

New Zealand.

ANALYSIS.

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1882, No. 49.

AN ACT to provide for the Resumption of Land for the Purposes
of Mining for Gold or Silver. Title.

[15th September, 1882.]

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

1. The Short Title of this Act is "The Resumption of Land
for Mining Purposes Act, 1882." Short Title.

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

"Minister" means the Minister of Mines for the time being,
and includes any other member of the Executive Council
acting for such Minister :

Interpretation.

"Mining purposes," in addition to the meaning attached to such
expression by any Act in force relating to mining for gold
or silver, means and includes the right to resume land under
this Act which may be upon the margin of any stream
or water, and any land which may be required for or in-
tended 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 or silver :

“District” means and includes a gold-mining district constituted under “The Gold-Mining Districts Act, 1873,” and a mining district constituted under “The Mines Act, 1877:”

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

“Warden” means a Warden appointed under either of the said last-mentioned Acts.

Lands alienated or leased, &c., by the Crown may be resumed for mining purposes.

3. All lands which since the twenty-ninth day of September, one thousand eight hundred and seventy-three have been or may hereafter be alienated or agreed to be alienated from the Crown, whether by way of absolute sale or lease or for any lesser interest, shall be liable to be resumed for mining purposes (except lands alienated expressly for mining purposes) by Her Majesty, on paying full compensation to the licensee, lessee, or owner 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.

Application may be made to the Minister of Mines for the resumption of land under Act.

4. Any person may, in the form in the First Schedule hereto, apply to the Minister for the resumption under the provisions of this Act of any land alienated from the Crown, and not hereinafter excepted from such application; and shall send with every such application the sum of fifty pounds, to be dealt with as hereinafter provided.

Application for lands used as gardens, &c., not to be entertained unless under special circumstances.

5. 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.

Application may be referred to Warden.

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

Proceedings upon reference of application.

7. Upon such reference the applicant may obtain from the Warden a summons to the occupier or owner in fee of the land to which the application refers, to appear before him on a day and at a place therein specified, to show cause why such land shall not be resumed.

Warden to give notice of his intention to hear application.

8. The Warden shall give notice, in the form provided in the Second Schedule, by inserting the same twice in some newspaper circulating in the district, that on some day not less than fourteen days from the date of the first insertion he will proceed to hear such application; and every applicant, if there be more than one, shall on the day appointed appear before the Warden, and, in default of such appearance or of sufficient excuse for such default, the application shall be dismissed as against such applicant.

Proofs to be adduced by applicant in absence of occupier or owner.

9. Upon the hearing of the summons the applicant shall, unless the parties summoned appear, prove the service thereof, or that there is no one in occupation, and that the notice in the Second Schedule has been posted for not less than twenty-eight days upon the land, and that

the owner in fee is absent from the colony, or that every reasonable effort has been made to serve him personally; and shall also prove that the land is auriferous or argentiferous, or that the land is required for mining purposes; and shall also produce evidence as to the market value of the land and the improvements thereon at the date of the issue of the summons.

10. The Warden, whether all the parties be present or not, shall hear, receive, and examine evidence, whether it be tendered to him or called for by him, and may obtain the assistance of engineers, surveyors, valuers, or other scientific persons, the expense whereof shall be deemed to be part of the costs of the hearing, and may adjourn the hearing from time to time as he thinks fit.

Warden may call in assistance of experts and skilled witnesses.

11. The Warden shall report to the Minister the evidence he has received and his opinion thereon, and the amount of costs (if any) which the applicant ought to pay.

Warden to report to Minister.

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

Minister to decide as to resumption.

13. The costs of the inquiry, including all costs of the occupier or owner in fee, shall be paid out of the sum deposited by the applicant, and the balance (if any) shall be returned to the applicant.

Costs of inquiry to be paid by applicant.

If the sum deposited by the applicant as aforesaid shall not be sufficient to pay such costs the Warden may order the applicant to pay such excess; and such order may be enforced by any person entitled to receive such costs against the applicant in like manner as a judgment of the Warden's Court in its ordinary jurisdiction.

14. 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.

If land to be resumed, notice to be given to occupier, &c.

15. 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," which shall be deemed to be incorporated with this Act, and all the provisions of the said Part, so far as applicable, shall be extended to and may be used in the several cases herein provided for; and the Minister shall be the respondent in the place of the Minister for Public Works, as provided by "The Public Works Act, 1882."

Compensation to be assessed under Part III. of "The Public Works Act, 1882."

16. Compensation payable under this Act shall be paid by the Colonial Treasurer out of the gold fields 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.

Compensation to be paid from gold fields revenue.

17. The applicant may, with his application or at any time thereafter, pay into the Public Account at any place where payments are made to such account such a sum or sums as the applicant deems sufficient to purchase the estate and interest in any land intended to be resumed under this Act, and such moneys shall be applied as hereinafter provided.

Applicant may deposit money to pay compensation.

When moneys have been supplied by the applicant as aforesaid then compensation agreed or awarded to be paid under this Act shall be paid by the Colonial Treasurer out of such moneys, and the balance, if any, shall be returned to the applicant.

Limitation as to subsequent applications.

18. If it be determined that the land in whole or in part be not resumed, no further application 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 application.

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

19. 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.

Notice of resumption to be gazetted.

20. 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.

Procedure in Land Registry.

Upon production to the District Land Registrar of the district where such land is situated of such *Gazette*, 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.

Names of applicants to be published in notice.
Priority.

21. The names of the successful applicants, in the order of their application, shall be published in the notice of resumption, and such order shall determine their priorities *inter se*; and until thirty days after the date of such application no act of any person other than such applicants, or some person by them authorized in that behalf, done upon or in relation to such land, shall be of any force or effect in creating or intimating any right or title, or determining the priority of any application for permission to mine in or upon the said land or any part thereof, or to occupy the same or any part thereof, for any purpose in relation to mining.

Repeal of Act of 1873.

22. "The Resumption of Land for Mining Purposes Act, 1873," is hereby repealed; and whenever in any unrepealed Act of the General Assembly, or in any Ordinance of a Provincial Council now in force, reference is made to the Act hereby repealed, such reference shall be deemed to be made to this Act instead of to such repealed Act.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

FORM OF APPLICATION FOR RESUMPTION OF LAND FOR MINING PURPOSES.

Sec. 4.

I, _____, of _____, assert that the land [*Describe the land*] contains gold or silver, [*or is required for mining purposes*]; and that I believe its present value to be £ _____ or thereabouts.

I hereby apply that the said land shall be resumed for mining purposes; and I send herewith the sum of £50, in accordance with the provisions of the said Act, and for the purpose therein mentioned.

Applicant.

SECOND SCHEDULE.

NOTICE OF APPLICATION FOR RESUMPTION OF LAND FOR MINING PURPOSES.

Sec. 8.

TAKE notice that application has been made to me, by _____, for the resumption of [*Describe the land*] for mining purposes, under "The Resumption of Land for Mining Purposes, Act, 1882," and that such application will be heard before me at the _____, on the _____ day of _____, 18____, at the hour of _____.

To _____, occupier [*or owner*].

Warden.