

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES and having this day passed as now printed is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,
25th August, 1875.

(Mr. T. L. Shepherd.)

[AS REPORTED FROM THE GOLD FIELDS COMMITTEE OF THE
LEGISLATIVE COUNCIL.]

Gold Fields Act Amendment.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend "The Gold Fields Act, 1866." Title.

WHEREAS it is expedient to amend "The Gold Fields Act, 1866" Preamble.
(hereinafter termed "the said Act") :

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

1. The Short Title of this Act shall be "The Gold Fields Act Amendment Act, 1875 (No. 1)," and it shall be read with and as part of the said Act. Short Title.

2. It shall be lawful for the Governor in Council, from time to time, by Proclamation published in the *New Zealand Gazette*, to proclaim and declare that any watercourse shall be a watercourse into which tailings mining *débris* and waste waters of every kind used in upon or discharged from any claim shall be suffered to flow or be discharged, and in like manner may withdraw any such watercourse from the operation of this Act: *Provided that 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 for the purposes of this Act, to be published in the New Zealand Gazette and in at least one newspaper circulating in the gold field where such watercourse may be situated, stating the name and locality of the watercourse 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.* Governor may declare watercourses.

Ninety days' notice to be given.

Day on which it shall take effect.

If, notwithstanding any such objections, the Governor shall decide to exercise the powers by this Act conferred upon him, Every 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 New Zealand Gazette.

Interpretation.

For the purposes of this Act the term "watercourse" shall mean and include 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 gold field or not; but in any such Proclamation it shall be sufficient to describe the water-courses affected by it in general terms.

Governor may make regulations.

3. The Governor in Council may, in manner provided by the eleventh section of the said Act, make alter amend or revoke regulations for the purpose of prescribing the mode and times at which such tailings mining *débris* or waste waters may be discharged or suffered to flow into any such watercourse, and may place restrictions on the exercise of any privileges by this Act conferred.

Compensation to owners to be ascertained by arbitration.

4. *From and after* Upon 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 damage, to be ascertained and settled by arbitration in the manner hereinafter prescribed, unless the amount of such compensation shall be otherwise agreed upon between the Governor and the person claiming the same. and for the purposes of such arbitration the Colonial Secretary, or other Minister for the time being acting for him, shall, on behalf of the Governor, be deemed to be a party to such arbitration within the meaning of the following provisions: and such compensation shall be ascertained in the manner hereinafter prescribed:

Arbitration.

(1.) Each party shall, on the request of the other party nominate and appoint an arbitrator to whom the question of assessing such compensation shall be referred, and every appointment of an arbitrator on the part of any other party shall be made under the hand of such party, or if such party be a corporation aggregate under the common seal of such corporation, and every such appointment shall be delivered to the arbitrator, and shall be deemed a submission to arbitration on the part *behalf* of the party by whom the same shall be made; and after any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other party, nor shall the death of either party operate as a revocation; and if for the space of ~~twenty-one~~ *thirty* days after a request in which shall be stated the matter so required to be referred to arbitration shall have been served by one party on the other party to appoint an arbitrator, such last-mentioned party fails to appoint such arbitrator, then upon such failure the party making the request and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters in dispute, and in such case the award or determination of such single arbitrator shall be final.

Fresh arbitrators may be appointed in certain cases.

(2.) If before the matters so referred shall be determined any arbitrator appointed by either party shall die or become incapable to act, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of ~~fourteen~~ *twenty-one* days after notice in writing from the

other party he fail to do so, the remaining or other arbitrator may proceed *ex parte*: And every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid.

- (3.) Where more than one arbitrator shall have been appointed, ~~such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands~~ *the Judge of the District Court within the gold field in which the matter so to be decided by arbitration may arise, shall be and he is hereby constituted* an umpire to decide on any such matters on which they ~~arbitrators~~ shall differ or which shall be referred to him; and if such ~~umpire shall die or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place,~~ and the decision of every such umpire on the matters so referred to him shall be final.

Judge of District Court to be umpire.

Provided that if there be no Judge of the District Court within such gold field, or if such Judge shall for any cause be unable to act as such umpire, then any District Judge or Resident Magistrate whom the Governor may nominate, shall be the umpire for the purposes of this Act.

Proviso.

- ~~(4.) If in either of the cases as aforesaid the said arbitrators shall refuse, or shall for seven days after request of either party to such arbitration neglect to appoint an umpire, the Governor shall, on the application of either party to such arbitration, appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him, shall be final.~~

- (4.) (5.) If when a single arbitrator shall have been appointed such arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitration, as if such arbitrator had not been appointed.

Case of single arbitrator.

- (5.) (6.) If where more than one arbitrator shall have been appointed either of the arbitrators refuse, or for ~~fourteen~~ *twenty-one* days neglect to act, the ~~other arbitrator may proceed ex parte~~ *umpire shall appoint another arbitrator to take his place.*

Case of refusal or neglect to act.

- (6.) (7.) If where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within thirty days after the day on which the last of such arbitrators shall have been appointed, or within such extended time not exceeding thirty days (if any) as shall have been appointed for that purpose by both such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

Umpire to determine in certain cases.

- (7.) (8.) The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Production of documents.

- (8.) (9.) All the costs of any such arbitration, and incident thereto, shall be in the discretion of the arbitrators or their umpire, who shall award by and to whom the same shall be paid: *Provided that the Colonial Secretary, on behalf of the Governor, shall not be personally liable for any such costs.*

Costs.

Award to be final.

(9.) (10.) Every award made with respect to any question referred to arbitration under the provisions of this Act shall be final and conclusive between the parties thereto, and shall not be set aside for irregularity or error in matter of form, or on any other ground whatsoever.

Notices, &c., to be in writing.

(10.) *Wherever in the foregoing provisions any request appointment or notice is required to be made or given by one party to the other party, every such request appointment or notice shall be made or given in writing signed by the party making or giving the same; but in the case of a corporation every such request appointment or notice, shall be made under the common seal of such corporation.*

Claims for compensation.

5. All claims for compensation shall be made in writing, addressed to the Governor, within six calendar months from the date when the same shall have arisen of the publication of any such Proclamation as aforesaid where the claimant shall reside within the colony, and within twelve calendar months where the claimant shall reside elsewhere, and no claims for compensation shall be allowed unless made within such respective periods.

Compensation, how to be paid.

6. The compensation authorized to be given by under this Act, whether agreed upon or ascertained by arbitration as aforesaid, and all costs of any arbitration when the same shall be awarded to be paid by the Colonial Secretary on behalf of the Governor, shall be paid out of the land gold fields revenue of the province in which the operation operations causing the pollution of the river watercourse shall be carried on, 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, and such sum compensation or the tender thereof shall effectually bar such person, and all persons claiming through or under him, from all further claims of any kind whatsoever for or on account of the matter in respect of which such compensation is paid or tendered. All charges and expenses incurred by the Colonial Secretary in carrying out the provisions of this Act shall be paid out of such gold fields revenue as aforesaid.

If any watercourse withdrawn from operation of Act, compensation to be paid.

7. If any watercourse shall be withdrawn from the operation of this Act, then any person being the holder of a miner's right or of a mining lease within any proclaimed gold field, whose rights or interests shall be injuriously affected by such withdrawal, shall be entitled to compensation in respect thereof, and such compensation shall be ascertained and paid or tendered in the manner provided in the fourth and sixth sections thereof.

Lands hereafter sold not to be subject to water rights.

7. 8. From and after the passing of this Act no person in respect of land thereafter purchased from the Crown, who shall hereafter purchase or acquire any waste lands of the Crown 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 this Act, and which shall 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 debris, or waste water produced or used in or upon any claim as aforesaid.

Act not to prejudice existing suits.

8. 9. Nothing contained herein shall be deemed or taken in any manner to prejudice or interfere with any action or suit now pending in any Court of law.

Mining reserves.

9. 10. It shall be lawful for the Governor, by Proclamation, at any time and from time to time, and either by particular or general description, to exempt from occupation, and set apart for gold-mining purposes exclusively, any specific portion or class of Crown lands within a gold-mining district, and such exemption from time to time to revoke, and the limits and extent of such exempted land to alter, as he shall think fit.