

No. XXIX.

An Act to amend the Laws relating to the
Gold Fields. [11th March, 1857.]GOLD FIELDS
MANAGEMENT.

WHEREAS it is expedient to amend the Laws relating to the Preamble. Gold Fields Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. From and after the coming into operation of this Act the Repeal of 16 Vic. No. 43. Act of Council sixteenth Victoria number forty-three and the Act of Council seventeenth Victoria number twenty-three shall be and the 17 Vic. No. 23. same are hereby repealed.

2. In the construction and for the purposes of this Act the Interpretation. following terms shall have the respective meanings hereby assigned to them if such meanings be not inconsistent with the context or subject matter that is to say:—

The verb "mine" shall be understood to include any mode or method of working whatsoever whereby the soil or earth or any rock or stone may be disturbed removed carted carried washed sifted smelted refined crushed or otherwise dealt with for the purpose of obtaining gold whether the same may have been previously disturbed or not as well as the appropriation of such gold by the finder thereof to his own use.

The word "gold" shall signify as well any gold as any earth clay quartz stone mineral or other substance containing gold or having gold mixed therein or set apart for the purpose of extracting gold therefrom.

The words "Gold Mines" and "Gold Fields" shall mean those parts of the Waste Lands of the Crown in New South Wales on which any persons are or may be actually engaged in mining for gold.

The word "claim" shall mean the portion of land which each person or company shall be entitled to occupy or to occupy and mine in under any miner's right license or lease issued under the provisions of this Act.

The word "business" shall mean and include any profession trade calling or occupation except mining and any vending or disposing of any goods wares merchandise or chattels whether by hawking or in any other manner except the hawking of milk butter vegetables or other farm or garden produce.

The words "authorized persons" shall mean and include all holders of any license or lease for pastoral purposes all ministers of religion and schoolmasters and any Commissioner for the Gold Fields or Justice of the Peace and any clerk trooper constable or other person employed exclusively in the Government service and the servants of such persons respectively there residing with and in the actual employment of any of them and all females and all children under fourteen years who shall only reside and not mine for gold upon any Gold Field or any person to whom the Resident Commissioner shall think fit to grant a temporary exemption on account of sickness or other accident.

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The Miner's Right
may be issued.

Duration and effect
of "The Miner's
Right."

Business licenses
may be issued.

Leases of auriferous
lands may be
issued.

Fees payable in
advance.

Persons mining
without authority to
be dealt with as in
unauthorized occu-
pation.

Penalties for mining
on private lands
without permission.

Power to cancel
pastoral leases
extending over Gold
Fields.

3. It shall be lawful for the Governor with the advice of the Executive Council subject to the provisions of this Act and the rules and regulations to be made as hereinafter provided to cause documents to be issued each of which shall be called "The Miner's Right" and shall be granted to any person applying for the same upon payment of a fee of ten shillings.

4. "The Miner's Right" shall be in force for the period of twelve months from the date thereof and shall during the said period authorize the holder to mine for gold upon any of the Waste Lands of the Crown and to occupy (except as against Her Majesty) for the purpose of residence in connection with the object of mining so much of the said lands as may be prescribed under the rules and regulations to be made as hereinafter mentioned and every such holder shall during the continuance of such Miner's Right be deemed in law to be the owner (except as against Her Majesty only) of the claim which shall be occupied by virtue of such Miner's Right and during such continuance as aforesaid all gold then being in and upon the said claim shall (except as against Her Majesty) be deemed in law to be the absolute personal property of such holder.

5. It shall be lawful for the Governor with the advice of the Executive Council subject to the provisions of this Act and to such rules and regulations as aforesaid to cause licenses to be issued which shall be in force for the period of twelve months from the dates thereof respectively authorizing the holder to occupy Waste Lands for the purpose of carrying on business upon any Gold Field and the fee to be paid for every such license shall be as follows that is to say four pounds.

6. It shall be lawful for the Governor with the advice of the Executive Council subject to and in accordance with the laws in force for the time being respecting Waste Lands of the Colony and the provisions of this Act and the rules and regulations to be made as hereinafter mentioned to grant leases for mining purposes of portions of auriferous lands and to fix the amount to be paid by way of rent whether as royalty or otherwise.

7. All such fees as aforesaid and all other fees herein mentioned shall be payable in advance and shall be paid to Her Majesty Her Heirs and Successors to be appropriated as a part of the Consolidated Revenue Fund of the Colony.

8. Any person not being the holder of the Miner's Right or of a lease under this Act who shall mine for gold upon any proclaimed Gold Field and any person who shall employ any such unauthorized person so to mine and any person not being the holder of a "Miner's Right" license or lease duly empowering him in that behalf and not being an authorized person within the meaning of this Act who shall occupy any Waste Lands in or become resident upon or at any proclaimed Gold Field shall be liable on conviction before any Justice of the Peace to the penalties following that is to say for the first offence a sum not exceeding five pounds for the second or any subsequent offence a sum not exceeding ten pounds nor less than five pounds.

9. Any person who shall mine or employ any person to mine for gold in any land belonging to a private individual without the consent of the owner thereof or his duly authorized agent shall upon conviction before any Justice of the Peace be subject to the like penalties as are mentioned in the last preceding clause.

10. When any Gold Mine or Gold Field shall have been discovered upon any Crown Lands then under lease or license for pastoral purposes it shall be lawful for the Governor with the advice of the Executive Council to suspend the said lease or license so far only as may be necessary for the accommodation of the horses cattle and

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and sheep required for the subsistence and convenience of the persons holding the Miner's Right and for the supply of water to the said Gold Field and otherwise for effectually working the said Gold Mine or Gold Field and thereupon to return or remit as the case may require such portion of the rent of the lessee of the said lands as may be thought reasonable and just and also to pay to him out of the Revenue derived from the Gold Mines or Gold Fields of the Colony full compensation for loss if any sustained by him by reason of such suspension such compensation to be ascertained by valuers or an umpire appointed in the manner mentioned in section three of chapter two of Her Majesty's Order in Council of the ninth day of March one thousand eight hundred and forty-seven.

11. It shall be lawful for the Governor with the advice of the Officers may be appointed. Executive Council to appoint officers who shall have power and authority subject to the provisions of this Act and the rules and regulations to be made as hereinafter mentioned to determine the extent and position of the claim to which each person or company is entitled under any "Miner's Right" license or lease issued under the provisions of this Act and to mark such extent.

12. It shall be lawful for the Governor with the advice of the Rules and regulations may be made. Executive Council from time to time to make such rules and regulations not being contrary to the provisions of this Act as shall appear necessary for regulating the form of "Miner's Rights" licenses and leases to be issued under this Act the mode times dates and places of the issues thereof the conditions on which the same shall be issued the mode of transferring or assigning the same and of prohibiting any such transfer or assignment and generally for the purpose of carrying the provisions of this Act into execution and all the rules and regulations heretofore made by the Governor and Executive Council respecting the issue of licenses for mining purposes or respecting any of the purposes aforesaid not inconsistent herewith shall have the force and effect of law until repealed altered or amended by any rules or regulations to be made as herein mentioned.

13. It shall be lawful for any Justice of the Peace upon the Persons encroaching may be removed. complaint of any person holding the "Miner's Right" or any license or lease under the provisions of this Act that any other person has encroached upon the claim of the complainant to proceed forthwith to the spot for the purpose of investigating the matter of such complaint and to inquire into the case and on his own view or upon the oath of any witness to determine the same in a summary way and if it shall appear to such Justice that the person complained against has so encroached by occupying mining or undermining such claim or in any other way whatsoever or that the person complaining has so encroached upon the claim of the person complained against it shall be lawful for such Justice to cause the person so found to have encroached as aforesaid his servants implements goods and chattels to be removed from the claim so encroached upon.

14. It shall be lawful for any such complainant or person complained of or for such Justice previous to the hearing of any such complaint to require that two persons holding the "Miner's Right" or a lease under this Act shall assist such Justice as assessors and thereupon such Justice shall select two persons duly qualified from amongst those who are present and ready to attend and be sworn as such assessors or shall summon any number not exceeding four persons duly qualified as aforesaid and shall select two from amongst those who may attend at the time appointed and shall administer to such persons as may attend and be selected whether summoned or not an oath to the effect that such persons severally will well and truly inquire into the matter of the complaint then submitted and a true finding

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finding and decision give according to the evidence and such persons so sworn shall be and act as assessors and such Justice and assessors shall hear and determine every such complaint of encroachment and shall also find whether any and what gold has been unlawfully or improperly removed from such claim and whether any and what damage has been sustained by such encroachment and the decision of a majority consisting of such Justice and one assessor shall be binding.

Compensation may be awarded.

15. It shall be lawful for such Justice and assessors upon the hearing of any complaint as aforesaid or for any two Justices of the Peace upon proof of any gold having been removed as aforesaid (of which any such finding as aforesaid shall be sufficient evidence) to cause any gold which may have been taken or removed from such claim to be summarily seized and delivered to the person encroached upon and also to cause the whole or any part of the damages ascertained as aforesaid to an amount not exceeding one hundred pounds to be paid by the person so having encroached or trespassed as to such Justice and assessors or such Justices shall seem just to be recovered by distress and sale of the goods and chattels of such person in manner prescribed by law for the recovery of any sum adjudged by Justices of the Peace as a pecuniary penalty or compensation Provided that no person shall be imprisoned for default in payment of such damages for a longer period than than three months.

If assessors do not attend Justice may adjourn.

In case the required number of assessors do not attend the adjourned meeting the Justice may proceed.

Fees may be demanded.

Penalty for non-attendance &c. as assessor.

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

17. Previously to the entertaining of any complaint as aforesaid such Justice shall and may demand and receive from the complainant the fee of one pound and until such fee shall have been paid such Justice may refuse to attend to any such complaint Provided that if the decision shall be against the person complained of such person may be ordered to repay such fee to the complainant and the determination by whom the fee is to be paid shall in every case form part of the decision of such Justice or such Justice and assessors as the case may be and such fee may be recovered as herein directed in regard to any compensation awarded to any complainant.

18. If any person holding the "Miner's Right" or a lease issued under the provisions of this Act having been duly summoned shall disobey such summons and fail to attend at such time and place as may be named therein or to be sworn as aforesaid it shall be lawful for such Justice upon proof that such person was duly summoned or having been summoned that he refused to be sworn unless some reasonable cause for non-attendance or refusal of such person be made to appear to such Justice to inflict a fine not exceeding five pounds which fine may be levied and appropriated in like manner as other fines inflicted by virtue of this Act and every such person who shall attend in obedience to any such summons and be sworn to act as assessor shall be entitled to demand and receive the sum of ten shillings for the hearing of such complaint and such Justice and assessors

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assessors shall determine and order by whom such sums or any parts thereof shall be paid.

19. If any person shall assault or resist any such officer or Justice of the Peace or any of the said assessors or any person duly authorized by him or them whilst in the execution of the duties provided to be performed under this Act or if any person after the hearing and determining of any such complaint and having had the boundaries of his claim pointed out by any such officer or Justice of the Peace shall again encroach or trespass as aforesaid every such person so assaulting resisting or again encroaching shall upon conviction before any two Justices of the Peace forfeit and pay a penalty not exceeding twenty-five pounds or at the discretion of the adjudicating Justices be imprisoned with hard labor for any period not exceeding three months.

20. Upon petition of not less than one hundred persons holding Miners' Rights or leases under this Act at any Gold Field and having held such Rights or leases for not less than three calendar months preceding it shall be lawful for the Governor with the advice of the Executive Council by Proclamation from time to time to declare such Gold Field to be a District for the purpose of forming a Local Court with the powers and authority hereinafter described and to declare the name of such District and define the limits and appoint the Chairman of such Local Court and from time to time to vary and alter such limits and revoke such appointment and make another or others and after the publication of any such Proclamation the locality so described shall be and become a District for the purposes of this Act.

21. Every such Court shall consist of a Chairman to be nominated as hereinbefore directed and nine persons holding the "Miner's Right" or a lease under this Act to be elected as hereinafter directed and every such Court may appoint a Clerk and shall have power to frame rules and regulations touching the sittings and proceedings of the said Court the extent and position of any claim the conditions on which it shall be worked and the application and use of machinery and such local rules and regulations relating to mining and applicable to the district for which the members may be elected as they shall deem most beneficial and no such rule shall be in force until it shall have received the assent of the Governor with the advice of the Executive Council and been published in the *Government Gazette*.

22. Such Chairman when appointed shall name a place and time by public notification in such manner as may seem to such Chairman most desirable (the place to be some convenient locality within the limits of the Gold Field District for which he shall be Chairman and the time some day not less than seven days nor more than fourteen days from the date of the first publication of such notice) when and where a public meeting will be held of persons residing within such district and holding the "Miner's Right" or a lease under this Act for the purpose of electing nine persons holding such "Miner's Right" or a lease under this Act as and to be members of the Local Court and at the time and place mentioned the said Chairman shall attend and preside at such meeting and upon the name of any person qualified as aforesaid being proposed and seconded by persons also qualified as aforesaid as a member of such Local Court such name shall be submitted to the meeting and if the meeting shall signify its approval of such name such person shall be declared by the Chairman to be duly elected a member of such Court and if such meeting shall signify its disapproval of such name such person shall be declared as rejected and so on until nine persons qualified as aforesaid shall have been duly elected and if any dispute or doubt shall arise as to the decision of such meeting in any particular case the said Chairman shall proceed

Penalty for resisting
officers &c. and
renewed encroach-
ment.

District may be
proclaimed for pur-
pose of Local Court.

Constitution of Local
Court.

Proceedings to be
taken by Chairman.

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proceed by the best means available to him either by dividing the meeting into two parts—those for the proposition and those against it—or otherwise to ascertain which side has the majority and the decision of such Chairman shall be final. Provided that in case of any such doubt or dispute as aforesaid it shall be competent for such Chairman or any person qualified as aforesaid to demand the production of the document termed the "Miner's Right" or lease under this Act of any person voting or speaking at such meeting and if such person cannot produce either of such before-mentioned documents his vote or voice shall not be considered at such meeting.

Members of Court.

23. The nine persons so elected as aforesaid shall continue members of such Court for the period of twelve months from the date of such election unless they shall sooner retire or cease to be members as hereinafter provided and five of such members with the Chairman shall form a quorum and the acts of such quorum shall be deemed to be the acts of the whole Court and in all proceedings the decision of the majority shall be the decision of such Court and in case of an equality of votes the Chairman shall have an additional or casting vote.

Vacancies how caused and how filled.

24. If any member of such Court shall absent himself from the meetings of such Court for four weeks consecutively or shall send in his resignation in writing addressed to the Chairman or shall in any way become incapacitated from attending such Court such person shall cease to be a member of such Court and the Chairman shall call a public meeting of persons qualified as aforesaid for the purpose of electing some person to fill the vacancy thus caused and at such meeting the same proceedings as nearly as may be shall be had and taken as is herein directed to be had and taken at the first election of members of such Court provided that so long as there is a quorum any vacancy or deficiency in the number of members of such Court shall not affect the proceedings thereof.

Yearly election.

25. Fourteen days before the termination of the twelve months for which the members of such Court shall have been elected the Chairman shall publicly notify a time when and place where a public meeting shall be held for the purpose of electing nine persons being qualified as aforesaid to serve for the ensuing twelve months as members of the Local Court in place of the members whose period of service shall have expired and at such meeting such Chairman shall preside and the same proceedings shall be had and taken and the same rules apply and be applicable as is hereinbefore set forth in regard to the first election of members of such Court and the members so elected shall be members for the twelve months ensuing the date upon which the first elected members shall retire and so on every succeeding twelve months provided that any member retiring as aforesaid at the expiration of any twelve months shall if otherwise qualified be eligible to be re-elected. Provided also that the omission to convene or hold any such meeting at the particular time hereinbefore directed shall not prevent such Chairman from convening such meeting at a later period or such later meeting from proceeding to such election.

Breaches of rules may be inquired into.

26. Every such Local Court established as aforesaid shall and may take cognizance of any breach whether of omission or commission of any of the rules or regulations framed by the said Court as aforesaid and punish every such breach by the infliction of a fine or penalty not exceeding ten pounds for the first offence and twenty pounds for any second or subsequent offence.

Court may entertain partnership questions.

27. It shall be lawful for the Chairman of any such Court upon complaint made by the holder of any "Miner's Right" lease or license under this Act that he is or has been whilst such holder engaged in a mining partnership with any other person and that a balance

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balance is due to him on account therof or upon the application of any such holder so engaged in such partnership that the same may be dissolved and that the sums respectively due to the several members thereof may be ascertained and paid to issue process to procure or compel the appearance before such Court of such members of the said partnership as shall appear necessary and upon such appearance or in default thereof after such process to procure and compel the same as aforesaid or in the absence of such members as shall not appear to be necessary parties to such case it shall be lawful for such Court to inquire into and hear such complaint or application and order that such partnership shall be dissolved and ascertain and determine the amount to be paid by any one member to any other member or members thereof and to order that such amount so determined together with reasonable costs shall be paid or to make such other order as to such Court shall seem meet provided that the amount payable to any one partner does not exceed one hundred pounds.

28. The Chairman of every such Local Court shall have power Powers of Local Court. to summon witnesses and to administer an oath to any such witness and also to commit for any period not exceeding fourteen days any person refusing to be sworn or committing any other contempt in such Court and also to issue a warrant to compel the attendance of any necessary witnesses and no proceedings in such Court shall be quashed for want of form or be removed into the Supreme Court by *certiorari* or otherwise and such Court shall have power to award reasonable costs to either party in any matter brought before such Court and the orders or awards of such Court shall and may be carried out or enforced by the Chairman of such Court in the manner in which Justices of Peace are now by law authorized to enforce any order or award made in any Court of Petty Sessions.

29. If any person shall forge any "Miner's Right" license or lease issued or purporting to be issued under the authority of this Act or shall fraudulently use utter or exhibit any such forged "Miner's Right" license or lease knowing the same to be forged or if any person shall fraudulently personate the holder of any such "Miner's Right" license or lease or shall falsely and fraudulently represent that any servant or other person is an authorized person within the meaning of this Act or shall fraudulently use or exhibit as his own any "Miner's Right" license or lease belonging or granted to any other person or shall use or exhibit as a valid "Miner's Right" license or lease any "Miner's Right" license or lease which shall have expired he shall be guilty of a misdemeanor and shall on conviction before any Court of competent jurisdiction be subject to fine or imprisonment with or without hard labor or to both at the discretion of such Court.

30. If the holder of any "Miner's Right" license or lease issued under the provisions of this Act shall by any fraudulent device or contrivance defraud or attempt to defraud Her Majesty or any person authorized to receive the same of any money or gold payable or reserved by such "Miner's Right" license or lease or shall conceal or make a false statement as to the amount of any gold procured by him or falsify any accounts with a fraudulent intent such person shall be deemed guilty of a misdemeanor and shall on conviction thereof before any Court of competent jurisdiction be subject to fine and imprisonment with or without hard labor at the discretion of such Court And all officers and servants of such holder and other persons whosoever who shall knowingly be concerned in any such fraud or attempted fraud whether with or without the knowledge or concurrence of such holder shall in like manner be deemed guilty of a misdemeanor and shall on conviction as aforesaid be liable to a like punishment.

Bills of Exchange.

Royal prerogative
not interfered with.

Summary pro-
ceeding.

Rules and regula-
tions must be laid
before the Legis-
lature.

Appeal.

31. Nothing in this Act contained shall be deemed to abridge or control the prerogative rights and powers of Her Majesty the Queen Her Heirs and Successors in respect of the Gold Mines and Gold Fields of the Colony.

32. All proceedings for any infringement of any of the provisions of this Act or of any of the rules established by the Governor with the advice of the Executive Council as aforesaid and the hearing and determining of which is not herein otherwise specially provided for shall be had and taken by or before any two Justices of the Peace in a summary way and no such proceedings shall be removed by *certiorari* into the Supreme Court.

33. Every rule or regulation made under the authority of this Act shall be laid before the Legislative Council and Legislative Assembly within fourteen days from the making thereof or of the Governor's assent thereto if the Parliament shall be then in Session and if not then within fourteen days after the commencement of the next Session thereof.

34. Any person ordered or adjudged to forfeit or pay any fine penalty damages compensation or forfeiture amounting to ten pounds and upwards who shall feel himself aggrieved by the judgment of the Local Court or any Justice or Justices with or without assessors adjudicating or before whom he was convicted may appeal from any such judgment or conviction to the next Court of General or Quarter Sessions of the Peace which shall be held nearest to the place where such judgment or conviction shall have been given or made and such appeal shall be conducted heard and determined in like manner as by law is or shall be provided with reference to appeals from the judgment or conviction of Justices in Petty Sessions.