hours of person in charge of steam-machinery.

No person in charge of steam-machinery used in connection with any mine, or for the treatment of the products of any mine, shall be employed for more than eight consecutive hours at any time, and there, shall be an interval of at least four hours before such person resumes his work. Each period of eight hours shall be exclusive of any time occupied in raising steam and in drawing fires, and in exhausting steam in connection with the machinery in charge of such person, and exclusive of meal-hours, and of any time in which such person is employed in case of breakage or other emergency.

Negligence.

Every person in charge as aforesaid who is guilty of negligence by which any property is destroyed or damaged shall be guilty of an offence against this Act.

Holidays.

If any such person as aforesaid shall be employed during seven consecutive days in every week, he shall be entitled to not less than twelve half-holidays, or six full holidays, during the year.

321 Who may not work in mines.

No female of any age, and no male child under the age of thirteen years, shall be employed for hire in any capacity in or about any mine.

**322 Youth not to be employed as lander or braceman at brace set over shaft.
Working-hours of boys and youths.**

No youth shall be employed as lander or braceman at any time at a brace over any shaft. No boy or youth shall be employed for more than forty-eight hours in any week, exclusive of the time allowed for meals, nor more than eight hours in any day, except in cases of emergency.

But no person shall be deemed guilty of an offence against this Act for a contravention of that part of this section relating to the time for which persons shall not be employed below ground if he prove before any Warden, Resident Magistrate, or two Justices not being interested in any mine in which such person or persons are employed that, there were special circumstances to render such contravention necessary for the proper working of the mine, and that such contravention was not injurious to the workmen employed in the mine.

323 General rules.

The following general rules shall, so far as may be reasonably practicable, be observed in every mine:—

Ventilation.

- (1.) An adequate amount of ventilation shall be constantly produced in every mine to such an extent that the shafts, winzes, sumps, levels, and working-places of such mine, and the travelling-roads to and from such working-places, shall be in a fit. state for working and passing therein.

Gunpowder and blasting.

- (2.) Gunpowder or other explosive or inflammable substance shall only be used in a mine as hereunder provided, that is to say,—
- (a.) It shall not be stored on the surface of or adjacent to the mine unless in such magazine and in such quantities as may in writing be approved by the Inspector:
- (b.) It shall not be stored in the mine in any quantity exceeding what would be required for use during six working-days for the purpose of the mine; and, if stored in the mine, it shall be kept in a drive or chamber separated by a door fixed across such drive at least thirty feet from any travelling-road:
- (c.) It shall not be taken for use into the workings of the mine except in a securely-covered case or canister containing not more than eight pounds of gunpowder, nor more than five pounds of nitro-glycerine compounds:
- (d.) A workman shall not have in use at one time in any one place more than one of such cases or canisters:
- (e.) Detonators for blasting shall be kept stored on the surface of the ground in a covered box placed in the powder-magazine;
Not more than one hundred detonators shall be kept for service in any mine at one time, and these shall be kept in a covered box in the drive or chamber set apart for the purpose, and only taken out in such quantities as required for immediate use. Detonators shall not, on any pretence whatsoever, be placed near any travelling-road, pass, or working-face:
- (f.) No person shall enter with a naked light a powder-magazine or any excavation in a mine where powder or other explosive or inflammable substance is stored:
- (g.) No iron or steel pricker shall be used in blasting in any mine, and no iron or steel tool shall be used in tamping or ramming, and no iron or steel pricker or tamping-bar shall be taken into any mine;
The proprietors of the mine shall provide copper prickers:
- (h.) A charge which has missed fire may be drawn by a copper pricker, but shall not be visited until three hours have elapsed from the time of lighting the fuse of such charge; but in no case shall an iron or steel drill be used for the purpose of drawing or drilling out such charge; nor shall

any charge be drawn where nitro-glycerine compounds or detonators have been used;

This subsection shall not apply to charges fired by an electric current:

- (i.) No person under the age of eighteen years shall be allowed to charge a hole with explosives, or to fire any charge of explosives:
- (j.) No drill-hole shall be bored within a distance of three feet directly below or within one foot in any other direction from the site of a previously-exploded charge of any nitro-glycerine compound, and no drill-hole shall be bored in any remaining portion of a hole in which a charge of nitro-glycerine compound has been previously exploded:
- (k.) In all cases where the fumes arising from the explosion of any nitro-glycerine compound cannot be effectively dispersed by ventilation or spray of water from the mine, such fumes shall be neutralised or rendered innocuous by the person in charge of the blasting operations by the use of a spray of solution of sulphate of iron before the miners are permitted to return to the sites of such blasting operations:
- (l.) Mining companies or persons employing miners in blasting with nitro-glycerine compounds shall supply such miners with the means of thawing such compounds, and with the means of producing sulphate-of-iron spray.

other Manholes in selfacting or engine planes.

- (3.) Every underground plane on which persons travel which is self-acting or worked by an engine, windlass, or gin, shall be provided (if exceeding thirty yards in length) with some proper means of signalling between the stopping-places and the ends of the plane, and shall be provided in every case at intervals of not more than twenty yards with sufficient man-holes for places of refuge.

Spaces in horseroads.

- (4.) Every road on which persons travel underground where the produce of the mine in transit exceeds ten tons in any one hour over any part thereof, and where the load is drawn by a horse or other animal, shall be provided at intervals of not more than one hundred yards with sufficient spaces for places of refuge, each of which spaces shall be of sufficient length and of at least three feet in width between the wagons running on the tramroad and the side of the road.

Keeping spaces clear.

- (5.) Every man-hole and space for a place of refuge shall be constantly kept clear, and no person shall place anything in a man-hole or such space so as to prevent access thereto.

Fencing off entrance to shafts.

- (6.) The top and all entrances between the top and bottom of every working- or pumping-shaft shall be properly and securely fenced or securely covered; but this provision shall not be taken to forbid the temporary removal of any fence or cover for the purpose of repairs or other operations if proper precautions are used.

Every abandoned or disused shaft shall be fenced or securely covered in by the lessee or registered owner thereof, and its position indicated on the surface by a post or cairn of stones, or such other permanent distinguishing mark as an Inspector shall think sufficient.

Horizontal bar to be provided where fence or cover is temporarily removed.

- (7.) When a fence or cover has been temporarily removed from any entrance to a shaft to admit of the performance of ordinary mining operations, a strong horizontal bar shall be securely fixed across such entrance, not less than three nor more than four feet from the floor of the brace-chamber or drive, as the case may be.

Securing of shafts.

- (8.) Where the natural strata are not safe, every working- or pumping-shaft shall be securely cased, lined, or otherwise made secure; for which purpose an ample supply of sound good timber shall be kept on the ground ready for immediate use.

Drives and excavations to be protected.

- (9.) Every drive and every excavation of any kind in connection with the working of a mine shall be securely protected and made safe for persons employed therein.

Division of shafts.

- (10.) Where one portion of a shaft is used for the ascent and descent of persons by ladders or a man-engine, and another portion of the same shaft is used for raising material, the first-mentioned portion shall be cased or otherwise securely fenced off separate from the last-mentioned portion.

Signalling.

- (11.) Every working-shaft in which a cage is used, and every division of such shaft in which persons are raised and lowered, and every shaft in which appliances worked by steam or other machinery are used, shall be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft and from every entrance for the time being in work between the top and the bottom of the shaft to the top, and thence to the engine-room, and from the engine-room and top to the bottom of the shaft and to every entrance for the time being in work between the top and the bottom of the shaft; and no verbal signals or communications shall be made up or down

a shaft exceeding fifty yards in depth in which cages are used except through speaking-tubes or telephones in the pump-compartment of such shaft.

Every person employed in a mine shall make himself acquainted with the system of signals used in such mine.

A line or some other appliance shall be provided in each shaft to admit of danger-signals being communicated to the engine-driver from any portion of such shaft.

Clear view for engine-driver.

- (12.) A clear view shall be kept for the engine-driver between his station and the shaft at the surface-brace.

All modes of signalling to be clear and distinct.

- (13.) All methods of signalling in mines to indicate that men or material are to be raised or lowered in shafts shall be clear and distinct, and shall be posted in a clear and legible form on framed boards, one of which shall be placed at the chamber at the bottom of the workings in the shaft, and the other at the brace at or near the top of the shaft.

Such methods shall be subject to the approval of the Inspector, and shall also be subject to such alterations and amendments as may from time to time be indicated by the Minister on the report of the Inspector; and any neglect to carry out such indicated alterations or amendments shall be an offence against this Part of this Act.

Signalling along drives in alluvial mines.

- (14.) Whenever any underground work is being performed in alluvial mines at greater distances than two hundred feet from the shafts proper means shall be provided for communicating along the lower drives of such mines distinct and definite signals to and from the plats at the bottom of the shafts, and to and from such places in which men may be at work.

Cover overhead.

- (15.) A cage shall have a sufficient cover overhead when used for lowering or raising persons in any working-shaft; such cage-cover shall be constructed of iron not less than one quarter of an inch thick, and shall be securely hung on hinges and fitted with sloping sides, so as to be readily-lifted upwards by persons within the cage. Wherever practicable, all persons working in shafts shall be protected overhead from falls of material down such shafts by means of a roof or other suitable appliance.

Regulating descent of persons and material in cages.

- (16.) Not more than four persons shall be lowered or raised in one cage in any mine, nor shall any person be permitted to get off or on a cage until it has settled on

the beams on the surface of the mine or reached the bottom or level where it is intended to stop.

No timber, tools, rails, sprags, or other material, except for repairing the shaft, shall be placed in the same cage in which men are being lowered or raised from their work.

Braces to be covered overhead.

- (17.) Every brace shall be properly covered to protect the workmen from the inclemency of the weather.

Proper ladder or footway.

- (18.) A proper ladder or footway shall be provided in every shaft in which a whim, whip, or windlass is used, and in every working pit or shaft where no machinery is used, for lowering or raising persons employed therein.

Chains.

- (19.) A single-linked chain shall not be used for lowering or raising persons in any working shaft or plane except for the short coupling-chain attached to the cage or load. When chains are employed as couplings to cages two single-linked chains of uniform size shall be used to each coupling.

Ropes and chains to be tested.

- (20.) Before any rope or chain is used in the shaft of a mine it shall be tested and proved to be equal to carrying twice the weight of the ordinary load, and in mines where men are lowered or raised in shafts the ropes and chains shall be periodically tested at intervals of not more than three months to carry twice the weight of the ordinary load.

Slipping of rope on drum.

- (21.) There shall be on the drum of every machine used for lowering or raising persons such flanges or horns, and also, if the drum is conical, such other appliances, as may be sufficient to prevent the rope from slipping.

Brake.

- (22.) There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons, an adequate brake, and also a proper indicator (in addition to any mark on the rope) to show to the person who works the machine the position of the cage or load in the shaft.

Cages to have suitable appliances.

- (23.) Every cage used in a mine shall be fitted with special and suitable appliances to prevent its sudden fall down a shaft, and also to prevent it coming into contact with the poppet-heads.

Spring catches or tumblers to be affixed to skids.

- (24.) Spring catches or automatic or self-acting doors or tumblers of a suitable kind shall be affixed to the skids or guides below the poppet-heads of every shaft

in which a cage is used, to prevent the fall of such cage down, the shaft when detached from the rope or chain by overwinding.

Protection to persons ascending or descending shaft.

- (25.) In any shaft exceeding twenty feet in depth in which cages are not used, no person shall descend or ascend by the aid of machinery unless, in addition to the use of the loop, crossbar, or other appliance, he be securely stayed to the rope employed for lowering or raising in such shaft by a strap or other fastening passing round the body under the arms, and such method of staying shall be used by every person who finds it necessary, in the execution of his duty, to descend or ascend a shaft on top of the cage-covers.

Inclination of ladders.

- (26.) A ladder permanently used for the ascent or descent of persons in the mine shall not be fixed in a vertical or overhanging position, unless in shafts used exclusively for pumping, and shall be inclined at the most convenient angle, which the space in which the ladder is fixed allows, and every such ladder shall have substantial platforms at intervals of not more than thirty feet, and a suitable fixture for a hand-grip shall be placed above such ladder for the use of persons ascending or descending such ladder.

Dressing-rooms.

- (27.) If more than four persons are employed in the mine below ground in one shift, sufficient accommodation shall, if ordered by the Inspector, be provided above ground near the principal entrance of the mine, and not in the engine-house or boiler-house, for enabling the persons employed in the mine to conveniently dry and change their dresses, and in no case shall men be allowed to change their dresses upon a boiler.

Person in charge of machinery.

- (28.) No person under the age of twenty-one years shall be placed in charge of or have the control of any steam engine or boiler used in connection with the working of any mine. No person in charge of steam machinery in connection with the working of any mine shall, under any pretext whatever, unless relieved by a competent person for that purpose, absent himself or cease to have continual supervision of such machinery during the time it is used in working the mine.

Machinery to be examined.

- (29.) All machinery in which steam, water, or air, or any two or more of them, are used as motive-power, shall be subject to the provisions of "The Inspection of Machinery Act, 1882," so far as the same shall reasonably apply, and no such machinery, erected or fitted up, shall be employed until it has been examined by an Inspector appointed under the last-mentioned Act, and certified by him to be in proper and fit working condition.

Machinery to be kept in good order and condition.

- (30.) All boilers, compressors, engines, gearing, and all other parts of machinery, when used for any mining purpose, or for the treatment of ores, or for the treatment of the products of any mine, shall be kept in a fit state and condition.

Fencing machinery.

- (31.) Every fly-wheel, and all exposed or dangerous parts of the machinery, and every tramway constructed on an elevated platform, shall be and be kept securely and safely fenced, except tramways worked by ropes.

Gauges to boiler and safety-valve.

- (32.) Every steam-boiler shall be provided with a proper steam-gauge and water-gauge, to show respectively the pressure of steam and the height of water in the boiler, and with a proper safety-valve; and at least once in every six months, or oftener if required, every boiler shall be thoroughly cleansed; and once in every twelve months every such boiler shall be subjected to an hydraulic test, and the date and full description of every such test and cleansing shall be entered in a book to be kept by the mining manager or other person in charge of the mine, and the entries in such book shall on demand be open to the perusal of any Inspector under this Act or under "The Inspection of Machinery Act, 1882."

Smoke not to be allowed to escape.

- (33.) The smoke from every boiler for generating steam, and from every furnace used in any part of the underground workings of a mine, shall not be allowed to escape into any part of such workings, nor in any manner other than by means of an air-tight flue conducting such smoke directly from the boiler or furnace into a vertical shaft cut in the rock up to the surface of the ground to the open air, or built up to the surface as aforesaid with bricks and cement, in manner as to be completely air-tight.

Wilful damage.

- (34.) No person shall wilfully damage, or without proper authority remove or render useless, any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety-valve, or other appliance or thing provided in any mine in compliance with this Act.

Protection of abandoned shafts.

- (35.) No person shall, after any shaft has become disused for mining purposes, wilfully damage or render useless such shaft by the removal of any fencing, covering, casing, lining, ladder, platform, or other appliance provided in such shaft, without the consent of the Minister.

Boring-rods to be used.

- (36.) In every working in a mine approaching a place likely to contain a dangerous accumulation of water, boring-rods shall be kept and used for the purpose of perforating the ground twenty feet in advance of or near or at any angle from

such working, and no drive, gallery, or other excavation shall be made within a dangerous distance of such accumulation of water.

Mines liable to flood to be provided with escape-drives.

- (37.) In every mine which in the opinion of an Inspector is liable to an inundation or inburst of water, such additional rises, chambers, drives, and other workings, or any of them, shall be constructed as may seem necessary and as may be prescribed by the Minister for the escape of workmen from the lower workings or to insure their safety in every such mine during the period of any inundation or inburst of water in such mine.

Ladders to be provided in "jump-ups."

- (38.) Ladders, and, when necessary, convenient platforms connected therewith, shall be provided in each rise, jump-up, or passage giving access to workings at a higher level in a mine, and a notice shall be posted at the foot of each such rise, jump-up, or passage stating the height of such rise, jump-up, or passage to the chamber or drive above.

Mining manager in charge of mine to inspect.

- (39.) The mining manager of every mine, or other competent person or persons appointed for such purpose, shall once at least in every twenty-four hours examine the state of all safety appliances or gear connected with the cages, winding-ropes or shafts of the mine, and shall once in each week carefully examine the buildings, machinery, shafts, levels, planes, and all places used in the working of such mine, and shall record in writing, in a book to be kept for that purpose, his opinion as to their condition and safety, and any repairs, and as to any alterations required to insure greater safety to the persons employed in the working of such mine, and such book shall, on demand, be opened to perusal by any Inspector under this Act; and every such safety appliance or gear, if condemned by any Inspector of Mines or Inspector of Machinery, shall be forthwith removed or made fit.

Books and copy of Act to be kept at mine.

- (40.) The books mentioned in this section, or a copy thereof, and a copy of this Act shall be kept at the office at the mine, or, if there is no office, at some convenient place near the mine, and any Inspector under this Act and any person employed in the mine may at all reasonable times inspect and take copies from any such books or extracts from such Act.

Any mining manager, or any person in charge of or giving orders or directions relating to the carrying-on of any mining operations in a mine, who contravenes or does not comply with any of the general rules in this section shall be guilty of an offence against this Part of this Act, unless he proves that he had taken all reasonable means to prevent such contravention or non-compliance.

A printed copy of the rules provided for in this section shall be posted in the office and on a building or board in some conspicuous place in connection with every mine.

324 Plans of underground workings in mines to be kept.

The owner, agent, or manager of every mine where more than twelve men are employed shall keep at the office at the mine an accurate plan of the underground workings of such mine, made by a certified manager or a duly-qualified mining engineer, or by a surveyor authorised as such by the Surveyor-General, showing the longitudinal sections of such workings on the different lodes and levels.

325 Penalty if in default or plan incorrect.

If the owner, agent, or manager of any mine fails to keep such plan as is prescribed by the preceding section, or wilfully refuses to produce or allow to be examined or copied such plan, or conceals any part of the workings of his mine, or produces an imperfect or inaccurate plan, he shall be guilty of an offence against this Part of this Act.

An Inspector may, by notice in writing (whether a penalty for such offence has or not been inflicted), require the owner, agent, or manager to cause an accurate plan, such as is prescribed by this section, to be made within a reasonable time at the expense of the owner of the mine on a scale of not less than two chains to one inch, or on such other scale as the plan then used in the mine is constructed.

If the owner, agent, or manager fail within twenty days, or such further time as may be shown to be necessary after the requisition of the Inspector, to make such plan, or cause it to be made, he shall be guilty of an offence against this Part of this Act.

If the Inspector have reason to think that any plan produced to him as aforesaid is incorrect, he shall report the fact to the Minister, who, if he thinks fit, may cause a check-survey to be made; and if thereupon the plan aforesaid prove to be incorrect in any material respect, the owner, agent, or manager of the mine in which the said survey-check is made shall be liable to pay all costs and charges for making such check-survey, or in connection therewith, and such costs and charges may be recovered as a debt due to the Crown.

The owner of any mine shall, if requested in writing by any Inspector or other person, mark on such plan the progress of the workings of the mine up to the time of such production, and shall allow the Inspector to examine and take a copy or tracing thereof.

326 Further plans to be kept in mines liable to be flooded.

If any mine wherein operations are carried on for the working of any metalliferous or mineral lodes or veins or of any metalliferous or mineral deposits is considered by the Minister to be likely at any time to contain dangerous accumulations of water, the Minister may, by a notice in writing addressed to the manager of such mine, order that an accurate plan and sections of the shafts, drives, levels, and all other underground workings of such mine shall

be made, and a copy thereof deposited in the office of the Warden nearest to such mine, and within three months from the date of such order a correct copy of such plan and sections shall be so deposited at the office of the Warden aforesaid.

- (1.) All additions of any kind to the underground workings of such mine made after the date of such order shall be correctly delineated upon the original plan and sections, and also upon the copy deposited at the Warden's office, at intervals of not more than two months, and such original plan and sections shall contain complete information of all the underground workings up to the date of the abandonment of such mine.
- (2.) Such plan and sections shall be drawn to a scale of not less than two chains to one inch or to such other scale as the plan then used in the mine has been constructed.
- (3.) Any person, with the sanction in writing of the Minister, shall be allowed to inspect the copy of any plan and sections of a mine lodged at the office of the Warden, and any Inspector under this Act shall be permitted at any time when in the performance of his duty to examine the plan and sections of the underground workings of any mine.
- (4.) Any owner of a mine, or any other person in charge of such plan and sections, who fails to produce them for inspection when called upon to do so by any Inspector, shall be guilty of an offence against this Part of this Act.

327 Shafts with vertical or overhanging ladders to have platforms.

In every case where vertical or overhanging ladders are used in connection with the shaft of any mine, securely-fixed platforms shall be constructed at intervals of not more than thirty feet from each other in such shaft, and such ladders shall have sufficient spaces for foot-holds of not less than six inches; but in no case shall new vertical or overhanging ladders be constructed either in substitution for old ones or otherwise.

Every person who contravenes or does not comply with this section within a reasonable time after the passing hereof shall be guilty of an offence against this Part of this Act.

328 Inspectors to give notice of matters not provided for.

If in any respect (which is not provided against by any express provision of this Part of this Act, or by any regulation) any Inspector find any mine or any part thereof, or any matter, thing, or practice in or connected therewith, to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, he shall give notice in writing to the owner, agent, or manager of the mine of the particular grounds on which he is of opinion that such mine or any part thereof, or any portion of the particulars aforesaid, is dangerous or defective, and shall also report the same to the Minister.

329 Objections.

If the owner, agent, or manager—

- (1.) Objects to remedy the matter complained of in the notice he may, within seven days after the receipt of such notice, send his objection in writing, stating the grounds thereof, to the Minister, and shall also send a copy of the same to the Inspector, who shall report on the same to the Minister, and thereupon the matter shall be determined by arbitration in manner provided by this Act, and the date of the receipt of such objection shall be deemed to be the date of the reference;
- (2.) Fails to comply either with the requisition of the notice, where no objection is sent within the time aforesaid, or with the award made on arbitration, within fourteen days after the expiration of the time for objection or the time of making of the award, as the case may be,—

he shall be guilty of an offence against this Part of this Act, and the notice and award shall respectively be deemed to be written notice of such offence.

The Court before which any complaint or information for an offence against this section shall be heard, if satisfied that the owner, agent, or manager has taken active measures for complying with the notice or award, but has not with reasonable diligence been able to complete the works, may adjourn any proceedings taken before them for punishing such offence, and if the works are completed within a reasonable time no penalty shall be inflicted.

No person shall be precluded by any agreement from doing such acts as may be necessary to comply with the provisions of this section, or be liable under any contract to any penalty or forfeiture for doing such acts.

330 Employes to inform employers of breaches of Act.

Every person employed in or about any mine shall satisfy himself of the safety of any tubs, chains, tackle, windlass, ropes, or other appliances he may use before commencing and whilst at work, and in case of any defect or insecurity he shall cease to use anything unsafe; and every such person who witnesses in or about any such mine any circumstance, matter, or thing which may be likely to produce therein danger of any kind, and every person who may be notified by any such person of any such circumstance, matter, or thing, shall notify the same to the person (if any) under whose immediate directions or control he may be; and every such person in sub-charge of and employed in mining operations in any part of a mine shall, on changing his shift, inform the person appointed to relieve him of the state of the workings in the part of the mine in which he has been employed; or otherwise he shall be guilty of an offence against this Part of this Act.

331 Inspector to make inquiry into complaints.

Immediately upon any miner working in the mine making a complaint under this Part of this Act to any Inspector, it shall be the duty of such Inspector to

make inquiry into the matter of such complaint, and to take such other steps as he may deem necessary to investigate the matter, and the name of the informant shall not be divulged by the Inspector.

332 What is an offence against this Act.

Every person who contravenes or does not comply with any of the provisions of this Part of this Act, or who is guilty of negligence, by which any person is injured or killed either by himself, his agent, or servant, shall be guilty of an offence against this Part of this Act.

If the manager is shown to have been guilty of carelessness or negligence, his certificate may be suspended for such time as the Minister shall think fit, or cancelled by the Minister.

333 In case of accident presumption against mine-owner.

Any accident occurring in a mine shall be *primâ facie* evidence that such accident occurred through some negligence on the part of the owner,

334 Employer to compensate employees injured through non-observance of Act.

If any person employed in or about any mine suffer any injury in person or be killed owing to the non-observance in such mine of any of the provisions of this Part of this Act, such non-observance not being solely due to the negligence of the person so injured or killed, or owing in any way to the negligence of the owner of such mine, his agents or servants, the person so injured or his personal representatives, or the personal representatives of the person so killed, may recover from the owner compensation by way of damages as for a tort committed by such owner; and the amount of such compensation, with the costs of recovering the same when determined, shall constitute a charge on the mine and mining plant in or about, which such person was so employed, and all charges arising under the provisions of this section shall as between themselves be paid rateably.

Such compensation may be recovered under the provisions of "The Deaths by Accident Compensation Act, 1880," or "The Employers' Liability Act, 1882," or any amendment thereof, which shall respectively be applicable according to the circumstances of each particular case; subject, however, that notice of injury having been sustained may be given under the last-mentioned Act at any time within three months from the occurrence of the accident causing the injury, instead of within six weeks as in the said Act mentioned.

Nothing in this section contained shall take away from any person any right to take proceedings in respect of a claim for compensation for injury or death by accident which he may have under any other Act than this, if he prefer to proceed under such Act, but in such case he shall forfeit any right he may have to take proceedings under this section.

335 Burden of proof to lie on defendant.

For the purpose of any proceeding taken under the provisions of this Part of this Act against any mining manager or person in charge of or giving orders or directions relating to the carrying-on of any mining operations in a mine, the burden shall lie on the defendant of proving he is not such manager or person.

336 Notice of accident to be given to Minister.

The mining manager of every mine shall forthwith, after the occurrence of any accident attended with serious injury to any person, give a written notice thereof to the Inspector, and also shall forthwith report the same by telegraph message to the Minister; and any mining manager who omits to give such notice shall be guilty of an offence against this Part of this Act.

Any portion of a mine where a serious accident occurs shall not be interfered with until inspected by the Inspector, or some other person appointed by the Minister, or Coroner's jury, unless with the view of saving life or preventing further injury.

337 Warden to report on condition of mine where accident happens.

In the event of any accident occurring to any person employed in or about a mine, the Warden, or, in his absence, the Mining Registrar or Clerk of the Warden's Court, may appoint some competent person, in the absence of the Inspector, to examine the place where such accident occurred, and to report to him on the state and condition of such mine. A copy of such report shall be forwarded forthwith to the Minister; and any examination of a mine, made as in this section prescribed, shall be deemed to be an examination made by an Inspector.

338 Coroners' inquests on deaths from accidents in mines.

With respect to Coroners' inquests on the bodies of any persons whose death may have been caused by accidents in mines, the following provision shall have effect, that is to say:—

Any person having a personal interest in or employed in or in the management of the mine in which the accident occurred shall not be qualified to serve on the jury empanelled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the Coroner not to allow any such person to be sworn or sit on the jury: nevertheless whenever it is practicable one-half of the jurymen shall be miners.

339 Penalty for offences.

Every person who is guilty of an offence against this Part of this Act shall, on the information of any person, be liable to a penalty not exceeding, if he is the owner, mining manager, or underground manager, or person in charge of or giving orders or directions relating to the carrying-on of any mining operations

in any mine, fifty pounds, and if he is any other person ten pounds, for each offence, to be recovered in a summary manner before two or more Justices; and the whole or any part of such penalty may be awarded by such Justices to any person injured or to the personal representative of any person killed in consequence thereof, and such reward shall be in addition to any right of action such person or personal representative may have under this Part of this Act or otherwise.

Part VII

GENERAL PROVISIONS

340 Borough or County Council may aid establishment, &c., of Schools of Mines.

The Council of any borough or county wherein any mining operations are being carried on may from time to time apply any portion of the borough or county funds, as the case may be, to or towards or in aid of the erection, establishment, or maintenance of schools of mines.

341 Governor may make and alter regulations.

The Governor may, subject to the provisions of this Act, from time to time make, alter, amend, and revoke regulations for all or any of the purposes following:—

- (1.) For regulating the granting of licenses to hold land for mining purposes, of mining for gold and the issuing of mineral licenses for mining for any mineral or metal other than gold or coal, and the terms and conditions on which such licenses respectively shall be granted; the amount of rent or royalty to be paid, whether in advance or otherwise, by the grantees of such licenses; the manner in which persons desirous of having such licenses granted to them shall mark out the land for which they apply, the mode and time of making and investigating and of determining upon applications for, and objections to, the granting of licenses; the amount of deposit to be paid by the applicant and objector respectively as a security for the costs connected with such determination, and the terms and conditions upon which such licenses may be held, occupied, worked, assigned, renewed, forfeited, or cancelled:
- (2.) For prescribing the mode in which application may be made—
 - (a.) For leases of land for agricultural purposes; the quantity of land, not exceeding three hundred and twenty acres, which may be granted in a lease; the declaration to be made by any applicant for a lease, and the amount of deposit to be paid by any applicant therefor and by any objector thereto; or

- (b.) For licenses to occupy for agricultural purposes land not exceeding fifty acres; and

The terms and conditions upon which such leases and licenses respectively may be held, occupied, transferred, renewed, forfeited, and determined; the amount of rent payable in respect thereof, and the times and places of payment; the conditions upon and the manner in which entry to search for gold or for any other metal or mineral upon any land so leased may be authorised; and the terms and conditions upon which holders of miners' rights may be permitted to mine upon land the lease or license for which shall have been cancelled or determined on account of its auriferous or argentiferous character, or because required for mining purposes or for any public use:

- (3.) For making valuations previous to the expiry of any license for a machine, business, or residence site as to the value of the land comprised in the license, and of the improvements thereon, and for appointing the terms and conditions to which any such license shall be subject on the renewal thereof, and the amount to be paid by an incoming tenant to a vacating licensee who does not take such renewal:
- (4.) For prescribing the mode and terms under and subject to which licenses may be granted to search any Crown or Native lands for any mineral:
- (5.) For regulating the depasturing of stock upon any lands within mining districts for which a lease or license for depasturing purposes has not been granted, or has been cancelled or suspended, and the number of cattle which may be run upon such lands by the holders of miners' rights and business licenses, or of mining and agricultural leases, or by other persons, and for the issue of depasturing licenses, and to regulate the fees that shall be paid therefor, and for imposing penalties in respect to the breach of any such regulations:
- For imposing penalties upon the owners of any horses, cattle, sheep, or other animals illegally depasturing on such lands, and for recovering from such owners, in addition to any of the aforesaid penalties, all the cost and charges incident to the collecting and recovering such animals:
- (6.) For prescribing the mode, times, and places for the issue of miners' rights:
- (7.) For the management and administration of the affairs of mining districts constituted under this Act:
- (8.) For prescribing the area, boundaries, form, and position of claims and licensed holdings and their registration; and for regulating the use and occupation of land held under this Act, and mining operations therein and thereon:
- (9.) For prescribing the conditions upon which adjoining claims or licensed holdings may be amalgamated, and fixing the maximum area of amalgamated claims or holdings:
- (10.) For enabling owners of claims and licensed holdings to make and to use already-made levels, adits, drives, tunnels, or sludge-channels through or over other lands, whether held as claims or licensed holdings, and for prescribing

the mode in and the terms and conditions on which such levels, adits, drives, or tunnels may be made, and on which compensation shall be ascertained and paid in respect of the same:

- (11.) For prescribing the manner in which, and subject to what rights and obligations, any claim or licensed holding, or any race, dam, or reservoir, or any water diverted, or any machine-business- or residence-site, shall be held, occupied, used, worked, or enjoyed:
- (12.) For regulating the construction, maintenance, and use of water-races, dams, and reservoirs:
- (13.) For prescribing the mode in and the terms and conditions subject to which a stream or river, or any portion of a stream or river, may be diverted from its natural course for the purpose of mining therein:
- (14.) For prescribing the mode and times at which tailings, mining *debris*, or waste waters may be discharged or suffered to flow into any watercourse proclaimed for the purpose, and for placing restrictions on the exercise of such privileges:
- (15.) For enforcing and regulating the drainage of all claims or licensed holdings; and for the prevention of damage to mining works by the escape or overflow of water from any mine:
- (16.) For regulating the duties and functions of Inspectors of Mines:
- (17.) For providing for the safety of all persons working in or on mines, and for regulating the proper working of mines to insure such safety, and the prevention of accidents:
- (18.) Prescribing terms and conditions for the issue of certificates of competency for the office of manager of a mine, and of persons in charge of any winding-gear for letting down or bringing up persons from mines:
Regulating the examinations to be held with respect to the necessary knowledge and requirements in working a mine for the purpose of ascertaining the fitness of any person applying for any such certificate:
- (19.) For the protection of paths, roads, and streets, and for regulating mining thereunder:
- (20.) For granting protection to persons desirous of temporarily ceasing to work their claims or licensed holdings:
- (21.) For preventing nuisances in and about residences and places of business held under this Act, and for cleansing and making clean the same:
- (22.) For preventing the defiling and wasting of water used for domestic purposes, and for the setting-apart springs, streams, and other depositories of water, or any portion thereof, for domestic purposes:
- (23.) For regulating the filling-up of shafts, pits, holes, and excavations, and fencing the same:

- (24.) For regulating the felling or removing of timber' within any mining district, not being upon land set apart as forest lands under "The New Zealand State Forests Act, 1885," and the price to be paid for the various descriptions of such timber:
- (25.) For establishing registers for registering all rights, titles, and interests held under or created by this Act, and all assignments and transfers thereof, and all incumbrances and liens thereon and discharges thereof:
- (26.) For regulating the procedure and practice in Courts established under this Act, and for fixing the fees to be taken in respect of proceedings therein, and for taxing the costs of solicitors practising in such Courts:
- For regulating the practice and procedure in respect of suits in or relating to mining partnerships as between the members thereof, and the form and mode of registering any lien authorised under Part II. of this Act, and regulating the procedure to enforce or obtain the benefit of such lien, and the fees to be paid in respect of any such procedure or registration; and
- For prescribing the mode of procedure in any claims before a Warden for surface damage done to land by reason of prospecting thereon; and
- (27.) For fixing the fees to be paid under this Act, and any regulations made there-under:
- (28.) For prescribing the mode in which all surveys for the purposes of this Act should be conducted, and the fees to be paid for such surveys, and the amount of deposit of survey fees to be made from time to time:
- (29.) For appointing Post-offices at which miners' rights and business licenses may be issued, and valid payments under this Act may be made to the Postmaster thereof, for the Receiver of Gold Revenue, and prescribing how such Postmasters may give sufficient discharges for such payments to the persons making the same, and regulating the mode of transmitting such payments and fees for miners' rights and business licenses to the said Receiver:
- (30.) And generally for facilitating and more effectually carrying into execution the objects of this Act, especially in cases in which no provision, or no sufficient provision, is made for the same.

342 Regulations may be of general or partial effect.

Any regulations to be made under this Act may be made to apply generally to all mining districts within the colony, or to any particular district or districts only, and in respect of claims or licensed holdings of every class, or of any particular class or classes only.

Existing regulations in force.

Every regulation made under this Act shall be published in the *Gazette*, and from and after the date of such publication shall, subject as hereinafter mentioned, have the force of law, as if the same had been enacted herein.

Every such regulation shall be laid before both Houses of the General Assembly within twenty-eight days from the issuing thereof if the General Assembly be then in session, and if not, then within fourteen days after the commencement of the next session thereof; and every regulation made under subsections one, two, four, twelve, thirteen, twenty-two, twenty-six of the last-preceding section may be amended or annulled by the General Assembly, and shall thenceforth be of no effect, or shall take effect only in its amended form, without prejudice, however, to any thing done or suffered under such rule previous to the amendment or annulling thereof.

343 Validation of regulations.

Every regulation made since the commencement of “The Mining Act, 1886,” and purporting to be made under the provisions of section two hundred and seventy-five thereof, is hereby declared to have been validly made, and to have had due force of law from the date of the publication thereof in the *Gazette*, notwithstanding the same was not previously presented to the General Assembly, and notwithstanding anything to the contrary contained in the proviso at the end of the said section.

344 Alteration of regulations not to affect existing rights.

Any right, title, or interest acquired under or created by any regulation made in conformity with this Act shall not be in any manner affected by any alteration, amendment, or revocation of such regulation.

345 Penalty for breach of regulations.

Every person committing any breach, whether by way of omission or commission, of any of the regulations made under the authority of this Act, shall for every such breach be liable to a fine or penalty not exceeding ten pounds for the first offence, and twenty pounds for any second or subsequent offence.

346 Renewals may be effected by indorsement.

Any renewal of a license may be effected by writing on the lease or license a memorandum of the terms, conditions, and covenants to which such new lease or license is subject, and signing the said memorandum in the manner herein required in the case of an original lease or license.

347 Proof of licenses.

Every license authorising the occupation of land within a mining district, and purporting to be executed in the manner provided by this Act, or any regulation made thereunder for the time being in force, shall be received in evidence in

all Courts: and it shall not be necessary in any case to prove that the same was executed or issued under the authority of this Act or any such regulations.

348 In case of loss of license or certificate duplicate may be issued.

If any license or certificate for any right acquired under this Act or any Act heretofore in force be lost or destroyed, the Warden, upon proof upon oath that such is the case, may order the Mining Registrar to issue a duplicate license or certificate.

349 Rights under Act to be chattel interest, and may be assigned or transferred to holder of miner's right, &c.

Any right, title, or interest acquired or created under the provisions of this Act, or any Act heretofore in force relating to the occupation of land within mining districts, or under any regulations made in conformity therewith, shall be deemed and taken in law to be a chattel interest, and may be assigned or transferred, as chattel interests in land may by law be assigned or transferred, or as may be provided by any regulations made under this Act, and any such right, title, or interest may be seized and sold under any writ of execution or warrant.

But no person shall obtain any interest under any such assignment, transfer, or sale save a person who shall be or become the holder of a miner's right or a business license, or persons holding a consolidated miners' right.

350 Annual renewal of drainage areas and other mining rights unnecessary.

Notwithstanding anything contained in this Act or any preceding Act, or under any rules and regulations that formerly have been in force, it shall not be necessary for the owner or owners of any special claim or extended claim, drainage area, tail-race, flood-race, sludge-channel, main tail-race, diversion of creek, tramway, dam or reservoir, puddling-machine, residence-site, tunnel, special site, or prospecting area, to annually renew the certificate for same.

And every claim, or other mining right whatever, heretofore granted, shall be deemed to be, and shall be valid and of full force and effect, notwithstanding the certificate for the same has not been annually renewed.

351 Colonial Treasurer may pay rewards for discovery of goldfield in case of default of local authority to do so.

Where under this Act, or any Act heretofore in force, any reward for the discovery of a goldfield is payable by a local authority who have refused, failed, or neglected to pay the same, the Minister, on being satisfied on such evidence as he shall think sufficient that any person is justly entitled to such reward, may recommend the Colonial Treasurer to pay the same; and such Treasurer may pay the amount of such reward accordingly, or may apply the amount of such reward in the purchase of an annuity for the benefit of the

person or persons entitled to such reward, and deduct such amount from any subsidy or other moneys payable under any Act to the aforesaid local authority

352 Registrar may sue for rent in arrear.

The Receiver of Gold Revenue shall sue in the Warden's Court or in any other Court of competent jurisdiction for all rents, fees, or dues owing to Her Majesty, and unpaid for a period of thirty days, in respect of any mining right under this Act.

353 Directors and officers of company liable for rent.

Every director or officer of a company not registered in the colony and holding any claim, special claim, or licensed holding shall severally be personally liable for any rent, fee, or due payable to Her Majesty in respect thereof, and may be sued for the same by the Receiver aforesaid.

354 Companies incorporated in United Kingdom for mining purposes deemed foreign companies.

For the purposes of this Act and "The Mining Companies Act, 1886," and notwithstanding anything to the contrary contained in "The Foreign Companies Act, 1884," every joint-stock company or corporation duly incorporated in Great Britain and Ireland, and which is formed for mining purposes within the meaning of "The Mining Companies Act, 1886," shall be deemed to be a foreign company and liable to the provisions of "The Foreign Companies Act, 1884."

Every such foreign company or corporation incorporated for mining purposes as aforesaid carrying on business in New Zealand, at the date of the passing of this Act shall, before the expiration of six months from that date, comply with the provisions of "The Foreign Companies Act, 1884;" and if any such company or corporation shall fail or neglect so to do, on the expiration of such period of six months it shall be incapable of carrying on business in New Zealand, and such company or corporation, and every director, secretary, manager, or other person acting in the management thereof, shall be liable to a penalty of five pounds for every day after the expiration of the aforesaid period during which such failure or neglect continues.

355 Bailiff may sell without license.

It shall not be necessary for any bailiff to take out an auctioneer's license for the purpose of conducting any sale which he is authorised to effect under this Act; but in such case he shall not be entitled to charge any commission for acting as auctioneer at such sale.

356 Notices published in newspapers.

Any notice required by this Act to be advertised in a newspaper published in a district shall be deemed to be duly advertised if inserted in a newspaper circulating in such district in case none is published there.

357 Recovery of fees.

All fees, charges, and sums of money which shall or may be imposed or made payable under this Act, and for which no other mode of recovery shall be directed, shall be recoverable in a summary manner before any Warden.

358 Recovery of penalties.

All proceedings for any infringement in any district of the provisions of this Act or for the breach of any regulation made in pursuance hereof, shall, if there be any Warden's Court in such district, be had and taken in such Court, and if there be no such Court, then before a Resident Magistrate or two Justices of the Peace, according to the law for the time being in force for regulating summary proceedings before Justices of the Peace.

Any person dissatisfied with the determination of any Resident Magistrate, or Justices of the Peace, shall have the same right of appeal as is provided by Part III. of "The Justices of the Peace Act, 1882," which shall apply accordingly in respect to all such proceedings as aforesaid.

359 Penalty no bar to civil action.

Notwithstanding the recovery of any penalty under this Act, any person shall be entitled to enforce any civil remedy which he may have by reason of the act or default in respect of which the penalty shall have been recovered.

360 Protection to Wardens.

Every Warden, acting in the execution of his duty under this Act, shall be entitled to the same protection as Justices of the Peace under any law for the time being in force to protect Justices of the Peace from vexatious actions for acts done by them in the execution of their office; and Part IV. of "The Justices of the Peace Act, 1882," and all Acts passed in substitution for or amendment or alteration of the same, shall apply to Wardens in like manner as to Justices of the Peace, so far as the same can be so applied.

361 Power of Warden where no provision is made.

Whenever any Warden is empowered or required by this Act to cause any act to be performed, and the mode of performing such act is not otherwise expressly provided for, any person verbally authorised by such Warden, and in his presence, or any peace officer or constable authorised in writing under the hand of such Warden, may perform such act; and all peace officers and constables shall, if thereunto required, aid and assist any Warden or person authorised as aforesaid in the performance of his duty under this Act.

362 Forms in Schedules.

The several forms set forth in the Schedules to this Act shall be followed as nearly as conveniently may be, but no document shall be invalid if the form used be to the like effect; and any form may be altered or modified to suit the circumstances of any case for the purposes of this Act.

363 References to repealed Acts.

Where in any unrepealed Act or enactment, or in any instrument or document, reference is made to any Act, or to the provisions of any Act repealed by this Act or by any Act formerly in force, such reference shall be construed and shall operate as if it had been made to this Act, or to the provisions thereof corresponding to the Act or provisions referred to.

SCHEDULES**FIRST SCHEDULE****Acts repealed**

Sec. 5

1872, No. 35.—“The Quartz-crushing Machines Regulation and Inspection Act, 1872.”

1886, No. 51.—“The Mining Act, 1886.”

1887, No. 13.—“The Mining Act 1886 Amendment Act, 1887.”

1887, No. 31.—“The Mining Act Amendment Act No. 2, 1887.”

1888, No. 33.—“The Mining Act 1886 Amendment Act, 1888.”

1888, No. 36.—“The Native Land Act, 1888,” section six.

SECOND SCHEDULE
Miner's Right

Sees. 25, 26, 27

No.

District and place in which issued:

Date:

Name:

To be in force until the day of , 18 .

Consolidated Miners' Right

No.

District and place in which issued:

Date:

Name of the person to whom issued:

To be in force until the day of , 18 .

Business License

No:

£

District in which issued:

Date:

Name:

To be in force until the day of , 18 .

New Zealand

No.

[Insert here sum paid for the miner's right.]

District and place in which issued:

Date:

Miner's Right

Issued to , of , under the provisions of "The Mining Act, 1891," No. , to
be in force until , 18 .

(Warden *or* Mining Registrar.)

New Zealand

No.

[Insert here sum paid for the miner's right.]

District and place in which issued:

Date:

Consolidated Miners' Right

Issued to _____, of _____, the manager [*or* trustee] of the _____ Company, under the provisions of "The Mining Act, 1891," No. _____, to be in force until the _____ day of _____, 18____, and to represent _____ miners' rights.

(Warden *or* Mining Registrar.)

New Zealand

No.

[Insert here sum paid for the business license.]

District and place in which issued:

Date:

[Insert here whether for six or twelve months.]

Business License

Issued to _____, of _____, under the provisions of "The Mining Act, 1891," to be in force until the _____ day of _____.

(Warden *or* Mining Registrar.)

THIRD SCHEDULE
Form of License to work Mine

Secs. 70, 87

Know all men that I, [*Name of Warden*], Warden of the Court constituted for the [*Name of district*] Mining District, do hereby grant unto [*Name of grantee*], his executors, administrators, and assigns, [*or name of Corporation*, their successors or assigns], sole and exclusive license and authority to enter upon and occupy the land described in the Schedule hereto, and delineated on the plan [in the margin hereof, or hereon indorsed], for the purpose of mining for [*State metal or mineral*], and erecting machinery and constructing works connected therewith, and doing all lawful acts incidental or conducive thereto. To hold the said land, license, and authority for the term of [twenty-one] years, subject to the conditions and provisions of "The Mining Act, 1891," [*Here insert any other condition*], paying therefor yearly (in advance) the sum of £ on the day of in every year.

In witness whereof I have hereunder subscribed my name, and affixed the seal of the Warden's Court of the Mining District, this day of , 18 .

A.B., Warden.

Signed by the said [*Warden's name*], and the seal of the Warden's Court affixed, in the presence of

C.D.

Schedule
Description of Land.

Note.—If any rights have been granted on the above land and still exist, the license is made subject thereto.

FOURTH SCHEDULE
Notice of Intention to construct Water-race

Sec. 105

(District.)

(Date.)

To the Warden at .

hereby give notice that intend to construct a water-race to divert and use water for mining purposes, commencing at a point and terminating at .

The length of such race is or thereabouts, and its intended course is .

The mean depth of such race is ft. in., and the mean breadth is ft. in., and it is proposed to divert Government-heads of water.

Cost of construction: £

Time required for construction:

Applicant.

Any person objecting to the granting of this application must lodge his objection in writing at the Warden's Office at within fourteen clear days from the date hereof.

Hearing at o'clock on the , 18 .

Warden.

Warden's Office, , 18 .

Objection to Water-race

To the Mining Registrar at , of the Mining District.

Take notice that I [*or we*] object to the issue of a license authorising the construction of the water-race proposed to be constructed by [*names*] in his [*or their*] notice, dated the day of , 18 .

Dated this day of , 18 .

(Signed.)

License for Water-race

(Date.)

No.

Date:

Name:

Issued to *[Insert names]*.

To be in force until , 18 .

In pursuance of the provisions of “The Mining Act, 1891,” the persons above named are authorised to construct and use the water-race and divert water as hereinafter described, that is to say *[Insert description and particulars slated in notice]*, subject to the payment of five shillings annually.

This license was issued by me, at , in the Mining District.

A.B., Warden.

FIFTH SCHEDULE**Form of License for a Machine-, Business-, or Residence-site**

Sees. 285, 240

Know all men that I [*Name of Warden*], Warden of the Court constituted for Mining District, do hereby grant unto [*Name of grantee*], his executors, administrators, and assigns [or *name of Corporation*, their successors or assigns], sole and exclusive license and authority to enter upon and occupy for twenty-one years the piece of land described in the Schedule hereto, for a machine- [or *business-*] [or residence-] site, under and subject to the provisions of "The Mining Act, 1891," paying therefor yearly (in advance) the sum of [one pound for a machine-site], [three pounds for a yearly business-site], [one pound ten shillings for a half-yearly business-site], [ten shillings for a residence-site].

Dated this day of , 18 .

Witness—CD.

A.B., Warden.

Schedule
Description of Land above referred to.

SIXTH SCHEDULE
FORMS FOR USE IN WARDENS' COURTS

I

Complaint

In the Warden's Court of District, in the Colony of New Zealand.

Be it remembered that upon the day of , 18 , cometh A.B. [*address, description, &c.*] and complaineth against C.D. [*address, description, &c.*], defendant:

1. That [*Here set forth briefly but distinctly and, explicitly the ground or cause of complaint, and, if there be more than one ground or cause of complaint, state each substantively, numbering them 1, 2, 3, &c.*].

Wherefore the complainant claims that the defendant be adjudged to [*Here state the nature of the claim or relief sought*].

Warden [or Clerk].

II

Summons

In the Warden's Court of District, in the Colony of New Zealand: A.B. [*address, description, &c.*], complainant, and C.D. [*address, description, &c.*], defendant:

Whereas complaint hath this day been made by A.B. [*address, description, &c.*], complainant, against C.D. [*address, description, &c.*], defendant [*In manner set forth in the particulars of complaint hereto annexed*].

Wherefore complainant claims that the defendant be adjudged to [*Here state the nature of the claim or relief sought, as in the complaint*]. These are therefore to command you the said C.D., in Her Majesty's name, to be and appear on the day of , 18 , at o'clock in the noon, at the Warden's Court to be holden at the Courthouse at , to answer to the said complaint and demand [*In any case falling under rule in subsection (23) of section 301 in which in the complaint an interim injunction is claimed, here insert:*] And in the meanwhile you are hereby enjoined to desist from [*Here state the matter of injunction distinctly*] under the penalty in case of disobedience of this injunction contained in the Act.

Given under my hand this day of , in the year of our Lord 18 , at , in the district aforesaid.

Warden [or Clerk].

V

Form of Register-book.

No. of Complaint	Date of Complaint	Complainant.		Defendant.		Nature of Relief Sought	Amount of Demanded pecuniary	Decision whether heard before Assessors or not	Date when and Name of Person to Whom Certificate of Decision given	Date of Injunction or Order not in a suit	Memorandum	Date of Notice of Appeal, if any received	General Remarks and Observations by Warden.
		Name.	Address.	Name.	Address.								

VI

Summons to a Witness

In the Warden's Court of _____, holden at _____, between A.B., plaintiff, and C.D., defendant.

You are hereby required to attend at the Courthouse in _____ on the _____ day of _____, 18____, at the hour of _____ in the _____ to give evidence in the above cause on behalf of [plaintiff or defendant *as the case maybe*] and then and there to have and produce [*State any particular documents required*] and all other books, papers, writings, and other documents relating to the said action which may be in your custody, possession, or power.

In default of your attendance you will be liable to a penalty of five pounds, under "The Mining Act, 1891."

Dated this _____ day of _____, 18____.

C.D.,
Clerk of the Court.

To A.B. [address, *description, &c.*].

VII

Clerk's Notice to Assessors

In the Warden's Court of _____, holden at _____ between A.B., plaintiff, and C.D., defendant.

Take notice that this case will be tried by Assessors, the plaintiff [*or defendant as the case may be*] having demanded a trial by Assessors.

Dated this _____ day of _____, 18____.

C.D.
Clerk of the Court.

To the plaintiff [*or defendant as the case maybe*] [*address, description, &etc.*].

VIII

Summons to Assessor

In the Warden's Court of _____, holden at _____.

You are hereby summoned to appear and serve as an Assessor in this Court at the [*Courthouse*] on the _____ day of _____, 18____, at the hour of _____ in the noon, upon the trial of the cause or causes to be taken and tried by Assessors.

In default of attendance you will be liable to a penalty of five pounds, under “The Mining Act, 1891.”

Dated this day of , 18 .

C.D.,
To Clerk of the Court.

To .

IX

Order fining an Assessor for Non-attendance

In the Warden’s Court of , holden at .

Whereas was duly summoned to appear and serve this day as an Assessor in this Court upon the trial of the cause or causes to be tried by Assessors at this Court: And whereas he has neglected, without sufficient cause shown, to appear and serve as an Assessor at this Court. It is hereby ordered that he shall forthwith [*or on the day of , 18]* pay to the Clerk of this Court a fine of £ for such neglect.

Dated this day of , 18 .

Warden.

Hours of attendance at the office of the Clerk [*place of office*] from until except on [*Here insert the days of the week on which the office will be closed*] when the office will be closed.

X

Oath of Assessors

I, A.B., do swear well and truly to try and determine the matters which shall be brought before me, and a true decision to give, according to the evidence. So help me God.

I, A.B., do solemnly, sincerely, and truly affirm and declare that the taking of an oath is according to my religious belief unlawful; and I do also solemnly, sincerely, and truly affirm that I will well and truly try and determine the matters which shall be brought before me, and a true decision give according to the evidence.

XI

Form of Decision and Order

A.B. and C.D., complainants; E.F. and G.H., defendants.

I find [*If upon the decision of Assessors, insert upon the decision of Assessors*] that [*Set forth the decision*]; and I order [*State the Warden’s order in full, as, for instance,*

that possession of the land (*describing it as described in the Schedule to this order*) to be delivered to A.B. and C.D.]; and that the said E.F. and G.H. do pay to the said A.B. and C.D. the sum of pounds for damages and pounds for costs. I also order that certain auriferous earth, metal, or mineral in the possession of the said A.B., and which has been valued by me [or by the said Assessors] at , shall be delivered to the said A.B. and C.D., in satisfaction [or in part satisfaction] of such damages and costs.

Dated this day of , 18 .

J.K.,
Warden.

Note.—The statements in this form are by way of example only. The form must be filled up according to the nature of the case.

XII

Form of Order or Injunction

Upon reading the affidavit of A.B., sworn the day of , 18 [Recite any other affidavits used on the application, and if evidence *vivâ voce* shall be given either with or without affidavits, add or say upon hearing the evidence of C.D.], and upon hearing E.F., of , in person [or Mr. , of counsel or solicitor for E.F. , of], [and if the application be on notice and the other party appear, then add and upon hearing G.H. (the other party), of in person (or Mr. , of counsel or solicitor for the said G.H.); or if the other party do not appear, say and upon service of notice of this application upon G.H. being proved to my satisfaction], I do hereby order that [State the matter in the words of the Act as near as may be].

Given under my hand this day of , 18 .

J.K.,
Warden.

XIII

Notice of Appeal

In the Supreme Court.

To the Warden of the District, and to [Here insert the names of the several persons in whose favour the decision of the Warden or Warden and Assessors may have been given].

Take notice that we, the undersigned, being desirous of appealing from the decision of the Warden's Court for the Mining District of [or of Mr. Warden , made in a proceeding before him, or before Mr. Warden and Assessors], on the

day of _____, at _____, and in which you were complainants [*or* defendants, *as the case may be*], and we, the undersigned, were defendants [*or* complainants, *as the case may be*], and which decision was to the following effect [*Here insert minute of decision appealed against*], intend to appeal to the Supreme Court against such decision, and that the grounds of appeal against such decision are as follows [*Here state the grounds of appeal, each ground to be the subject of a separate paragraph, and no general words, "such as and other grounds," shall be inserted*]. You are therefore called upon to show cause why the said decision shall not be [*Here state whether total reversal is sought, or whether an alteration only; and if an alteration only, then slate the exact nature of relief sought*].

Dated this _____ day of _____, 18 ____.

A.B.,
C.D.,
Names of parties appealing.

XIV

Summons on Disobedience of Order

In the Warden's Court of the Mining District of _____.

To A.B.

Whereas the said Court [or E.F., Esquire, a Warden] did on the _____ day of _____ make an order that [*State the thing ordered to be done, and in what respects the order has been disobeyed*], and you, a person named in such order, and intended to be bound thereby, have disobeyed the same, and the same now remains disobeyed:

These are therefore to require you to appear personally before the Warden's Court of the Mining District of _____, at _____, on the _____ day of _____, at _____ o'clock in the _____ noon, to show why you should not be committed to prison for disobedience of such order.

Given under my hand and seal of the said Court this day of _____, 18 ____.

(L.S.)

A.B.,
Warden.

XV

Warrant of Commitment thereupon

To the bailiff of the Warden's Court of the Mining District of _____, and the Gaoler of the prison at _____.

These are to command you the said bailiff to take _____, and to convey him to the prison at _____, and to deliver him to the Gaoler thereof; and you the said Gaoler are hereby required to receive the said _____ into your custody in the said prison, and him there safely to keep until the Court [*or* E.F., Esquire, a Warden] shall otherwise order, or until the said _____ shall be otherwise discharged in due course.

Given under my hand this _____ day of _____, 18 _____.

A.B.,
Warden.

XVI

Warrant of Commitment for Contempt

To the bailiff of the Warden's Court of the Mining District of _____, and to the Gaoler of the prison at _____.

These are to command you the said bailiff to apprehend A.B., and to convey him to the prison at _____, and to deliver him to the Gaoler thereof; and you, the said Gaoler, are hereby required to receive the said A.B. into your custody, in the said prison, and him there safely to keep for the term of _____ (unless the sum of _____ shall be sooner paid), I, the undersigned Warden of the said Court, having now here adjudged the said A.B. [to pay a fine of _____, and in default of immediate payment thereof] to be imprisoned for the said term, for that heth the said A.B. [*Here state the case as follows*] has new, during my sitting in my office as such Warden, wilfully insulted me the said Warden [or an Assessor, bailiff, &c., *as the ease may be*, lawfully in attendance during my sitting], [*or* interrupted the proceedings of the said Court], [*or* before me], [*or* having been summoned as a witness in a suit (or complaint) before me _____ between &c., &c., refused to be sworn, or being sworn as a witness before me refused to answer a certain lawful question—that is to say, “Whether, &c.,” *or* been guilty, in the opinion of me, the said Warden, of prevarication as such-witness], [*or* misbehaved himself towards the said Court, or during my sitting in my office as Warden].

Given under my hand this _____ day of _____, 18 _____.

A.B.,
Warden.

XVII.— *Table of Fees.*

	£	s.	d.		£	s.	d.
Summons	0	2	0	For every extra mile one way	0	1	0

Summonses to witnesses	0	2	0	For keeping possession per diem any sum not exceeding	0	8	0
Service of Summonses, if to be made by bailiff (if within one mile of the Courthouse)	0	3	0	For every extra mile beyond one mile one way	0	1	0
For every extra mile, one way	0	1	0	Auctioneers' commission on goods sold, not exceeding five per cent.			
Hearing	0	4	0	Advertising—For three lines of space not exceeding 3s., and 3d. for every additional line.			
Adjournment of Hearing, when made on application of plaintiff or defendant	0	2	0	Bailiff's fee for executing Writ against the goods if satisfied within two hours of the levy	0	4	0
Summoning Assessors	1	4	0	For every search	0	1	0
Payment for the Assessors each day	2	0	0	For any document required in proceedings and not enumerated in the Schedule	0	2	0
Entering of Judgment	0	2	0	For every complete folio of	0	0	6

				ninety words above one			
Filing Notice of Ground of Appeal	0	8	0	Copy of any proceedings (first folio)	0	0	6
Writ of Execution against goods	0	4	0	For every complete folio of ninety words Cartage of goods seized in execution to auction-room or place of security: reasonable expenses actually paid.	0	0	6
Writ of Execution against the person	0	4	0	<i>XVIII.-Allowance to witness.</i>			
Issuing Warrant to bailiff to deliver possession to a plaintiff of premises recovered	0	4	0	Professional men, merchants, and esquires, not exceeding per diem	1	1	0
Executing any Writ of Execution beyond one mile from the Courthouse, for every extra mile, one way	0	1	0	Tradesmen and mechanics, ditto	0	10	0
Poundage on the sum levied or received or for which the body is taken in execution,	0	1	0	Labourers, &c., ditto	0	8	0

for every £1							
Serving or executing any Writ of Arrest, Injunction, Writ of Attachment , or any Summons, Order, Warrant, Precept, Writ, or other process not hereinbefor e provided for, if within one mile of the Courthouse	0	4	0	Mileage one way	0	1	0

SEVENTH SCHEDULE
Quartz-cbushing-machine License

Sec. 292.

No.

A.B., of, is hereby licensed as the owner of a registered [*Here describe machine or machines, 12-stamp crushing machine, a berdan, amalgamator, retort, melting furnace, refining process, or otherwise*] at [*place where machine situate*] until the 31st day of December next.

Fee 1s. paid.

Dated , 18 .

X.Y.

Machine Register-book

License No.

Date of Receipt of Ore or Mineral Substance.	Name and Address.	Quantity.				How operated upon.				Product.				How disposed of, and any further Remarks.
		Name of Mine, Claim or Locality when received.	Of Retorted Gold or Silver.	Of Melted Gold or Silver.	Of Other Metals (specify).	By Amalgamation.	By Retorting.	By Smelting.	By Refining.	By Concentrating.	Of Retorted Gold or Silver.	Of Melted Gold or Silver.	Of Other Metals (specify).	

Monthly Return by Licensed Machine-owner, No. _____, of Work done by his
Machines during _____, 18

	Quantity.	Produce of Amalgam.	Retorted Gold.	Melted Gold.	Refined.
	Tons. lb. oz.	Oz.	Oz.	Oz.	Oz.
1. Ordinary quartz crushed					
2. Tailings treated					
3. Specimens treated					
4. Amalgam retorted, &c.					
5. Retorted gold or silver Melted or refined					
6. Other metals					

A true return.

A.B.,

Machine-owner.

Dated _____, 18.

Note.—On lines 4 and 5 are to be entered only such amalgam or gold and silver as is not the produce of what is included under lines 1, 2, and 3 in the above return.